

Republik Maluku Selatan



Mr. Vincent Piket
EU Ambassador to Indonesia
and Brunei Darussalam
Menara Astra 38 th Floor
Jalan Jendral Sudirman 5-6
Jakarta
Indonesia

Amsterdam, 24 april 2021

Subject: Request for action on the CEPA treaty
not applicable to occupied territory
of the Republic of the South Moluccas

Your Excellency,

In this fashion, the Government in exile of the Republic of the South Moluccas urgently calls your attention to the following issue.

Background

As you are aware, the Republic of the South Moluccas was proclaimed on 25 April 1950. Thus an independent state, the Republik Maluku Selatan (RMS), was created. A State which met and satisfied all conditions for the creation of a State: a country, a people, and a government. Even though the RMS government now lives in exile in the Netherlands following the arrest and execution of the 2nd President of the RMS, mr. dr. Chr. R. Soumokil, on 12 April 1966.

That third countries, apart from the Republic of Benin, have not recognized the Republic of the South Moluccas does not detract from the existence of the RMS in the least. In this respect, I refer you to the legal opinions of dr. N. Higgins¹ and dr. E. de Brabandere².

Additionally, jurisprudence recognizes the existence and continued existence of the RMS. Therefore, according to jurisprudence, the RMS - represented by the RMS government in exile - has legal personality.

Following the proclamation of the RMS on 25 April 1950, the territory was occupied by the Republic of Indonesia after years of armed struggle. On the subject, I note that the Republic of Indonesia was first created on 17 August 1950. Consequently, the RMS did not secede from the unitary state of Indonesia (Negara Kesatuan Republik Indonesia). This version of the history, validity, and existence of the RMS could be viewed as an attempt to misrepresent history and violates (international) law.

The RMS was created on 25 April 1950 as an independent sovereign State.

As demonstrated previously, it was only thereafter that the Republic of Indonesia forcibly seized the RMS. This occupation resulted in thousands of victims. The aforementioned occupation of RMS territory continues unchanged.

The actions of the Republic of Indonesia could be deemed a violation of Article 2(4) of the UN Charter. The aforementioned article of the UN Charter explicitly states a prohibition of the use of force. A State may not seize another autonomous State by force. Recognition of the Republic of Indonesia by the other UN member states can never mean that the aforementioned occupation of the RMS, breaching the applicable rules of international law, did not occur. Consequently, the occupation of RMS territory is unlawful. Therefore, the Republic of Indonesia did not obtain a territorial title over the territory of the RMS.

¹ www.republikmalukuselatan.nl : dr.Noelle .Higgins “opinion on the status of the RMS”

² www.republikmalukuselatan.nl : dr.Eric de Brabandere “het voortbestaan van de Republik Maluku Selatan (RMS) onder internationaal recht”

In light of the unlawful occupation of RMS territory, the government-in-exile informed the Republic of Indonesia, by letter dated 27 December 2019, that it was liable for all consequences of the unlawful annexation and continued occupation of RMS territory.

For the sake of brevity, please refer to the attached liability statement of the Republic of Indonesia for all immaterial and material damage suffered by the South Moluccan people from 25 April 1950 to the present day because of the occupation of RMS territory. This liability stems from the first Presidential Regulation of 17 August 2019 and the second Presidential Regulation of 27 December 2019. Please find these regulations attached.

Examination of the CEPA treaty against international fundamental human rights and EU fundamental rights

The EU's responsibility is to safeguard human rights and respect for international law in its External Action. Consequently, as part of the CEPA Treaty between the EU and the Republic of Indonesia taking effect, a review based on the above criteria should be conducted.

CEPA treaty violation of the South Moluccan people's right to self-determination

Principally, the RMS believes that the formation of a treaty between the Republic of Indonesia and the European Union (EU) cannot encompass RMS territory.

It has been established that the occupation of the RMS goes against Article 2(4) of the UN Charter. The Republic of Indonesia holds the de facto authority over the territory of the RMS, but de jure authority lies with the Government in exile of the Republic of the South Moluccas. By entering into a treaty with the occupying power -the Republic of Indonesia- the EU encourages the subjugation and exploitation of the South Moluccan people. In this way, the EU disdains the application of international law, particularly the right to self-determination of the South Moluccan people. In this respect, the RMS Government draws attention to the fact that Indonesia has grossly violated the human rights of the South Moluccan people from the time of occupation of the RMS. In 2021, these violations continue unabated. We draw your attention to the following human rights abuses by the Republic of Indonesia.

