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Some aspects of illegal, unreported and unregulated (IUU) fishing

In a scientific article describes how fish washed as the Common Agricultural Policy of the European Union. The peculiarity of this problem is that fishing related biological resources of the seas and oceans, which largely formed naturally and need constant renewal and protection from over-exploitation. As shown by data researchers volume of illegal, unreported and unregulated (IUU) fishing is growing every year, which creates a threat to environmental safety and the continued existence of the fishery. In this connection, the article raised issues of IUU fishing is a complex, multifaceted and dynamic problem that needs to be examined at both the national and international level.

Key words: international law, IUU, Sanctions mode, illegal fishing, unreported fishing, unregulated fishing, the Regulations of Council.

According to foreign researchers the volume illegal, not registered and noncontrollable (IUU) fishery — constitutes between 9 and 24 billion US dollars a year [1]. For this reason IUU fishery represents a complex, many-sided and dynamical problem which can be hardly solved at national or bilateral level. Struggle with IUU fishery demands combined efforts of the international community. Therefore first of all it is necessary to find out concept IUU of fishery.

1. Concept IUU of fishery of international law

For the first time the concept «illegal, not reported/not accounting and noncontrollable fishery» (on English *illegal, unreported and unregulated fishery*) is mentioned at conference of the United Nations concerning environment and development in 1992 the International plan of action on prevention, restraint and to liquidation IUU of fishery which has been approved by Committee of a fish economy of Fao [2] in 2001 for the first time has made the developed determination of this phenomenon:

Illegal fishery (*illegal fishery*) —

• ***In an exclusive economic zone (EEZ)*** the coastal state illegal fishery what is performed without the permission or in infringement of laws and normative acts of the coastal state is considered.

• ***In the high sea*** it is a craft which is performed without the licence which have been given out to the regional organization on management by fishery (ROMF) or in infringement of measures on preserving and management, accepted by this organization, or in infringement of relevant provisions of international law.

Not reported (*unreported fishery*) — trade activity, about which:

• It was not reported or was incorrectly reported to corresponding national authority in infringement of national laws or

• Conducted around corresponding ROMF and about which it was not reported in infringement of procedures of the reporting of this organization. In the absence of the similar notification, the craft is not registered and the caught quantities cannot be records at management of fish resources.

Noncontrollable (*unregulated fishery*) — in an operative range of the corresponding international organization, activity which is conducted by the courts not having nationalities or floating under the flag of the state, not being the party of this organization and to its unobservant rules on preserving and management.

Such is and catch areas where there are no certain rules on preserving and management and where the craft is performed by the method which is not corresponding to obligations of the state according to international law.

Hence, IUU the craft consists of three independent elements: the illegal craft, not reported craft and a noncontrollable craft [3].

According to the employee of the Norwegian Institute of sea researches to Bergen H. Josetera there are various types of a craft which can be carried to concept IUU fishery [4]. In some cases, for example, the caught fish is not delivered to coast, and it is simply thrown out for a board for various reasons, inclusive, that not the necessary kind of fish or fish not approaching on the size. The specified author considers that IUU fishery has serious biological and social consequences. Biological are connected with superoperation and decrease in resources as the supercraft leads to reduction of middle age of the caught fish, and therefore to reduction of a potential craft and fish stocks. The social effect consists that the fishermen leading a lawful craft, will catch less fishes, than could. Besides, IUU the craft leads to deterioration of a condition of the sea environment, to easing of economy of fishery, together with to a dumping causing anxiety. Sea poachers is usual commit excesses in the high sea, together with in exclusive economic zones of the developing states which have no means for effective supervision of the waters.

