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**RUSSIAN AGGRESSION IN CRIMEA AND ITS IMPACT
ON HUMAN ENVIRONMENT:
A FEW REFLECTIONS FROM INTERNATIONAL
ENVIRONMENTAL LAW PERSPECTIVE**

**ROSYJSKA AGRESJA NA KRYM
I JEJ WPŁYW NA ŚRODOWISKO CZŁOWIEKA:
KILKA UWAG Z PERSPEKTYWY
MIĘDZYNARODOWEGO PRAWA ŚRODOWISKA**

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ABSTRACT

The article analyzes the impact of Russian aggression and occupation of Ukrainian Crimea on local, regional and global environ-

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ment. The author concludes that this aggression will have a lot of dangerous consequences for environment: scuttling which is a form of dumping, dangers to world cultural heritage, risks of unjustified oil and gas offshore operations in the Black Sea continental shelf, the use of dolphins for military purposes and the possibility of construction of a nuclear power station. One of the results of Russian occupation will be the deterioration of environmental protection in the whole Black Sea region, because Russia is not a party to many key multilateral environmental treaties.

Keywords

Environmental protection and armed conflicts; State responsibility and environmental protection.

STRESZCZENIE

W artykule przedstawiono analizę wpływu rosyjskiej okupacji ukraińskiego Krymu na poziom ochrony środowiska w aspekcie lokalnym, regionalnym i globalnym. W ocenie autorki agresja ta wywołała szereg groźnych konsekwencji dla środowiska, takich jak: zatapianie w morzu, zagrożenia dla obiektów światowego dziedzictwa, ryzyko nieuzasadnionych operacji wydobywania ropy i gazu w obszarze szelfu kontynentalnego Morza Czarnego, wykorzystania delfinów dla celów wojskowych oraz możliwa budowa elektrowni atomowej. Z uwagi na to, że Rosja nie jest stroną szeregu międzynarodowych umów środowiskowych, jedną z konsekwencji rosyjskiej okupacji będzie pogorszenie poziomu ochrony środowiska w całym regionie Morza Czarnego.

Słowa kluczowe

Ochrona środowiska w konflikcie zbrojnym; odpowiedzialność państwa w ochronie środowiska.

1. INTRODUCTION

The European continent is currently witnessing the most severe security crisis since the tragic events surrounding the



dissolution of the Republic of Yugoslavia¹. The Russia's use of force on the Crimean peninsula threatened the very existence of international security system and international legal order. The crisis unfolded in late February 2014 in the aftermath of the Ukrainian Revolution which resulted in President Viktor Yanukovich's impeachment by the Ukrainian parliament after his flight from the capital, and the interim appointment of a new government². The Russian Federation didn't recognize this new Ukrainian government and did recognize Viktor Yanukovich as a legitimate and democratically elected President of Ukraine³.

On February 26, 2014 pro-Russian forces began to take control over the Crimean peninsula. On 1 March 2014 the Council of the Federation of the Federal Assembly of the Russian Federation unanimously supported the appeal of the President of the Russian Federation, Mr. Vladimir Putin, on sending a "limited contingent of military troops" of the armed forces of the Russian Federation into the territory of Ukraine⁴ in order "to deter radicals from using violence in the country and to facilitate reconciliation"⁵, to protect the rights and legitimate interests of Russian citizens and Russian-speaking population in Ukraine, as Putin said, "in connection with the extraordinary situation in Ukraine, the threat to the lives of citizens of the Russian Federation, our compatriots, and the personnel of the

¹ D. Wisheart, *The Crisis in Ukraine and the Prohibition of the Use of Force: A Legal Basis for Russia's Intervention?*, "European Journal of International Law: Talk!" (4 March 2014), www.ejiltalk.org/the-crisis-in-ukraine-and-the-prohibition-of-the-use-of-force-a-legal-basis-for-russias-intervention/

² 2014 Crimean crisis, http://en.wikipedia.org/wiki/2014_Crimean_crisis

³ Since it is obvious for the majority of Ukrainian people that Yanukovich is not a legitimate president of Ukraine. He has no effective control over the population, territory and governmental institutions. He is wanted by Interpol as he is under criminal investigation for the crimes against humanity committed during Ukrainian Revolution.