Prosecution and conviction of citizens of the RMS go against the International Covenant on Civil and Political Rights. (BUPO)

Article 19 of the BUPO Treaty enshrines the right to free political expression of every citizen of a Contracting State. Indonesia -occupier of the RMS territory- has ratified this treaty. Consequently, as a contracting party, the Republic of Indonesia is bound by this treaty. The political prisoners of the RMS have always expressed their conviction that the South Moluccan is an occupied State and that the people of the South Moluccas have the right to self-determination. Displaying the RMS flag and expressing the opinion that reinstating the RMS's sovereignty is a necessity falls within the right to free speech. Of course, this applies to possessing documents showing the lawful creation and continued existence of the RMS.

The Republic of Indonesia continually blatantly violates international law on protecting the freedom to express political opinions by the South Moluccan people. Prominent human rights organizations, such as Amnesty International³ and Human Rights Watch⁴, have repeatedly voiced their opposition to the persecution of RMS citizens by the Republic of Indonesia.

No independent justice system and legal inequality

The Government in exile of the RMS further notes that there is no independent justice system present in the South Moluccas. Citizens of the RMS are prosecuted and convicted on the allegation of having committed a crime against the State. They are accused of committing the crime "Makar" - an attack on the Indonesian State.

Naturally, peacefully expressing the need to restore the sovereignty of the RMS cannot be classified as an attack on the Indonesian State. Nor is the secession of the RMS from the Republic of Indonesia the issue.

³ <https://www.amnesty.org/en/documents/ASA21/008/2009/en/>

"Indonesia : Jailed for waiving a flag. Prisoners of conscience in Moluccas"

⁴ <https://www.hrw.org/news/2020/05/04/indonesia-new-arrests-peaceful-political-expression>

"Indonesia: new arrest for peaceful political expression" (4 mei 2020)

It is also a matter of legal inequality. Suspects convicted of crimes against life (murder and manslaughter), corruption perpetrated by public servants, or being members of terrorist organizations, are sentenced to relatively short prison sentences when compared to RMS citizens who peacefully express their political opinions. Citizens of the RMS receive extremely high prison sentences. Amnesty International and Human Rights Watch have also raised this issue before.

Likewise, it has emerged that those supporting the independence movements in Aceh and West Papua are not being prosecuted for, for example, displaying their national flag. Or, if prosecuted, they usually receive much lower sentences. The well-known human rights activist Mohamad Ikhsan Tualeka of the Moluccan Crisis Centre (MCC) based in Ambon previously expressed the opinion in a publication that supporters of the RMS who publicly display the RMS flag are discriminated against by the Indonesian Government when compared to freedom fighters from West Papua and Aceh.⁵

Economic exploitation of the people of the South Moluccas

For centuries, colonizers exploited the South Moluccan people. The Republic of Indonesia continues this exploitation.

For decades, the South Moluccas have been ranked high among the most impoverished areas of the Republic of Indonesia. In 2021, the South Moluccas is ranked number 3 on the list of the poorest regions in Indonesia. Conversely, the South Moluccas is an affluent area. A country with many natural resources. For decades, The South Moluccas have been considered a conquered land by the Republic of Indonesia. Every year, the exploitation of fishery resources in South Moluccan waters generates an extraordinary amount of revenue for the Republic of Indonesia. These profits are not returned to the South Moluccan people. This also applies to the exploitation of oil, nickel, and gold from the South Moluccan region. Yet again, the people of the South Moluccas do not share in the returns from the exploitation of the natural resources of the South Moluccas.

⁵ <https://www.kompasiana.com/abikenleumar/5d5f7bd2097f3675e75cf244/parsial-keadilan-antara-bintang-kejora-dan-benang-raja?page=all> : Ikhsan Tualeka : “parsial keadilan antara bintang kejora dan benang radja”

Furthermore, numerous other abuses which involve the Republic of Indonesia occur in the South Moluccas. Illegal mining and fishing are tacitly permitted. Corruption, too, is rampant in the South Moluccas. Among others, large-scale land expropriations and deforestation occur intending to permit palm oil plantations on the island of Ceram. The (adat) rights of the original population are wholly ignored in the exploitation of natural resources. Consequences for the environment and public health are not taken into account when it comes to exploitation.