2. Struggle against IUU a craft in the European Union

Fishery as it well-known, represents a considerable part of the General agricultural policy of the European Union. Its specific characteristic is that fact that similar products occur from biological resources of the seas and oceans which are in a greater degree formed by a natural way and need constant renewal and protection from overexploitation. In initial documents of EU fishery products are considered as a part of agricultural products, but since 70th years of the XX-th century the Union develops the separate policy on fishery. After the Lisbon agreement the general agricultural policy and a policy on fishery are considered as two sides of the uniform complex policy getting to areas joint компетенций which have similar, though and not identical legal regime. Unique component of a fishery policy is the isolated legislation on preserving of sea biological resources that concerns area exclusive компетенций the European Union [5]. Key source of the legislation of EU under the relation of protection of sea biological resources are the **Regulations of Council (EU) 2371/2002** from December, 20th, 2002 about preserving and steady operation of fishery resources in within the limits of the General fishery policy [6]. The purpose of a general policy in the field of fishery, according to the specified Regulations is warranting of such operation of live water resources which creates conditions for stability both in the economic and ecological plan, and from the social point of view. Illegal, not registered and noncontrollable fishery represents one of the most serious threats for rational operation of the live water resources undermining a basis of the general fishery policy, together with the international efforts for management of world ocean. IUU the craft represents as well threat to a biological variety exhausting that Reducing of losses of a biological variety till 2020 — and further «is noted in the Message of the European Commission».

In Item 2 of Regulations of Council (EU) № 1005/2008 from September, 29th, 2008 establishing system of Community for prevention, restraint and liquidation of illegal, not registered and noncontrollable fishery [7] following determination is made **of concept «IUU to a craft»**:

For the present regulations:

1. *«Illegal, unreported and noncontrollable fishery» or «(IUU) fishery» means fishery activity which is illegal, not registered or noncontrollable;*

2. *«Illegal fishery» means fishery activity:*

Made by the local or foreign fishery vessel in the waters which are under jurisdiction of the state without the permission of this state or in infringement of laws accepted by it and regulations;

Made by the fishery vessel floating under the flag of the states which participate in the corresponding regional organization on fishery management, but acting in infringement of measures of preserving and the management, accepted by this organization and obligatory for the states, or in infringement of corresponding rates of applicable international law; or

Made by the fishery vessel in infringement of the national legislation or the international obligations, including and undertaken obligations by the co-operating countries before the corresponding regional organization on fishery management;

3. *«Not registered fishery» means fishery activity:*

Which is not declared or declared doubtfully before corresponding national body in infringement of national laws and regulations; or

Which is made in the area, getting to a scope of competence of the corresponding regional organization on management of fishery and are not declared or declared doubtfully in infringement of procedures on declaring of this organization;

4. «**Noncontrollable fishery**» means fishery activity:

Made in the area getting to a scope of corresponding regional organization on management of fishery, fishery vessels without a nationality, the fishery vessels floating under the flag of the state, not participating in the organization, or the structure which is engaged in fishery method which contradicts or in infringement of measures on preserving and management of this organization; or

Made in areas or under the relation of fish stocks for which there are no applicable measures on preserving and management, fishery vessels by the method contradicting responsibility of the states on preserving of live sea resources it agree international law.

Substantive provisions of this document of the secondary legislation are concretized and added by other legal acts of the Union, in particular **Regulations the Commissions (EU) № 1010/2009** from October, 22nd, 2009 by determination of detailed rules on application of Regulations of Council (EU) № 1005/2008 Communities establishing system for prevention, restraint and liquidation of illegal, not registered and noncontrollable fishery [8].

According to the above-stated documents the European Union sets as an object to eliminate an illegal craft in Community waters, together with in other water pools. Since January, 1st, 2010 all operations on import of fish products to the European Union are subjected a series of the measures, intended to warrant their legality catcha. At the heart of these measures the system certification by means of which the state, under whose flag floats the fishery vessel lies, certificates observance of conditions catcha. According to these new orders all operations on unloading of the fish products occurring from the third countries, are subject as well to check according to usages of the national port control. During too time they include also system of the prevention which gives possibility for information interchange about суднах, performing illegal catch.

