

**PRESS RELEASE****DISPUTE CONCERNING COASTAL STATE RIGHTS IN THE BLACK SEA, SEA OF AZOV,
AND KERCH STRAIT (UKRAINE V. THE RUSSIAN FEDERATION)**

THE HAGUE, 16 MARCH 2020

Publication of Award Concerning Preliminary Objections of the Russian Federation

In an arbitration under Annex VII to the United Nations Convention on the Law of the Sea (“UNCLOS” or the “Convention”) in respect of coastal State rights in the Black Sea, Sea of Azov, and Kerch Strait, an [award concerning the preliminary objections of the Russian Federation](#) has been published on the case repository of the Permanent Court of Arbitration (“PCA”). The PCA acts as registry for the proceedings.

The Arbitral Tribunal had issued the award on 21 February 2020. Pursuant to [Procedural Order No. 2](#), prior to the publication of the award, the Parties had 21 days to consider whether any part of the award should be designated as containing “confidential information.”

The arbitration was instituted on 16 September 2016, when Ukraine served on the Russian Federation a Notification and Statement of Claim¹ under Annex VII to UNCLOS in respect of a “dispute concerning coastal state rights in the Black Sea, Sea of Azov, and Kerch Strait.” The arbitration concerns Ukraine’s claims, as described in its Memorial filed on 19 February 2018, that the Russian Federation has violated (i) “Ukraine’s rights to hydrocarbon resources in the Black Sea and Sea of Azov,” (ii) “Ukraine’s rights to living resources in the Black Sea, Sea of Azov, and Kerch Strait,” (iii) “Ukraine’s rights by embarking on a campaign of illegal construction in the Kerch Strait that threatens navigation and the marine environment,” (iv) “its duty to cooperate with Ukraine to address pollution at sea,” and (v) “Ukraine’s UNCLOS rights and [its] own duties in relation to underwater cultural heritage.”

The Russian Federation raised preliminary objections to the jurisdiction of the Arbitral Tribunal on the grounds that:

- the Arbitral Tribunal lacks jurisdiction because the Parties’ dispute in reality concerns Ukraine’s “claim to sovereignty over Crimea” and is therefore not a “dispute concerning the interpretation or application of the Convention” as required by Article 288, paragraph 1, of the Convention;
- the Arbitral Tribunal has no jurisdiction over claims concerning activities in the Sea of Azov and in the Kerch Strait;
- the Arbitral Tribunal has no jurisdiction in light of the Parties’ declarations under Article 298(1) of the Convention, relating to military activities, law enforcement activities, delimitation, and historic bays or titles;
- the Arbitral Tribunal has no jurisdiction over fisheries claims in light of Article 297(3)(a) of the Convention;

¹ The full title of the document is “Notification under Article 287 and Annex VII, Article 1 of UNCLOS and Statement of the Claim and Grounds on which it is Based”.

- the Arbitral Tribunal has no jurisdiction over fisheries, protection and preservation of the marine environment, and navigation in light of Annex VIII to the Convention; and
- the Arbitral Tribunal has no jurisdiction pursuant to Article 281 of the Convention.

The Arbitral Tribunal decided, in [Procedural Order No. 3](#), that these preliminary objections should be addressed in a preliminary phase of the proceedings. The Parties accordingly filed written pleadings concerning the preliminary objections. From 10 to 14 June 2019, the Arbitral Tribunal held a hearing concerning the preliminary objections at the Peace Palace, The Hague. The Parties' written pleadings and the opening statements presented by the Agents of the Parties at the hearing are also publicly available on the PCA Case Repository (<https://pca-cpa.org/en/cases/149/>).

In its award of 21 February 2020, the Arbitral Tribunal, unanimously:

- a) *Upholds* the Russian Federation's objection that the Arbitral Tribunal has no jurisdiction over Ukraine's claims, to the extent that a ruling of the Arbitral Tribunal on the merits of Ukraine's claims necessarily requires it to decide, directly or implicitly, on the sovereignty of either Party over Crimea;
- b) *Finds* that the Russian Federation's objection that the Arbitral Tribunal has no jurisdiction over Ukraine's claims concerning activities in the Sea of Azov and in the Kerch Strait does not possess an exclusively preliminary character, and accordingly decides to reserve this matter for consideration and decision in the proceedings on the merits;
- c) *Rejects* the other objections of the Russian Federation to its jurisdiction;
- d) *Requests* Ukraine to file a revised version of its Memorial, which shall take full account of the scope of, and limits to, the Arbitral Tribunal's jurisdiction as determined in the present Award;
- e) *Decides* that each Party shall bear its own costs.²

On 21 February 2020, the Arbitral Tribunal also issued [Procedural Order No. 6](#), setting forth the procedural timetable for further written pleadings.

The five-member Arbitral Tribunal is chaired by Judge Jin-Hyun Paik as President (a national of the Republic of Korea). The other members are Judge Boualem Bouguetaia (Algeria), Judge Alonso Gómez-Robledo (Mexico), Judge Vladimir Vladimirovich Golitsyn (Russian Federation), and Professor Vaughan Lowe QC (United Kingdom). Professor Lowe was appointed by Ukraine. Judge Golitsyn was appointed by the Russian Federation. Judges Paik, Bouguetaia, and Gómez-Robledo were appointed in accordance with the procedure set out in Article 3, paragraph 2, of Annex VII to UNCLOS.

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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 122 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 three inter-State disputes, 109 investor-State arbitrations, and 49 cases arising under contracts involving a State or other public entity, and five other disputes. More information about the PCA can be found at www.pca-cpa.org.

The PCA has acted as Registry in numerous arbitrations and conciliations between States, including in 15 proceedings under UNCLOS.

² Award Concerning the Preliminary Objections of the Russian Federation, para. 492.

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