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To UN Special Rapporteur on the right to development

**Russian Aggression in Ukraine and Current Challenges
for Climate Justice: Loss and Damage Issues**

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Our Association of Reintegration of Crimea (ARC)¹, as non-governmental expert and human rights organisation², passed long-term researches, related with human rights and humanitarian issues. Since 2020 we sent more than 100 submissions and proposals to UN, OSCE and CoE human rights' strictures, including issues of violation the ecologic rights, major part of them were published in the official web-sources³⁴⁵⁶⁷⁸.

On 2021 Our Association submitted to the UN the proposals on two Crimea-related natural objects to the researchathon on sacrifice zones and human rights, for Special Rapporteurs' forthcoming report on toxic-free environments to be discussed in UN, including issues of impact of loss and damage. *Sending Association's answers on UN Special Rapporteur's questionnaire, including impact of loss and damage issues.*

Since 2014 Crimean peninsula was illegally occupied by Russia. Since 24th of February 2022 Russia committed broad and open military aggression to all Ukraine's territory. Russia refused to execute the ICJ order in this case to stop the aggression⁹.

Russia-controlled troops and mercenaries committed in Ukraine, during this invasion, gross violation of international humanitarian law and international human rights' law already, including broad crimes against property, social and cultural rights and environment, attacks on forests, dams, national parks, riparian and maritime ecosystems, also as against Ukrainian agricultural enterprises¹⁰¹¹¹²¹³¹⁴¹⁵¹⁶. All war crimes, committed by Russian invaders during ongoing hostilities, are connected with absolutely clear Russia's war targets in maximal destruction the civil infrastructure and environment, including objects, essential for all

¹ <https://arc.construction/>

² https://www.journal-officiel.gouv.fr/associations/detail-annonce/associations_b/20210005/1348

³ https://www.ohchr.org/sites/default/files/2021-11/ARC_Submission_Responces_Toxic_01_11_2021.doc

⁴ <https://www.ohchr.org/sites/default/files/documents/issues/toxicwaste/toxics-indigenous-peoples/inputsreceived/2022-07-13/association-reintegration-crimea.pdf>

⁵ <https://www.ohchr.org/sites/default/files/documents/hrbodies/crc/gcomments/gc26/2023/cs/GC26-CS-association-reintegration-crimea-2023-02-15.doc>

⁶ <https://www.ohchr.org/sites/default/files/documents/cfi-subm/2308/subm-older-context-climate-cso-association-reintegration-crimea.pdf>

⁷ <https://www.ohchr.org/sites/default/files/documents/issues/climatechange/cfi-enhancing-climate-change-legislation/CFI-SR-Climate-GA-2023-NGO-association-reintegration-crimea.doc>

⁸ <https://www.ohchr.org/sites/default/files/documents/issues/water/cfis/ga78/cfi-ga78-sr-water-submission-ARC.pdf>

⁹ <https://www.icj-cij.org/en/case/182>

¹⁰ <https://sofrep.com/news/russian-soldiers-gang-raped-ukrainian-woman-as-her-child-was-crying-in-the-next-room/>

¹¹ <https://www.icj-cij.org/public/files/case-related/182/182-20220307-PRE-01-00-EN.pdf>

¹² <https://www.bbc.com/ukrainian/features-60888528>

¹³ <https://hromadske.radio/en/news/2022/03/09/members-of-the-wagner-group-have-been-killed-in-ukraine>

¹⁴ <https://www.bbc.com/news/world-europe-60547807>

¹⁵ <https://news.un.org/en/story/2022/03/1113652>

¹⁶ <https://www.hrw.org/news/2022/04/03/ukraine-apparent-war-crimes-russia-controlled-areas>

Ukrainian ethnic and social groups¹⁷. Those issues now are the subject of the investigation the International Criminal Court¹⁸

Due to gross violation the human rights Ukraine filed an application to the European Court of Human Rights, ECtHR¹⁹. Russian government refused to execute the demand of the ECtHR and the order of ICJ to immediately suspend the military operations that it commenced on 24 February 2022.²⁰

UN General Assembly in its resolution ES-11/1 on 2 March 2022 recognized that the military operations of Russia inside the sovereign territory of Ukraine are on a scale that the international community has not seen in Europe in decades²¹. UN General Assembly in its resolution ES-11/2 on 24 March 2022 demanded again full respect for and protection of objects indispensable to survival of civilian population and civilian infrastructure²².