⁴ An Appeal from the Ukrainian Association of International Law, www.ejiltalk.org/appeal-from-the-ukrainian-association-of-international-law/

⁵ *Russian option to send troops is only to protect human rights – Lavrov*, "RT. Question more" (3 March, 2014), <http://rt.com/news/lavrov-human-rights-ukraine-542/>



armed forces of the Russian Federation on Ukrainian territory (in the Autonomous Republic of Crimea)...”⁶. This decision was taken in breach of the United Nations Charter, the Declaration of Principles of International Law of 1975, the Agreement of Friendship and Cooperation between the Russian Federation and Ukraine of 1997, the Budapest Memorandum of 1994, the Agreement between Russia and Ukraine on the Status and Conditions of the Presence of the Russian Black Sea Fleet on the Territory of Ukraine of 1997⁷. Most Ukrainian people including international lawyers regard the actions of the Russian Federation as an act of aggression which is a crime under international law⁸.

On March 16, 2014 a referendum on the status of Crimea was held in that region of Ukraine. The referendum asked the people of Crimea whether they wanted to join Russia as a federal subject. A result was a 96% affirmative vote which nevertheless has been condemned by the majority of states and the interim Ukraine government as unconstitutional and illegal. On March 17 the Crimean parliament declared independence from Ukraine and asked to join the Russian Federation. One day later President Vladimir Putin and the leaders of Crimea have signed a treaty to absorb the peninsula into Russia⁹. On 24th of March Russian military forces had occupied all Ukrainian military bases in Crimea, forcing the Ukraine armed forces to withdraw from the peninsula. Following Russian veto over UN Security Council resolution on the situation in Ukraine, on March 27 the U.N. General Assembly passed its Resolution 68/262

⁶ *Putin: Russian citizens, troops threatened in Ukraine, need armed forces’ protection*, “RT. Question more” (1 March 2014), <http://rt.com/news/russia-troops-ukraine-possible-359/>

⁷ An Appeal from the Ukrainian Association of International Law, www.ejiltalk.org/appeal-from-the-ukrainian-association-of-international-law/

⁸ Article 8 *bis* adopted at the 2010 Review Conference by the States Parties to the International Criminal Court in Kampala defines the individual crime of aggression as the planning, preparation, initiation or execution by a person in a leadership position of an act of aggression.

⁹ *Ukraine crisis: Putin signs Russia-Crimea treaty*, “BBC News” (18 March 2014), www.bbc.com/news/world-europe-26630062



entitled »Territorial integrity of Ukraine«. It was adopted with 100 votes in favour, 11 against and 58 abstentions. The document, though non-binding, “affirms ... the sovereignty, political independence, unity and territorial integrity of Ukraine within its internationally recognized borders; underscores that the referendum held in the Autonomous Republic of Crimea and the city of Sevastopol on 16 March 2014, having no validity, cannot form the basis for any alteration of the status of the Autonomous Republic of Crimea or of the city of Sevastopol”¹⁰. During all these March events Russia has deployed military and militia units along its border with eastern Ukraine that is an evidence of planned military intervention to the territory of Ukraine. The international community called Russia to withdraw these troops to deescalate the conflict. As famous international lawyer Volodymyr Vasylenko underlined, forceful rejection of Crimea does not deprive Ukraine of its title to the peninsula which is its legitimate part of the whole territory¹¹. We have to admit that withdrawal of the Ukrainian armed forces from the Crimean peninsula cannot be deemed as the recognition by Ukrainian authorities the legality of Russian annexation of the part of Ukrainian territory and as the consent to present situation. The above mentioned actions were dictated by the necessity to save lives of military personnel and their relatives in the occupied territory.

Russian aggression in Crimea and deprivation of Ukraine of its integral part on quasi-legal grounds has different aspects and must be considered from the perspectives of various International Law branches and institutes, namely International Law of Use of Force, Law on State Succession, Recognition of States, Law of International Treaties, International Law of Armed Conflicts, International Criminal Law, Diplomatic and Consular Law,

¹⁰ “Territorial integrity of Ukraine”, Resolution adopted by the General Assembly on 27 March 2014, A/RES/68/262, www.un.org/ga/search/view_doc.asp?symbol=A/68/L.39

¹¹ В. Василенко, *Агресія Росії: тенева, мета, способи протидії та правові наслідки*, „Український тиждень” (21–27 березня 2014), No.12 (332), pp. 6–10.