The announcement of the Republic of Indonesia that the exploitation of the gas field "block Masela" located in sea waters of the South Moluccas will lead to an increase in the prosperity of the South Moluccan people can be called a sop. After all, it is a fact that as a result of the application of Indonesian legislation, the South Moluccan people only get back a fraction of the revenues from the land and the sea waters of the Republic of the South Moluccas. The Republic of Indonesia - the occupying power - has announced that, according to Indonesian law, the South Moluccan people will only share a percentage of 10% in the proceeds of the gigantic gas reserves of Masela Block. These yields will be very high. According to the former Indonesian minister of maritime affairs-Rizal Ramli- the profits of Blok Masela could bring the people of the South Moluccas to the same level of prosperity as the people of Qatar.⁶

However, for the people of the South Moluccas, reality differs from the promise. The investors being the Japanese company INPEX, the Indonesian company Pertamina, Royal Shell, and the Government of the Republic of Indonesia, they will divide the spoils of the "Masela" gas supply amongst themselves.

In light of the preceding, the expectation you expressed - that, as portrayed in Indonesian media, the CEPA trade agreement will lead to employment and economic growth and will even generate an additional \$5 billion GDP for the Republic of Indonesia – means nothing to the South Moluccan people. As long as they have to live under the yoke of the Republic of Indonesia, the people of the South Moluccas will not benefit from the CEPA treaty between the EU and the Republic of Indonesia. Unfortunately, this also applies to your expectation that, after signing the CEPA treaty, the likelihood of exporting fish and cloves from the South Moluccas will increase. The latter remains to be seen, but the proceeds from the export of fish and cloves from the South Moluccas will most certainly not come back to the people of the

⁶ <https://www.teropongsenayan.com/18450-blok-masela-bisa-lebih-besar-dari-qatar>

Rizal Ramli "Blok Masela bisa lebih besar dari Qatar"

South Moluccas. Only the occupying power will benefit. In short, concrete evidence that the financial proceeds - to be paid to the Republic of Indonesia following the signing of the CEPA treaty - will benefit the South Moluccan people as well are entirely lacking.

In this respect, we would point out that the people of the South Moluccas are not the Republic of Indonesia's only victims. Other peoples also share in this fate. In particular, we would like to draw attention to the plight of our Melanesian brothers and sisters of West Papua. For decades, they, too, have been badly affected by the Indonesian occupation. They, too, have been deprived of the right to self-determination, and, in West Papua, international human rights are continuously grossly violated by the Republic of Indonesia. It is also well known that the Republic of Indonesia exploits West Papua.

Request

By way of this letter, the RMS Government calls on all EU Member States to review the establishment of the CEPA treaty against international human rights and EU fundamental rights. Particularly because the right to self-determination of the South Moluccan people is being violated. Moreover, further economic exploitation of the South Moluccas will not benefit the South Moluccan people.

Herewith, we explicitly appeal to the Dutch Government and Dutch Parliament. As a former colonizer and a leading member of the EU, the Dutch Government and Parliament must shoulder its responsibilities on this issue. The decolonization process of the South Moluccan people is not yet complete. After all, the Netherlands is part of the problem, but also part of the solution.

In this context, we refer to the prudent advice of Professor Dr. Alfred Maurice de Zayas, independent expert of the UN, to promote a democratic and just international order. In his report of 4 July 2015, Professor De Zayas urged members of the UN General Assembly to refer the right to self-determination of the people of the South Moluccan and West Papua to the UN Special Commission on Decolonisation.

We inform you ahead of time that if the EU is not prepared to review the creation of the CEPA treaty with the Republic of Indonesia in contradiction of the objections of the RMS, the

RMS Government will consider submitting the existing dispute to the European Court of Justice for assessment. We assume that this is not necessary.

The RMS Government stands ready to further elaborate verbally on this point of view.

Waiting for your prompt reply, we remain.

With the highest regard,

The Government in exile
of the Republic of the South Moluccas

President

Minister of foreign affairs

Mr. J. G. Wattilete

Umar Santi