The UN Human Rights Council adopted on 12th of May a resolution on the deteriorating human rights situation in Ukraine where pointed that Russia should immediately cease its aggression. Those decisions are not executed by Russian troops, Russia-controlled mercenaries and terroristic groups, which established policy of terror and repressions over the Russia-occupied territories of Ukraine²³²⁴.

Till 2023 more new crimes were committed by the Russian troops, including destruction objects of civil infrastructure, forests, dams and other melioration systems by mines explosions, missiles and artillery. Russian forces destroy and loot the technical equipment of Ukrainian forestry and melioration management and of national parks in Kherson and Zaporizhzhya regions en masse. Corresponding negative impacts of Russian aggression against climate include atmospheric pollution due to mass extensive emissions of combustion products, the destruction of thousands of square kilometers of forests and plantations near frontline, as well as natural soils in the combat zone close to the Crimea, the intervention of the Russian occupiers in the melioration management and natural watercourses in Southern Ukraine. All this illegal Russia's activities give strong negative impact on the rights of population of Russia-occupied areas.

Also, the negative impact to climate includes the destruction of ecosystems important for oxygen exchange of the Black and Azov seas due to their pollution by oil products and chemicals from Russia's naval vessels and their missile ammunition during Russia's maritime aggression, as well as changes in ecosystems, caused by the mass death of mammals and fish due to noise and explosive pollution under time of sea activity. Special risks arise in this zone regarding potential changes in the hydrogen sulfide layer located in the deep-water part of the Black Sea, and corresponding emissions, in particular due to explosive processes. Such changes also include an indirect impact through Russian attacks on Ukrainian nuclear power facilities, such as the Zaporizhzhia NPP, and on Ukrainian green energy facilities in occupied territories and war zones. Potential risks include nuclear incidents caused by Russian military and terrorist activities and the detonation of underwater gas tunnels in the Black Sea by the Russian invaders. Since the level of hostilities in Ukraine is unprecedented for modern humanity and has no clear prospect of minimization in the coming months, the above risks and challenges have a strong and direct impact on the issue of climate changes.

From the point of view of international law, such Russia's illegal acts can be considered as terrorism²⁵ as Russian forces conjunct the attacks on ecologic objects with politic demands.

¹⁷ <https://www.washingtonpost.com/world/interactive/2022/ukraine-before-after-destruction-photos/>

¹⁸ <https://www.icc-cpi.int/ukraine>

¹⁹ <https://hudoc.echr.coe.int/eng-press?i=003-7282553-9922068>

²⁰ <https://www.icj-cij.org/public/files/case-related/182/182-20220316-ORD-01-00-EN.pdf>

²¹ <https://digitallibrary.un.org/record/3959039?ln=ru>

²² <https://digitallibrary.un.org/record/3966630?ln=en>

²³ <https://hromadske.radio/en/news/2022/03/09/members-of-the-wagner-group-have-been-killed-in-ukraine>

²⁴ <https://www.bbc.com/news/world-europe-60547807>

²⁵ <https://casebook.icrc.org/case-study/icty-prosecutor-v-galic>

Czech Republic, Estonia, Lithuania, Latvia, Netherlands, Poland and Slovakia, also as European Parliament and Parliamentary Assemblies of NATO and Council of Europe recognized Russian politic regime as terroristic one already²⁶.

New challenges for the issue of sustainable development, including growth of poverty were caused by destruction the dam of Kakhovka Hydroelectric Power Plant (HPP) on Dnipro River by Russian military units, that happened on 6 June, 2023²⁷²⁸²⁹³⁰³¹.

Ukraine informed International Criminal Court about the destruction of Kakhovka HPP and representatives of Prosecutors' Office of ICC visited disaster area on June, 10. Also on June 10 the Ukrainian Parliament has adopted a resolution on an appeal to the UN, parliaments and governments of its member states, international organizations and their parliamentary assemblies in connection with the Russians blowing up the Kakhovka HPP³².