A. Certification, supervision and inspections

The European Union observes own fishery enterprises. It has entered the monitoring system which allows to be assured that is unique lawful catch arrives in trading networks. The same severity and supervision are expected from the third countries which perform export of the fish products on EU territory. The European market reach it is unique products, whose legality can be certificated the state, under whose flag the fishery vessel floats. The certificate on catch should accompany each batch of the fish product imported from the third countries, even in the processed kind. This certificate stands out the state, under whose flag the boat floats. In it the product is described, the information on circumstances at which it is made catch is given and its legality is warranted. The system of electronic tracking or documentary system ROUR can be equivalent to the certificate on catch. For control over legality of products, irrespective of a vehicle (the boat, a train, the plane, etc.), member states of the European Union resort to inspections and can demand cooperation from the state of a flag of a boat.

B. Sanctions mode

If check or inspection leads identification a swimming boat which participated in illegal catche or to state disclosing, under whose flag this boat floats, the European union provides sanctions. At the suspicion connected with a swimming boat, the system of the prevention of Community which allows to inform other member states on suspicions into the account of the given swimming court is put in action. If there is data about illegal catche, the swimming boat is blacklisted the Communities, published in the Internet a site of the European Commission. It leads to a prohibition of any operations connected with transit journey, loading and unloading in all ports of the European Union. For the state which contribute to illegal fishery, the European regulations provide a series of response measures, inclusive a prohibition of import of fish products from corresponding state in the European Union.

In our national legislation the Resolution № 3 from 2/19/2013 about application балловой systems about perfect heavy infringements on sense of Regulations of Council (EU) № 1005/2008 from 9/29/2008 of year establishing Community system on prevention, restraint and liquidation of illegal, not registered and noncontrollable fishery, for change of regulations (EEC) № 2847/93, (EU) № 1936/2001 and (EU) № 601/2004 and for cancellation of regulations (EU) № 1093/94 and (EU) № 1447/1999 was more recently accepted [9].

Throughout the accepted measures at the European level the Regulations on execution (EU) № 672/2013 Commissions about change of Regulations (EU) № 468/2010 for drawing up of the list of EU, including a boat, making IUU a craft on July, 15th, 2013 have been accepted.

It is necessary to mean that the European Union is the party under the United Nations Organization Convention on maritime law from December, 10th, 1982 (UNCLOS). Besides, EU ratified the Agreement on realization of positions of the Convention which preservings of transboundary fish stocks and stocks of far migrating fishes and management concern with them. Also the Union has accepted the Agreement of Fao on the high sea from November, 24th, 1993 In large parts the specified acts set an obligation of all states to take suitable measures for efficient control and preserving of biological sea resources and to cooperate among themselves for realization of this purpose.

In 2001 of Fao has accepted the International plan of action on prevention, restraint and liquidation of illegal, not registered and uncontrollable fishery which has been supported by the European Union. Besides, with the help and active support of EU by the regional organizations on management of fishery the kit of the measures is created, intended to counteract IUU to a craft.

3. Struggle against IUU fishery in Black sea

IUU the craft is one of the most serious threats for steady fishery and in Black sea. For all twenty years' period of 1992 — it has been reported in general about 65 cases of illegal fishery in various EEZ in Black sea 2012 [10]. The basic object IUU of fishery in Black sea is the flounder, but also other kinds, such as an anchovy/hamsa, bluefish, sprat, jack mackerel, horse-mackerel, sardine, mullet, whiting and sturgeon, also are under the threat. Except traditional harmful consequences IUU of a craft, such as economic losses, biodiversity infringement, for region It is black ro the region seas are characteristic even human a victim. In the reported 65 cases five fishermen were lost, and two have been wounded.