International Information Law, International Human Rights Law, International Law on the Law of the Sea, International Aviation Law, as well as International Environmental Law. Consequences of this military intervention and occupation for regional and global environment cannot be overestimated. We consider their effects from such standpoints: scuttling, preservation of cultural heritage, oil and gas offshore operations on the Black Sea continental shelf, use of dolphins for military purposes, nuclear energy, construction of a deepwater port, etc.

Bilateral cooperation between Ukraine and Russia for the protection of the Black Sea¹² against pollution was and still is based on the provisions of the Agreement between the Cabinet of Ministers of Ukraine and the Government of the Russian Federation on ensuring environmental safety and environmental control in the places of dislocation of Black Sea Fleet of the Russian Federation in Ukraine, 1998¹³. Before Russian occupation there were some problems with the preservation of Black Sea environment associated with the activities of Russian Black Sea Fleet. These problems involve the observance of Ukrainian national environmental legislation by military formations of the Russian Black Sea Fleet facilities particularly in the licensing procedures for emissions into water and air, as well as the issue of compensation for environmental damage associated with the Black Sea Fleet activity in Ukraine. Bilateral cooperation between Ukraine and the Russian Federation on protection of Azov Sea and Kerch Strait from pollution is based on the Agreement between Ukraine and the Russian Federation on cooperation in the use of the Azov Sea and Kerch Strait, 2003 (Article 3) and Agreement between the Government of Ukraine and the Russian Federation on measures to ensure the safety of navigation in the Azov Sea and Kerch Strait, 2012 (Article 2). The absence of delimitation of the Ukrainian-Russian border in

¹² The Crimean peninsula is washed by waters of Black and Azov Seas.

¹³ On 2 April 2014 Russian President Vladimir Putin has signed a law voiding the bilateral Russian-Ukrainian treaties concerning the deployment of Russia's Black Sea Fleet in Ukraine. This does not concern any other treaty in force for both parties.



the Azov Sea and Kerch Strait delayed the process of concluding the bilateral agreements on the regime of navigation in the area, technical requirements for vessels, standards for the protection of the marine environment, a system of monitoring, fisheries and the compensation mechanism in case of environmental damage. Now it is more problematical than ever. Some other bilateral environmental initiatives were also put into question after the aggression of Russia, namely the functioning of Black Sea Euroregion, founded in 2008 as the initiative of the Council of Europe¹⁴, and Black Sea eco-corridor¹⁵.

Before proceeding to the analysis of the above mentioned items we should make some statements concerning the compliance with environmental treaties during wartime. Termination of treaties in time of war is not a rule but rather an exception. International humanitarian law does not preclude the implementation of the legal rules which are in force in time of peace¹⁶. Most experts of the International Committee of the Red Cross recognized the applicability of the provisions of International Environmental Law in peacetime and during armed conflict. This was also confirmed by the International Law Commission in its Draft articles on the effects of armed conflicts on treaties, 2011. Article 3 of the Draft provides that the existence of an armed conflict does not *ipso facto* terminate or suspend the operation of treaties as between States parties to the conflict and as between a State party to the conflict and a State that is not. Article 7 contains a reference to the indicative list of treaties the subject-matter of which involves an implication that they continue in operation, in whole or in part, during armed conflict, among them, as provided for in the Annex to the Draft, –

¹⁴ The Euroregion unites the efforts of the Black Sea countries in collaboration in environmental and natural resources preservation of the Black Sea.

¹⁵ Stretches along the coasts of the Azov and Black Seas and provides transboundary connection with econets of Russia and Romania.

¹⁶ Н.А. Соколова, *Институт международно-правовой защиты природной среды в ситуации вооруженного конфликта*, „Studii Juridice Universitare” 2008, No. 3–4, pp. 165–175.



treaties relating to the international protection of the environment¹⁷.