UN Office for the Coordination of Humanitarian Affairs (OCHA) stressed on June 10 that the catastrophic effects of the flooding that followed the Kakhovka Dam destruction add to the immense human suffering caused by Russia's war on Ukraine³³³⁴³⁵³⁶.

As ARC experts noted, the aggressor's undermining of the Kakhovka HPP became a separate crime of genocide, including the forced deportation of the population of the villages and cities adjacent to the Dnipro in the left-bank Kherson region, the destruction of their houses and the murder of those who cannot escape flooding³⁷. From the point of view of international law, such Russia's illegal acts can be considered as terrorism also³⁸³⁹⁴⁰.

Relevant activities of UN bodies, in the context of the human right to a clean, healthy and sustainable environment will allow intergovernmental bodies, governments of developing countries, environmental protection and human rights organizations, and institutions of the world's indigenous peoples to start a discussion and assessment of the forms of direct and indirect negative ecological and economic impact of Russian aggression in the field of sustainable development and the related rights to food, water and sanitation⁴¹⁴² and regarding the related compensations for damage and losses.

The result should be the development of plans to counteract the corresponding negative processes at the level of international organizations, governments and non-governmental environmental protection structures, organizations of the indigenous peoples of the world, the inclusion of relevant issues in international documents of legal and political dimensions, in particular in the dimension of development the ecocide conventional criminalization, increased sanctions pressure and international recognition of the Russian regime terrorist one.

Ukraine started some criminal proceedings regarding issues of destruction the ecosystem by Russian troops, with qualification of such activities as ecocide crime, but the whole concept of ecocide crime is not too develop in modern international law and have no conventional

²⁶ <https://arcrimea.org/en/analytics/2022/11/05/sevastopols-maritime-cotton-and-terrorist-states-blaming-through-victim/>

²⁷ <https://www.pravda.com.ua/eng/news/2023/06/6/7405479/>

²⁸ <https://www.nytimes.com/2023/06/09/world/europe/ukraine-dam-collapse-explosion.html>

²⁹ <https://www.jordskjelv.no/meldinger/seismic-signals-recorded-from-an-explosion-at-the-kakhovka-dam-in-ukraine>

³⁰ <https://www.president.gov.ua/en/news/stvorena-rosijskimi-teroristami-katastrofa-na-kahovskij-ges-83449>

³¹ <https://en.ecoaction.org.ua/destruction-of-the-kakhovka-hpp-preliminary-conclusions.html>

³² <https://itd.rada.gov.ua/billInfo/Bills/Card/42091>

³³ https://twitter.com/OCHA_Ukraine/status/1667531704364331010

³⁴ <https://news.un.org/en/story/2023/06/1137497>

³⁵ [https://web.archive.org/web/20230619214026/https://www.parismou.org/system/files/202%20-](https://web.archive.org/web/20230619214026/https://www.parismou.org/system/files/202%20-%20ARC_Submission_IMO_ILO_FAO_11_06_2023.pdf)

[%20ARC_Submission_IMO_ILO_FAO_11_06_2023.pdf](https://web.archive.org/web/20230619214026/https://www.parismou.org/system/files/202%20-%20ARC_Submission_IMO_ILO_FAO_11_06_2023.pdf)

³⁶ <https://arcrimea.org/en/activity/2023/06/20/paris-mou-informed-member-states-about-russias-undermining-kakhovka-hpp/>

³⁷ <https://arcrimea.org/en/news/2023/06/11/gondoliers-of-fortune-and-aggressors-genocide-of-left-bank-population/>

³⁸ <https://casebook.icrc.org/case-study/icity-prosecutor-v-galic>

³⁹ <https://arcrimea.org/en/analytics/2022/11/05/sevastopols-maritime-cotton-and-terrorist-states-blaming-through-victim/>

⁴⁰ <https://www.internationalcrimesdatabase.org/upload/documents/20221024T110657->

[Prosecution%20for%20Ecocide%20as%20a%20weapon%20in%20armed%20conflict%20reflections%20on%20Crimea.pdf](https://www.internationalcrimesdatabase.org/upload/documents/20221024T110657-Prosecution%20for%20Ecocide%20as%20a%20weapon%20in%20armed%20conflict%20reflections%20on%20Crimea.pdf)