Illegal, not reported and uncontrollable fishery is one of the reasons of reduction of fish stocks both in Black, and in Mediterranean sea. It is the cause for consolidation of efforts of the Commission on protection of Black sea against pollution and General Fisheries Commission for the Mediterranean (GFCM) for a sustainable development of fishery and aquaculture. Joint efforts provide not only informing of the wide public on the sizes IUU fisheries in Black sea, together with about creation of systems for data processing and the information and long-term plans on management of fishery in Black sea.

Hardly probable that fact is unexpected that the basic share from IUU fishery in Black sea is necessary on Turkish fishermen. Some of them perish, others — are wounded, the third — are arrested, their boats are detained, some are obliged to pay the penalty. But the considerable part has time to escape from administrative or punishment responsibility. This problem has economic, legal, political and social measurement for Turkey, the fact which in 2012 has been noted and General Fisheries Commission for the Mediterranean [11] As to IUU a craft performed by Turkish fishermen out of a Turkish exclusive economic zone the data show that during the period since 1992 on 2012 three Turkish boats have been sunk by the coastal patrol ships (two of them in Ukraine in 1998 and 2000, and another — in Romania). Five fishermen were lost — one in Georgia in 1997, two in Ukraine in 1998 and 2000 and one in Bulgaria in 2008 And 64 Turkish fishermen have been arrested. Last 20 years the penalties paid to other Black Sea states, constitute over 1 million US dollars [12]. Last cases of an illegal craft Turkish fishermen are reported by the Russian Federation in 2001 and Bulgaria in 2008.

It is necessary to mean that the problem with IUU a craft appears in the late eighties of the XX-th century and first of all is connected with illegal extraction of a flounder. During cold war, excepting Turkey, all other Black Sea countries (Soviet Union, Bulgaria and Romania) had a planned economy that did not influence a biological variety and fish stocks. Development of Turkish fishery fleet that has led to increase Turkish catch a flounder in Northern part of Black sea is in the late seventies noticed. With declaration from Soviet Union an exclusive economic zone in distance of 200 n miles Turkish fishermen have lost traditional possibilities for catch a flounder in coastal waters of the Crimean peninsula and in Kerch strait. The concept about EEZ, entered by the United Nations Convention on maritime law since 1982, was new to the states and in difference from a continental shelf, they should declare the exclusive economic zones clearly. The process connected with determination EEZ, has strongly affected a craft of Turkish fishermen. In 1985 the Turkish government and the Soviet authorities in a bilateral order discussed a question on fishery in water area of Black sea, but and the consensus about a quota catch a flounder has not been reached. In 1987, Soviet Union and Turkey exchange the notes connected with the agreement on delimitation of borders EEZ in Black sea. This agreement significantly has reduced possibilities catch a flounder in Black sea for Turkish fishermen.

New development of a measure against IUU a craft receive after 2007 when Bulgaria and Romania are included into the European Union and start to carry out general to the policy on fishery. These two countries are the first coastal Black Sea countries which have acquired the status of full members. After 2008 for the

first time started a quota system for a sprat and a flounder restriction also has started to be applied to admissible general catch for EU member states.

Exclusively massive problem connected with IUU by a craft, is catch accompanying kinds of fish. Pursuing extraction of a flounder or sturgeon fishes (which basically are the protected kinds and are under special protection inclusive and the Turkish legislation), every year a considerable quantity of dolphins are caught in a net fishermen in a Turkish part of Black sea.

IUU the craft sometimes leads to the phenomenon ghost fishery when fishermen throw out the networks in the sea, at the sight of the patrol ships, trying to avoid coastal protection or other competent authorities. In the thrown out networks sea organisms, such as sharks get confused many, slopes and dolphins who perish later, going to coast or sink on a bottom. After the certain period, the left networks (the seas which have sunk or floating on a surface) turn to threat for sea transport, especially at night. Set of boats have suffered from the sunk illusive networks in Black sea. Besides, getting on coast, these networks cause also pollution of coastal lines.