2. SCUTTLING

Scuttling is an act of deliberately sinking a ship by allowing water to flow into the hull. During the occupation of Crimea by Russian troops on March 6–13, 2014 at the entrance of the Donuzlav Bay four used Russian ships were scuttled in an attempt to prevent the Ukrainian Navy from gaining access to the Black Sea¹⁸. Primarily Donuzlav was a lake but in 1961 after the construction of a naval base the lake was connected with the Black Sea, thus, having become a bay. The Ministry of Foreign Affairs of Ukraine sent a note in connection with the potential threat of the scuttling to environmental security in the Black Sea region. The Ministry of Foreign Affairs of Ukraine has informed the Russian side about moving white strip of unknown origin from the place of scuttled ships to the sea. The Ministry has attracted the attention of the Russian side to the fact that as a result of its intended misconduct in violation of obligations within the Agreement between the Cabinet of Ministers of Ukraine and the Government of the Russian Federation on ensuring environmental safety and environmental control in the places of dislocation of Black Sea Fleet of the Russian Federation in Ukraine, 1998, Russia created a potential threat to environmental safety of the marine environment of the Black Sea. Ukraine declared

¹⁷ Draft articles on the effects of armed conflicts on treaties, 2011, *The Yearbook of the International Law Commission* (2011), Vol. II, Part Two, http://untreaty.un.org/ilc/texts/instruments/english/draft%20articles/1_10_2011.pdf

¹⁸ S. Webb, D. Gayle, *Vladimir Putin scuttles his own navy warship in Black Sea to block Ukrainian vessels from leaving port as Crimeans face referendum on whether to join Russia*, “Mail Online” (6 March 2014), www.dailymail.co.uk/news/article-2574567/EU-leaders-hold-emergency-summit-discuss-response-Russias-Crimean-invasion-ousted-Ukrainian-president-Yanukovich-assets-frozen-alleged-embezzling.html



that the responsibility for damage to the marine environment and natural resources of the Black Sea relies on Russia¹⁹.

Scuttling is a form of dumping – an environmentally dangerous human activity subject to regulation by the UN Convention on the Law of the Sea, 1982 (UNCLOS), London Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 and its Protocol, 1996, Protocol on the protection of the Black Sea marine environment against pollution by dumping, 1992, to the Convention on the protection of the Black Sea against pollution, 1992. Ukraine and the Russian Federation are parties to UNCLOS, London Convention and Protocol on the protection of the Black Sea marine environment against pollution by dumping. Neither Ukraine nor Russia is a party to 1996 Protocol to the London convention. Dumping from a foreign vessel may be carried out only upon the consent of a coastal state in the form of a permit.

London convention defines in article III(1)(a)(ii) dumping as any deliberate disposal into the sea of vessels, aircraft, platforms or other man-made structures at sea. Under article IV(1)(c) of the Convention dumping of vessels is not prohibited but requires a prior general permit. Nevertheless this Convention can't be applied in the situation of scuttling in Donuzlav Bay because it is not applied to the internal waters of states²⁰. The same is true for the UNCLOS which governs dumping within the territorial sea, exclusive economic zone or onto the continental shelf of the coastal state²¹. 1996 Protocol to the London convention, having made some very important changes to the Convention (one of them – parties can apply its provisions to their internal waters), also allows vessels for dumping but provided that material capable of creating floating debris or otherwise *contributing to pollution of the marine environment* has been

¹⁹ МЗС вручило чергову ноту Росії: затоплені кораблі загрожують екології Чорного моря, УНІАН (13 березня 2014), www.unian.ua/politics/896152-mzs-vruchilo-chergovu-notu-rosiji-zatopleni-korabli-zagrojuyut-ekologiji-chornogo-morya.html

²⁰ London Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972, www.gc.noaa.gov/documents/gcil_lc.pdf

²¹ Article 216.



removed to the maximum extent and provided that the material dumped poses no serious obstacle to fishing or navigation²². It is more than doubtful that scuttling of Russian war ships met those requirements. Though neither Ukraine nor Russia is a party to 1996 Protocol, it is a demand of time that parties to the Convention ratify those amendments. 1996 Protocol may be used by international courts in order to witness *opinio juris* concerning state practice in dumping of vessels, as the International Court of Justice did in the *Gabcikovo-Nagymaros* case of 1997 concerning the Convention on the Law of the Non-Navigational Uses of International Watercourses, 1997²³.