⁴¹ <https://arcrimea.org/en/analytics/2023/07/08/qualification-of-russian-aggression-ecologic-challenges/>

⁴² <https://arcrimea.org/en/analytics/2023/06/13/environmental-challenges-of-occupation-of-crimea-and-other-forms-of-russian-aggression/>

protection⁴³. Also the above-pointed issues were discussed during the side-events on Sharm el-Sheikh Climate Change Conference (COP 27) and Dubai Climate Change Conference (COP 28) held by our experts together with Crimean Tatar Resource Center and Mission of Ukraine in 2022 and 2023⁴⁴⁴⁵⁴⁶⁴⁷⁴⁸, also as at World Law Congress, 2023⁴⁹⁵⁰.

Experts stressed on COP 27 & COP 28 that the main negative consequences for the indigenous peoples of Crimea, are the destruction or damage due to climatic changes of natural ecosystems and areas of traditional farming, namely: the desertification of the Western Crimea, the deforestation of the Crimean mountains, the destruction and disappearance of marine coastal aquatic complexes, the collapse of biosystems of the Azov seas, soil salinization of the Central and Eastern Crimea. All this negative consequences make negative impact on the agricultural potential of region. Since 2018 Ukrainian authorities adopted some strategic and program documents regarding processes of reintegration the Crimea after its de-occupation that included analysis of damage caused and compensation issues.

The Plan of emergency measures to counter Russian aggression from the temporarily occupied territory of Ukraine in Crimea, the protection of the interests of the state, citizens of Ukraine and Ukrainian legal entities in Crimea for 2018–2019⁵¹, the Plan of measures aimed at implementing some of the principles of state internal policy regarding the temporarily occupied territory of the AR Crimea and Sevastopol, 2018⁵², Strategy of information reintegration of the AR Crimea and Sevastopol. 2018, Strategy for Crimean Tatar language development for 2022–2032⁵³, Strategy of deoccupation and reintegration of the temporarily occupied territory of Crimea and Sevastopol, 2021 also as plans for its implementation were adopted⁵⁴, *and those legal binding acts foreseen the issues of ecology loss and damage issues.*

On March 3-6, 2023 the I Session of Strategic Forum “Future of Crimea” initiated by the Crimean Tatar Resource Center was held⁵⁵, in which more than twenty key experts of various structures on the subject of the peninsula, including ARC’s representatives, took part⁵⁶. Strategic Forum elaborated proposals for Ukrainian government to make relevant preparations for ecologic activities to be established for de-occupied Crimea during reintegration period, including damage compensation issues. Relevant recommendations were sent by the organizing committee of the Forum to the authorized state bodies of Ukraine, and meeting was held with the Deputy Prime Minister of Ukraine, but the above-pointed strategic and program documents regarding processes of reintegration the Crimea after its de-occupation may be soon amended and they need to be modernized regarding climate change and other ecologic issues. Such situation and challenges for damage compensation mechanisms were discussed upon ARC’s initiative at World for Ukraine Summit that was held in Poland, at September 28⁵⁷.

Also those issues were discussed at II Session of Strategic Forum “Future of Crimea” initiated by the Crimean Tatar Resource Center in October, 2023⁵⁸ and relevant recommendations were granted to Ukrainian government and third countries’ representatives⁵⁹.

⁴³ <https://www.internationalcrimesdatabase.org/upload/documents/20221024T110657->

<Prosecution%20for%20Ecocide%20as%20a%20weapon%20in%20armed%20conflict%20reflections%20on%20Crimea.pdf>

⁴⁴ <https://arcrimea.org/en/analytcs/2023/07/08/qualification-of-russian-aggression-ecologic-challenges/>

⁴⁵ <https://arcrimea.org/en/analytcs/2023/03/24/world-law-congress-occupied-crimea-and-russian-aggression/>

⁴⁶ <https://arcrimea.org/en/activity/2022/11/20/crimea-indigenous-peoples-international-crimes-and-global-warming/>

⁴⁷ <https://arcrimea.org/en/activity/2023/12/04/deoccupation-of-crimea-was-discussed-in-ukrainian-pavilion-of-un-climate-conference/>