Irrespective of all above-stated, there are good experts for cooperation in struggle against IUU a craft. In 2001 between the Romanian and Turkish authorities interaction against actions of Turkish fishermen where representatives of a coast guard of both countries have taken part in detention was already performed.

In summary it is necessary to underline that without efforts of the states, and also bilateral and multilateral cooperation within the limits of the various international organizations hardly the international community could counteract effectively to the phenomenon «an illegal, not registered and noncontrollable craft». Exclusive value has an impulse which is given by the United Nations Organization on the foodstuffs and agriculture, together with the European Union. Taking into account problems in the Black Sea region the all-important tool is recently signed Memorandum of mutual understanding between GFCM and the Black Sea commission, whose purpose is cooperation strengthening between these two organizations in their corresponding areas of competence and a territorial scope — Mediterranean and Black sea. Really, austerity measures against IUU fishery in Black sea where the coastal states should develop and apply national plans to prevention, restraint and liquidation IUU of fishery are necessary more.

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Заңсыз, реттеусіз, тіркеусіз балық аулау кәсіптің кейбір қырлары

Мақалада Еуропа одағының жалпы ауылшаруашылық саясатындағы балық аулаудың кейбір мәселелері қарастырылған. Берілген мәселенің маңызы балық аулаудың шамадан тыс пайдаланудан қорғау және әрдайым жаңартуды қажет ететін, сонымен қоса табиғи жолмен пайда болатын теңіз бен мұхиттың биологиялық ресурстарымен байланысы болып табылады. Сондай-ақ, ғалымдардың пайымдауы бойынша, балық аулаудың заңсыз, реттеусіз және тіркеусіз көлемінің жыл сайын өсуі балық аулаудың, балық аулаудың өзінің әрі қарай қалыптасуына, сонымен қатар экологиялық қауіпсіздікке қауіп төндіруіне алып келеді. Сол себепті көтерілген заңсыз, реттеусіз және тіркеусіз балық аулау ұлттық және халықаралық деңгейде қаралуды талап етеді, өз алдында кешенді, көпқырлы және динамикалық мәселе болып есептеледі.

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Некоторые аспекты незаконного, незарегистрированного и нерегулируемого рыбного промысла

В статье рассмотрены вопросы рыбного промысла как общей сельскохозяйственной политики Европейского союза. Определена особенность данной проблемы — то, что рыбный промысел связан с биологическими ресурсами морей и океанов, которые в большей степени образуются естественным путем и нуждаются в постоянном возобновлении и охране от чрезмерной эксплуатации. Отмечено, что на основе данных исследователей объем незаконного, незарегистрируемого и нерегулируемого (ННН) рыбного промысла ежегодно растет, что создает угрозу как экологической безопасности, так и дальнейшему существованию самого рыбного промысла. Авторами подняты вопросы ННН рыбного промысла, представляющие собой комплексную, многогранную и динамичную проблему, которая должна быть рассмотрена как на национальном, так и на международном уровнях.

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(E-mail: gbalgimbekova@mail.ru)**Конституционно-правовые основы президентуры в Кыргызской Республике**

В статье рассмотрены некоторые тенденции правового развития института президентуры, конституционно-правовые основы становления и развития, функции и полномочия, конституционно-правовая ответственность президента. Отмечено, что уровень развития права относительно института президентуры не является предельным рубежом его эволюции. Выделены элементы избрания и формирования института президента, затронуты вопросы функционирования и развития феномена власти президента.

Ключевые слова: президент, Кыргызская Республика, институт президентства, президентура, Содружество Независимых Государств.

Утверждение в системе государственной власти Кыргызской Республики поста президента значительно усилило внимание в нашем обществе к институту президентства в различных политических системах. Введение этого института открыло новый этап в развитии кыргызской государственности.

Сегодня в мире более 130 стран имеют в своем государственном устройстве пост президента. Эта цифра отражает масштабность распространения президентства в современном мире. Термин