Protocol on the protection of the Black Sea²⁴ marine environment against pollution by dumping provides: dumping in the Black Sea of wastes or other matter containing substances listed in Annex 1 to this Protocol is prohibited (art. 2); dumping in the Black Sea of wastes or other matter containing noxious substances listed in Annex II to the Protocol requires, in each case, a prior special permit from the competent national authorities (art. 3); dumping in the Black Sea of all other wastes or matter requires a prior general permit from the competent national authorities (art. 4). Annex I to the Protocol includes such dangerous substances which are used in the construction and operation of ships like PCB's, mercury, cadmium, radioactive substances, which are also governed by the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 (not yet in force). This document is aimed at ensuring that ships, when being recycled after reaching the end of their operational lives, do not pose any unnecessary risk to human health and safety or to the environment. Some of the substances (for example, PCB's) are also governed by another international treaty – Stockholm Convention on Persistent

²² Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1996, www.admiraltylawguide.com/conven/protodumping1996.html

²³ *Gabcikovo-Nagymaros Project (Hungary v. Slovakia)*, Judgment of the International Court of Justice of 25 September 1997, *ICJ Reports* (1997), P. 56.

²⁴ The reference to the Black Sea includes the territorial sea and exclusive economic zone of each Contracting Party in the Black Sea.



Organic Pollutants, 2001, Ukraine and Russia being its parties. Nobody knows for sure but it is likely that those four used Russian ships scuttled in Crimea during Russian aggression and occupation of Ukrainian territory have such substances dangerous for human health and environment.

Scuttling in Crimea by Russia is subject to responsibility under Ukrainian law. Legal responsibility in the field of waste management, including illegal dumping, is governed by the Laws of Ukraine “On Environmental Protection”, 1991, “On Wastes”, 1998 and Criminal Code, 2001. Article 243 of the latter provides a criminal punishment for pollution within internal waters or territorial sea of Ukraine or in waters within the exclusive (maritime) economic zone of Ukraine by materials or substances harmful to life or health of people, or by wastes due to violation of special rules when it created the danger to human life or health and living resources of the sea or could interfere with lawful uses of the sea, as well as *illegal dumping* or burial within internal or territorial waters of Ukraine²⁵.

3. PRESERVATION OF WORLD CULTURAL HERITAGE

Ancient City of Tauric Chersonese and its Chora is an object of world cultural heritage which was included into the UNESCO World Heritage List in 2013 by Ukraine. On March 2014 Ukraine has appealed to UNESCO that cultural sites in Crimea be protected. “On the territory of Crimea is the Khersones Tavriysky (Ancient City of Tauric Chersonese), which is inscribed on UNESCO’s World Heritage List and which belongs to the Ukrainian state. We have been given the mission to protect it. However, since we no longer have physical access to the site in order to protect all the rarities and exhibits located there, which are priceless not only for Ukraine but also for the entire world, we appeal to UNESCO to help us”, said Ukraine’s Minister of

²⁵ Кримінальний кодекс України, 5 квітня 2001 р., <http://zakon4.rada.gov.ua/laws/show/2341-14>



Culture Yevhen Nyshchuk²⁶. According to Nyshchuk, Ukrainian scientists have lost all access to cultural sites after the military occupation of Crimea by the Russian Federation. At the same time Vladimir Tsvetnov, director of the Culture Ministry's department of cultural preservation of Russia, said that "Crimea is a part of Russia, and all monuments will be preserved according to 73-FZ [the federal law regulating objects of cultural heritage²⁷]". However, Tsvetnov added that it would be premature to discuss UNESCO World Heritage sites in Crimea prior to the 38th session of the UNESCO World Heritage Committee, which will take place in Qatar in June. While Russia has more resources to devote to cultural preservation and more experience working with UNESCO sites – Russia has 25 to Ukraine's 7 – Russia also lacks a perfect track record with cultural preservation – historic buildings in downtown Moscow are under significant threat from redevelopment, and even Russia's oldest UNESCO heritage site, the 5th-century citadel of Derbent in the republic of Dagestan, was robbed in 2013 and damaged by a flood in 2012²⁸.

