

EXPLANATIONS

on the draft law of Ukraine “On Indigenous Peoples of Ukraine”

1. Purpose

The purpose of the Draft Law of Ukraine “On Indigenous Peoples of Ukraine” (hereinafter - the Draft Law) is to determine the legal status of the indigenous peoples of Ukraine and to create legal guarantees for the full possession of all human rights and fundamental freedoms of the indigenous peoples of the Ukraine established by international law, as well as provided for in the Constitution and laws of Ukraine.

2. Justification of the need to adopt a legal act

The bill was prepared pursuant to paragraph 26 of subsection 3.3. Peace and Dialogue of Chapter 3. Reintegration of the Temporarily Occupied Territories of the Draft Law Plan of the Verkhovna Rada of Ukraine for 2021 approved by the Resolution of the Verkhovna Rada of Ukraine of February 2, 2021 № 1165-IX.

The Constitution of Ukraine guarantees the promotion of the ethnic, cultural, linguistic and religious identity of all indigenous peoples and national minorities of Ukraine (Article 11).

United Nations Charter, Resolution 1514 (XV) of the United Nations General Assembly “ Declaration on the granting of Independence to Colonial Countries and Peoples ” of December 14, 1960, International Covenant on Economic, Social and Cultural Rights and International Covenant on Civil and Political Rights of December 16, 1966, the Declaration of the Principles of International Law Concerning Friendly Relations and Co-operation between States under the Charter of the United Nations of October 24, 1970 and other norms of international law reaffirm the fundamental importance of the right of all peoples to self-determination, by virtue of which they can freely determine their political status and freely pursue their economic, social and cultural development.

Although the term "native people" is used both in the norms of international law and in the provisions of the Constitution of Ukraine, its meaning is not revealed in the legislative acts of Ukraine. In addition, there is no special law in Ukraine that would determine the legal status of the indigenous people of Ukraine and establish clear guarantees for the latter's exercise of the right to self-determination.

Due to the Russian Federation's temporary occupation of the Autonomous Republic of Crimea and the city of Sevastopol and constant violations by the Russian Federation of the fundamental rights and freedoms of Ukrainian citizens, including indigenous peoples living in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine is recognized with indigenous status , which were established on the territory of the Autonomous Republic of Crimea and the city of Sevastopol.

This will, among other things, contribute to international legal recognition of the status of indigenous peoples of Ukraine.

Given that the indigenous people have lived in Ukraine for a long time and their legal status has not been established, it is necessary to adopt a special law. The

need for such a law arises from the provisions of Article 92, first part, paragraph 3 of the Constitution of Ukraine, according to which the rights of indigenous peoples and national minorities must be determined exclusively by the laws of Ukraine. In this regard, the Special Law on the Rights of Indigenous Peoples of Ukraine should define the concept of indigenous peoples of Ukraine and establish the principles of its legal status.

3. The main provisions of the draft law

The draft law defines the term “native people of Ukraine”, according to which it is an autochthonous ethnic community formed on the territory of Ukraine, which is the carrier of the original language and culture, has traditional, social, cultural or representative bodies, self-conscious indigenous people of Ukraine, is an ethnic minority in its population and does not have its own state outside of Ukraine. According to this definition, the draft law proposes to establish that the indigenous peoples of Ukraine are the Crimean Tatars, Karaites , Crimean Tatars.

In accordance with the provisions of the draft law , the indigenous peoples of Ukraine and their representatives have the right to enjoy collectively and individually all human rights and fundamental freedoms as set out in the United Nations Charter, the Universal Declaration of Human Rights and the United Nations Declaration of Human Rights Nations, indigenous peoples and in international treaties, the binding nature of which has been approved by the Verkhovna Rada of Ukraine, as well as those provided for in the Constitution and laws of Ukraine.

The draft law also defines guarantees for the indigenous peoples of Ukraine against legal protection from all actions aimed at: deprivation of signs of ethnicity and integrity as native peoples, deprivation of cultural values; eviction or forced relocation from compact residence in any form; forced assimilation or forced integration in any form; Promote or incite racial, ethnic or religious hatred against them.

Among the fundamental rights of indigenous peoples of Ukraine, the draft law guarantees the cultural, educational, linguistic and informational rights of indigenous peoples of Ukraine, the rights of indigenous peoples of Ukraine to sustainable development.

The draft law also provides for the determination of the legal status of the representative bodies of indigenous peoples of Ukraine, their allocation of resources, as well as the issue of international representation of indigenous peoples of Ukraine.

4. Legal Aspects

The legal bases for the drafting of the law and applicable regulations in the relevant field of public relations are: the Constitution of Ukraine, the Declaration of State Sovereignty of Ukraine, the Declaration of Independence of Ukraine, the Declaration of the Rights of Nationalities of Ukraine, the Charter of the United Nations , the Vienna Declaration, the United Nations Declaration on the Rights of Indigenous Peoples, the International Covenant on Economic, Social and Cultural

Rights and the International Covenant on Civil and Political Rights of December 16, 1966, other approved international instruments of the Verkhovna Rada of Ukraine, as well as the Resolution of the Verkhovna Rada of Ukraine of March 20, 2014 № 1140-VII “ On the Statement of the Verkhovna Rada of Ukraine on Ensuring the Rights of Crimean Tatars in the Ukrainian State”.

5. Financial and Economic Justification

Implementation of the provisions of the draft law will require additional expenses, but detailed calculations can be presented only after additional consultations with the representative bodies of indigenous peoples of Ukraine in the preparation of the draft law of Ukraine on the state budget of Ukraine for next year.

6. Conformity Assessment

The draft law does not contain any provisions on Ukraine's obligations in the field of European integration, affects equal rights and opportunities for women and men, contains risks of corruption and corruption-related crimes, and creates grounds for discrimination.

The draft law concerns the rights and freedoms guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms.

7. Predicting Results

Adoption of the draft law will allow the indigenous peoples of Ukraine to fully enjoy all human rights and fundamental freedoms as defined in international law and the Constitution and laws of Ukraine. In addition, the implementation of the draft law will help ensure the right of indigenous peoples of Ukraine to self-determination, self-determination of their political status and free exercise of their economic, social and cultural development in a manner that does not contradict the Constitution and laws of Ukraine.

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