

**PRESS RELEASE****DISPUTE CONCERNING THE DETENTION OF UKRAINIAN NAVAL VESSELS AND SERVICEMEN  
(UKRAINE V. THE RUSSIAN FEDERATION)**

THE HAGUE, 6 MAY 2025

**Publication of Decision on Challenge by the Russian Federation against Judge James L. Kateka**

In an arbitration under Annex VII to the 1982 United Nations Convention on the Law of the Sea ("UNCLOS") relating to the dispute concerning the detention of Ukrainian naval vessels and servicemen, a [Decision on Challenge](#) by the Russian Federation against Judge James L. Kateka, Member of the Arbitral Tribunal, dated 11 April 2025 has been published on the website of the Permanent Court of Arbitration ("PCA"). The PCA acts as registry for the proceedings.

The arbitration concerns the interpretation and application of UNCLOS in respect of a dispute that arose from events which took place on 24 to 25 November 2018, involving the arrest and detention by the Russian Federation of three Ukrainian naval vessels (the *Berdiansk*, the *Nikopol* and the *Yani Kapu*) and their respective crew of 24 Ukrainian naval personnel for alleged violations of Russian criminal law.

The Decision addresses the challenge raised by the Russian Federation against Judge Kateka for alleged justifiable doubts about his impartiality, as discussed in the Russian Federation's letters dated [6 September](#) and [6 December 2024](#). In its letters, the Russian Federation raised three grounds in support of its challenge, namely: (i) Judge Kateka's participation in the drafting and voting process of the Institute of International Law (Institut de Droit International, "IDI") declaration of 1 March 2022, entitled "Declaration of the Institute of International Law on Aggression in Ukraine" ("IDI Declaration"); (ii) Judge Kateka's reposting of a tweet on social media that is allegedly critical of the Russian Federation; and (iii) Judge Kateka's participation as a judge of the International Tribunal for the Law of the Sea ("ITLOS") when the latter rendered its Provisional Measures Order in respect of this arbitration.

In accordance with Article 19, paragraph 1 of the [Rules of Procedure of the Arbitral Tribunal](#) and [Procedural Order No. 10](#) dated 2 January 2025, the Arbitral Tribunal was constituted for the purpose of the challenge to Judge Kateka by Judge Gudmundur Eiriksson, as President, Sir Christopher Greenwood and Professor Alexander N. Vylegzhanin, as Members, and without the participation of Judge Kateka and Judge Kathy-Ann Brown (see paragraphs 36 and 39 of the [Decision](#)).

Following an exchange of submissions of the Parties and comments of Judge Kateka, the Arbitral Tribunal – after carefully reviewing the circumstances of Judge Kateka's participation in the drafting and voting process of the IDI Declaration and his eventual abstention therein; the timeline and circumstances surrounding his social media repost; as well as the practice in inter-State dispute settlement concerning provisional measures, in particular, of other Annex VII tribunals and ITLOS – rejected the challenge to Judge Kateka by two votes to one, with Judge Gudmundur Eiriksson and Sir Christopher Greenwood voting to reject the challenge, and Professor Alexander N. Vylegzhanin voting to uphold the same.

Professor Alexander N. Vylegzhanin appended a [Dissenting Opinion](#) to the Decision. While agreeing with the decision of the majority as regards the timeliness of the challenge and the applicable standard, he did not agree with the majority's application of the standard as regards Judge Kateka's involvement in the IDI Declaration and his social media repost. Professor Vylegzhanin also stated that, while he aligned with the majority's conclusion to dismiss the third ground of the challenge, he disagreed with the majority's reasoning and hoped to "attract the arbitration community's attention to the issue, and advocate in favour of minimizing and ultimately reversing" the practice of ITLOS judges subsequently serving as arbitrators in an Annex VII tribunal.

## **Background of the Dispute**

The arbitral proceedings were instituted on 1 April 2019 when Ukraine served on the Russian Federation a Notification and Statement of Claim<sup>1</sup> under Annex VII to the 1982 United Nations Convention on the Law of the Sea (UNCLOS). The Notification and Statement of Claim refers to a dispute concerning the detention of Ukrainian naval vessels and servicemen.

The Members of the Arbitral Tribunal are Judge Gudmundur Eiriksson (Iceland), as President, Sir Christopher Greenwood (United Kingdom), Professor Alexander N. Vylegzhanin (Russian Federation), Judge James L. Kateka (Tanzania), and Judge Kathy-Ann Brown (Jamaica).

Further information about the proceedings is available on the PCA website at <https://pca-cpa.org/en/cases/229/>. In accordance with the Rules of Procedure, the PCA, after consultation with the Parties, will from time-to-time issue press releases, concerning the status of the proceedings. Moreover, procedural orders and decisions of the Arbitral Tribunal will be made publicly available on the website of PCA seven days after they have been notified to the Parties. Further, any award of the Arbitral Tribunal will be made public unless both Parties agree otherwise.

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## **Background on the Permanent Court of Arbitration**

The Permanent Court of Arbitration is an intergovernmental organization established by the 1899 Hague Convention on the Pacific Settlement of International Disputes. The PCA has 125 Contracting Parties. Headquartered at the Peace Palace in The Hague, the Netherlands, the PCA facilitates arbitration, conciliation, fact-finding, and other dispute resolution proceedings among various combinations of States, State entities, intergovernmental organizations, and private parties. The PCA's International Bureau is currently administering seven inter-state arbitrations, one other inter-state proceeding, 95 arbitrations arising under bilateral or multilateral investment treaties or national investment laws, 109 arbitrations arising under contracts involving a State or other public entity, and 4 other proceedings. More information about the PCA can be found at [www.pca-cpa.org](http://www.pca-cpa.org).

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<sup>1</sup> The full title of the document is "Notification under Article 287 and Annex VII, Article 1 of the United Nations Convention on the Law of the Sea and Statement of the Claim and Grounds on which it is Based".