Ukraine and the Russian Federation are parties to the Convention Concerning the Protection of the World Cultural and Natural Heritage, 1972. It provides that each State Party undertakes not to take any deliberate measures which might damage directly or indirectly the cultural and natural heritage situated on the territory of other States Parties to this Convention (art. 6.3)²⁹. Ukraine and the Russian Federation are also parties to the Convention for the Protection of Cultural Property in the Event of Armed Conflict, 1954. The treaty stipulates: the High

²⁶ *Ukraine asks UNESCO to protect cultural heritage sites in Crimea*, "Euromaidan PR", http://dt.ua/UKRAINE/ukrayina-zaklikala-yunesko-zahistiti-hersones-140273_.html

²⁷ Федеральный закон, 24 мая 2002 г., <http://mkrf.ru/dokumenty/581/detail.php?ID=61158>

²⁸ D. Garrison Golubock, *Crimean Transition Puts Future of UNESCO Sites in Doubt*, "The Moscow Times" (27 March 2014), www.themoscowtimes.com/arts_n_ideas/article/crimean-transition-puts-future-of-unesco-sites-in-doubt/496910.html

²⁹ Convention Concerning the Protection of the World Cultural and Natural Heritage, 1972, whc.unesco.org/en/conventiontext/



Contracting Parties undertake to respect cultural property situated within their own territory as well as within the territory of other High Contracting Parties by refraining from any use of the property and its immediate surroundings or of the appliances in use for its protection for purposes which are likely to expose it to destruction or damage in the event of armed conflict; and by refraining from any act of hostility directed against such property (art. 4.1). Article 5.1. further provides: any High Contracting Party in occupation of the whole or part of the territory of another High Contracting Party shall as far as possible support the competent national authorities of the occupied country in safeguarding and preserving its cultural property. 2. Should it prove necessary to take measures to preserve cultural property situated in occupied territory and damaged by military operations, and should the competent national authorities be unable to take such measures, the Occupying Power shall, as far as possible, and in close co-operation with such authorities, take the most necessary measures of preservation³⁰. Thus, Russia has to fulfill its international obligations.

We suggest that there is an option for Ukrainian government to apply to UNESCO Intergovernmental Committee for the Protection of the World Cultural and Natural Heritage with request to include Ancient City of Tauric Chersonese and its Chora into the List of World Heritage in Danger. It is a list of the property appearing in the World Heritage List for the conservation of which major operations are necessary. The list includes such property forming part of the cultural and natural heritage as is threatened by serious and specific dangers, such as the outbreak or the threat of an armed conflict (art. 11.4). Moreover, Ukraine has a legitimate right to ask the Committee for help provided in article 22 of the Convention. On 6 April Ukraine has already received the support of UNESCO for the protection of cultural property in connection with the annexation of Crimea. Secretary General of UNESCO, Iryna Bokova, said that UNESCO is ready to mediation in resolving problematic issues between Ukraine

³⁰ Convention for the Protection of Cultural Property in the Event of Armed Conflict, 1954, www.icrc.org/ihl/INTRO/400



and Russia in this issue. On April 22–23 Secretary General of UNESCO arrives in Kyiv to discuss the protection of the World Heritage in Ukraine³¹.

4. OIL AND GAS OFFSHORE OPERATIONS ON THE BLACK SEA CONTINENTAL SHELF

Starting the aggression and occupation in Crimea Russia aimed to neutralize or take under its control profitable projects of gas exploration and extraction in the Black Sea, which were initiated by Ukraine with the assistance of major European and American companies³². On 10 March a newly appointed “prime minister” of the Autonomous Republic of Crimea who helped Russia in the process of Crimea annexation announced that state property on the territory of the peninsula would be nationalized. The first to be nationalized appeared to be the Black Sea Oil and Gas Company (Chornomornaftogas) that has the right to explore and exploit the resources of the Sea continental shelf. It is probable that the Company will be delivered to the property of the Russian Gazprom. Main foreign companies that concluded contracts with Ukrainian government on the oil and gas exploration and extraction in the Black Sea (Exxon, Royal Dutch Shell, ENI) suspended work on the Ukrainian Black Sea shelf till the solution of the unstable situation in the region. They are not allowed to explore deposits of the natural resources on the disputed territories³³. Russian authorities stated that

³¹ ЮНЕСКО направит в Крым «защитника крымских ценностей», „Українська правда” (6 квітня 2014), www.pravda.com.ua/news/2014/04/6/7021518/

³² V. Filipchuk, O. Zakharova, A. Paul, *Russian Aggression, International Support and an Action Plan for Ukraine*, „EUObserver” (6 March 2014), <http://blogs.euobserver.com/paul/2014/03/06/russian-aggression-international-support-and-an-action-plan-for-ukraine/>

³³ Л. Шавалюк, *Піратство державних масштабів. До чого призведе «націоналізація» українських активів «владою» Криму?*, „Український тиждень” (4–10 квітня 2014), No. 14(334), pp. 20–23.