⁴⁸ <https://arcrimea.org/en/activity/2023/12/03/un-climate-change-conference-and-de-occupation-of-crimea/>

⁴⁹ <https://arcrimea.org/en/activity/2023/07/21/world-law-congress-russian-aggression-energy-markets-and-maritime-safety/>

⁵⁰ <https://arcrimea.org/en/news/2023/07/23/crimean-issues-on-the-world-law-congress/>

⁵¹ <https://arcrimea.org/en/analytcs/2023/04/28/legal-programming-of-crimeas-deoccupation-and-reintegration-measurement-of-effectiveness/>

⁵² <https://arcrimea.org/en/analytcs/2023/04/25/actual-dimension-of-program-acts-implementation-on-crimea-reintegration/>

⁵³ <https://arcrimea.org/en/analytcs/2023/05/28/financial-aspects-of-reintegration-crimean-strategies-budget-programs-and-international-projects/>

⁵⁴ <https://journals.fpk.kyiv.ua/index.php/kyivlawjournal/article/view/17/15>

⁵⁵ <https://arcrimea.org/en/activity/2023/03/06/results-of-strategic-forum-future-of-crimea/>

⁵⁶ <https://arcrimea.org/en/activity/2023/05/04/ministry-of-reintegration-held-meeting-with-experts-from-future-of-crimea-forum/>

⁵⁷ <https://arcrimea.org/en/activity/2023/09/28/world-for-ukraine-summit-discussions-and-occupied-crimea/>

⁵⁸ <https://arcrimea.org/en/activity/2023/11/23/recommendations-were-presented-to-governmental-plan-for-reintegration-of-crimea/>

As exactly Russia as aggressor state bears the responsibility for violation the conflict related violation of Ukrainians' individual and collective ecologic rights, relevant mechanisms of compensation and reparations must be established with strong participation of UN OHCHR and UN Human Rights Committee. Upon request of ICC's Prosecutors' Office our Association stressed in March, 2024 that relevant conventional disputes and activities in the area of international environmental law in conflict situations must be taken into consideration, such as Dispute concerning coastal state rights in the Black Sea, ICJ case 2017-06⁶⁰.

We stressed that an all-enhancing work on the development of the concept of ecocide as a fourth core international crime should be continued, and it must take into account national legislation, law-enforcement practices and jurisprudence. Ukraine and some other European states have formed relevant practices in recent years. We pointed that international ecological crimes present a principally new phenomenon for victims of criminal acts, including issues like damage recovery, special challenge to collective rights of territorial communities and indigenous peoples most affected by such crimes.

We stressed to ICC's Prosecutors' Office that the victim-centered approach is especially crucial taking into account the possible and probable correlation between genocide and eventual international ecologic crimes, including ecocide. Here, genocide may take a form of deliberately inflicting on a national, ethnical, racial or religious group conditions of life calculated to bring about its physical destruction in whole or in part. The deliberate destruction of the Nova Kakhovka Dam by the Russian forces in 2022 is an example of a war crime with such genocidal implications and also is an ecocidal act.

We stressed that issues of sustainable development, challenges of climate change and new reality of artificial intelligence as a hypothetical international crimes' subject must be taken into consideration while advancing accountability for environmental crimes under the Rome Statute.

More, it seems to be that negative climate changes are not the side effect of Russian aggression against Ukraine, but it is one of its major goals. As it is known the administration of Russian president use the narratives that the global warming and ocean level rise are allegedly useful for Russia as such situation will allegedly allow to develop actively the natural resources of Russia-controlled northern part of Eurasia. So damage connected with climate changes, caused by Russian aggression is committed by Russia-controlled structures with direct intent.

So we call all UN authorized bodies and agencies, also as their member states to pay a special attention to Russian illegal activities in Ukraine in framework of global risks for climate and to relevant global human rights and sustainable development, including issues of compensation the damage and losses, connected with aggressor's attacks against climate.

29th March, 2024

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⁵⁹ <https://arcrimea.org/en/activity/2023/12/15/presentation-of-results-of-strategic-forum-future-of-crimea/>

⁶⁰ <https://pca-cpa.org/en/cases/149/>