Crimean continental shelf can get federal status, which will limit the opportunities for foreign companies in the area. According to the legislation of the Russian Federation subsoil located on the continental shelf of the Russian Federation is federal. Thus, foreign companies cannot work on them independently³⁴.

Previously, despite the problems with delimitation and demarcation of the maritime border in the Black Sea, Ukraine and Russia announced their plans to jointly explore the geological structure of the Palace in the Sea. Now these plans are under big question. The issue of oil and gas offshore operations on the Black Sea continental shelf is complicated by the fact that Russia is not a party to the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, 1998, nor to the Espoo Convention on Environmental Impact Assessment in a Transboundary Context, 1991. This means that in case of Russian activities on the continental shelf Ukraine will not be able to apply the procedure of environmental impact assessment in a transboundary context and public involvement in the process in order to prevent possible negative impacts on the environment. Ukraine will not be able to apply procedures on non-compliance in respect of Russia too.

5. USE OF DOLPHINS FOR MILITARY PURPOSES

Dolphins for the needs of the Soviet Navy were trained in Sevastopol since 1973. Specially trained animals found weapons and military equipment on the seabed, could attack military swimmers and attack enemy ships by the arms and explosives attached to their heads. After the collapse of the Soviet Union Sevastopol Aquarium became Ukrainian according to

³⁴ *Росія хоче заборонити іноземним компаніям працювати на шельфі Криму*, iPress.ua (19 March 2014), http://ipress.ua/news/rosiya_hoche_zaboronyty_inozemnym_kompaniyam_pratsyuvaty_na_shelfi_krymu_55245.html



international customary rules on state succession. On 26 March a Russian authority announced that since the “accession” of Crimea to Russia the dolphins became “Russian”. There appeared some information in mass media that Russian government will again train dolphins for military service in the Russian Navy. In Ukraine dolphins from Sevastopol State Aquarium have been used for peaceful purposes – to treat children with disabilities³⁵. On 20 September 2011 the Ministry of Environment of Ukraine issued Order No 328 “On the temporary ban on the special use of Cetaceans of the Black and Azov Seas” which banned extraction of dolphins from their natural habitats for any purpose except cleaning the remnants of dead dolphins from the research purposes for a period of three years. The Order prohibits the catch of dolphins for dolphinariums, and especially – for military purposes. Russia has not yet ratified agreements aimed at dolphin protection in the region: the Agreement on the Conservation of Cetaceans in the Black Sea, Mediterranean Sea and Contiguous Atlantic Area, 1998 (signed within the framework of the Convention on the Conservation of Migratory Species of Wild Animals, 1979) and the Protocol on Landscape and Biodiversity Conservation to the Convention for the Protection of the Black Sea against Pollution, 1992. Ukraine is a party to both international treaties. In view of Russian plans to make the Crimean peninsula a military base it is very doubtful that the object of the Protocol on Landscape and Biodiversity Conservation stipulated in article 1 can be achieved³⁶.

³⁵ *ВМФ Росії забере собі кримських бойових дельфінів – російське ЗМІ, „Українська правда” (26 березня 2014), www.pravda.com.ua/news/2014/03/26/7020358/*

³⁶ “The purpose of this Protocol is to maintain the Black Sea ecosystem in the good ecological state and its landscape in the favourable conditions, to protect, to preserve and to sustainably manage the biological and landscape diversity of the Black Sea in order to enrich the biological resources”.



6. NUCLEAR ENERGY

There appeared some information in mass media that Russian government will construct nuclear power station on the Crimean peninsula. The construction of nuclear power plant in order to meet social and economic needs of the peninsula, with its relatively small population and poor economic, is unnecessary, and for resort industry and environment is extremely dangerous and harmful. Such intentions of the Kremlin once again prove that Putin is considering the future of the Crimea mainly from military and political positions. He needs this region as a fortress, a military bulwark against Europe. To build a strong military infrastructure here, Russia must have independent energy power supply on the peninsula. Construction of large nuclear facilities in the area of seismic activity with a high probability of earthquakes, and on the beach of the sea, ignores all modern standards for nuclear and environmental safety, as well as international experience. What terrible consequences it may bring showed nuclear disaster at the Fukushima in Japan³⁷.

7. CONSTRUCTION OF A DEEPWATER PORT

A frozen project on construction of a deepwater port may be considered as a favorable for Crimean environment. In December 2013 Ukraine and China concluded an agreement on the construction on the Crimean peninsula of a deepwater port with capacity of 500 million of tons per year for the reception of Chinese cargo delivering to Europe. As a result of the Crimean crisis the project was frozen. The plans were to convert the Crimea into economic and maritime transport hub of the Silk Road. The project envisaged the construction of several terminals

³⁷ В. Горова, *Атомна станція в Криму означає його подальшу мілітаризацію, – екс-нардеп*, Дзвін (27 березня 2014), <http://dzvin.org/atomnastantsiya-v-krymu-oznachaje-joho-podalshu-militaryzatsiyu-eks-nardep/>



and granaries. At the first stage it was planned to build a deep-water port in Sevastopol port and create an economic zone for technology companies. The second phase would include the construction of the airport, terminal for liquefied natural gas, refinery, shipyards, and the establishment of marine recreational beaches. Former Ukrainian government and Chinese investors said there would be no risks for environment, but according to environmentalists and environmental NGOs, the alleged Chinese plans to build a deep water port in western Crimea pose huge environmental risks. One of the biggest challenges will be damage to the coastline on the west coast of the Crimea. The second problem is water pollution, sludge with toxic substances, the concentration of toxins in the mud, destruction of Crimean “golden sands”. The territory was chosen without proper expertise as well as without approvals and examinations. Moreover, neither the investor nor the developer has any experience in building large port facilities³⁸. In any case such initiatives are subject to environmental impact assessment on national and international level. There are international treaties providing the conduction of environmental impact assessment in a transboundary context: Espoo Convention, UNCLOS (article 204), Convention on the protection of the Black Sea against pollution (article XV), etc.

8. CONCLUSIONS

One of the hidden reasons Russia dared to commit an act of aggression and to occupy a part of Ukrainian territory, the Crimean peninsula, along with officially declared wish to protect lives of citizens of the Russian Federation and the personnel of the

³⁸ Т. Ворожко, *Блакитні немовлята, мертві ставки та пляжі – ризики китайських інвест-проектів у Криму*, „Українська правда” (18 лютого 2014), www.pravda.com.ua/inozmi/voa/2014/02/18/7014272/; В. Мирошниченко, *Мы ПРОТИВ строительства глубоководного порта на территории Крыма!*, www.change.org/ru



Russian armed forces, was to gain control over Crimean natural resources, namely oil and gas deposits. Another hidden reason was to turn Crimea into Russian military base in order to keep in suspense Western countries and the rest of Ukraine. Both aspects have huge dangerous consequences for regional and global environment: scuttling which is a form of dumping, dangers to world cultural heritage, risks of unaccountable oil and gas offshore operations on the Black Sea continental shelf, the possibility of use of dolphins for military purposes and construction of a nuclear power station. The absence of delimitation of the Ukrainian-Russian maritime border complicates the process of concluding the bilateral agreements on environmental protection. Russian aggression made impossible the implementation of existing agreements. One of the results of Russian occupation will be environmental collapse for Black Sea region, because this state is not party to many multilateral environmental treaties governing dumping, access to information, public participation in decision-making and access to justice in environmental matters, environmental impact assessment in a transboundary context, conservation of cetaceans, etc. Only a frozen project on construction of a deepwater port may be considered as a favorable for Crimean environment. Inability of the Russian Federation to cope with domestic environmental problems will be transposed to the Crimean peninsula that has a plenty of them: accumulation of dangerous military wastes, limited access to clean drinking water, drought in most regions, pollution of the sea and the coast, etc. In such circumstances achieving the sustainable development promulgated on most international environmental conferences and stipulated in many environmental agreements will be impossible.

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