



Collection of abstracts and recommendations

on the results of the Round Table

**“INTERNATIONAL AND LEGAL ASPECTS OF THE
CONSEQUENCES OF THE HOSTILITIES ON THE EAST OF
UKRAINE AND OCCUPATION OF CRIMEA FOR THE UKRAINE’S
ENVIRONMENT”**

Kyiv - 2017

ORGANIZING COMMITTEE

Valerii Kopiika – Director of the Institute of International Relations Taras Shevchenko National University of Kyiv, Doctor of Political Sciences, Professor, Chairman of the Committee;

Anton Korynevich – Coordinator of the scientific work of the Institute, Ph.D. (Law), Associate Professor of the Chair of International Law of the Institute of International Relations;

Maryna Medvedieva – Ph.D., Doctor of Law, Professor of the Chair of International Law of the Institute of International Relations;

Svitlana Andrushchenko – Ph.D. (Political Sciences), Associate Professor of the Chair of International Relations and Foreign Policy of the Institute of International Relations;

Karyna Rohulia – First year Master student in International Relations, Chief Organizer of the Conference from the Institute of International Relations Student Council;

Daryna Herasymenko – First year Master student in International Relations, Organizer of the Conference from the Institute of International Relations Student Council;

Tetiana Pulia – First year Master student in International Relations, Organizer of the Conference from the Institute of International Relations Student Council.

Materials of the Round Table "International and legal aspects of the consequences of the hostilities on the east of Ukraine and occupation of Crimea for the Ukraine's environment". - К .: Taras Shevchenko National University of Kyiv, Institute of International Relations, 2017-21 p.

The collection includes the participants' abstracts, presented at the Round table "International and legal aspects of the consequences of the hostilities on the east of Ukraine and occupation of Crimea for the Ukraine's environment" and recommendations on the results of the Round Table, held on November 15, 2017, at the Institute of International Relations of Taras Shevchenko National University of Kyiv.

Works are published in the author's wording. The Organizing Committee is not responsible for the accuracy of the information and any information provided in the manuscripts.

Compiler: Karyna Rohulia

Editor: Karyna Rohulia

Table of Contents

1. Introduction	5
2. Abstracts of the participants of the Round Table	6
3. Recommendations on the State policy of Ukraine on the results of the Round Table	20

Introduction

The consequences of the Russian Federation armed aggression, in addition to human losses, are significant damages to the ecological systems and natural resources caused by violations of international and national law. The ecological situation in Donbas, being critical for a long time, gathered all the signs of the ecological catastrophe in the discourse of hostilities. Environmental problems arise in particular in political dimension and require immediate response.

Currently, there is a necessity to maximize the use of the best international and legal practices for conducting informational, proactive diplomatic activities with international partners of Ukraine and within the framework of international organizations, to bring the Russian Federation to justice internationally and legally for the damage caused to the Ukrainian environment as a result of the Russian aggression against Ukraine.

Environmental issues, as a result of the occupation of Crimea and armed conflict in Donbas, pose a number of problems for Ukraine in the area of monitoring the environmental situation and environmental risk management in accordance with the EU standards, provisions of the EU-Ukraine Association Agreement of 2014, and international obligations under Paris Agreement of 2015 and the Intended Nationally-Determined Contribution of Ukraine. The military and energy policy of the Russian Federation in the occupied Ukrainian territories should also be taken into account while assessing the environmental damage to the territory of Ukraine.

Date	15 November 2017
Place	Institute of International Relations Taras Shevchenko National University of Kyiv, (36/1 Melnykova street), Conference Hall (3rd floor)
Moderators	Ph.D., Doctor of Law, Professor Maryna Medvedieva Ph.D. (Political Sciences), Associate Professor Svitlana Andrushchenko

Abstracts of the participants of the Round Table



Yuliia Skakun, Ph.D. in Law, Associate Professor, First Pro-Rector of the Taurida National V.I. Vernadsky University

- Today there are a number of education-related problems; currently 2000 children from temporarily occupied territories study in other regions of Ukraine;
- Educational center "Crimea-Ukraine" was created on the basis of the Taurida National V.I. Vernadsky University, which simplifies the process of entering Ukrainian universities for the children from the Autonomous Republic of Crimea;
- Students of the Taurida National V.I. Vernadsky University do not have necessary documents for entering Ukrainian universities, in particular, a Ukrainian passport, a Ukrainian certificate of secondary education, an identification code, etc.; but at the same time, those students do not pass external independent testing procedures (ZNO);
- Ukrainian language is not taught in Crimea, only one school optionally teaches the Ukrainian language;
- Anonymity of the names of children: their names are encrypted, because families are being persecuted;
- Ukraine began to recognize the ARC higher education institutions diplomas after annexation in 2014;
- Funding is one of the biggest concerns;
- The Law on Occupied Territories does not provide the solution of the financial issues due to lack of state budget funds, specifically the issue of free continuation of education and the opportunity to get a living place in a hostel;
- Taurida National V.I. Vernadsky University resumed qualification in the field of ecology and 20 other qualifications.



Dmytro Klynovyi, PhD in Economics, Associate Professor, Public Institution “Institute of Environmental Economics and Sustainable Development of the National Academy of Sciences of Ukraine”

- Public Institution «Institute of Environmental Economics and Sustainable Development of the National Academy of Sciences of Ukraine» has been conducting a joint work with representatives of international organizations;
- in 2015-2016 national wealth losses as a result of hostilities were assessed;
- A series of articles were published in the “Defense bulletin”, among them "What Ukraine has lost" and "Losses of National wealth";
- In Donetsk region, out of Ukraine's jurisdiction, there are in total 43% of natural resources; the total cost is estimated at 59.4 billion UAH;
- In Luhansk region, out of Ukraine's jurisdiction, there are in total 69% of natural resources; the total cost is estimated at 68,4 billion UAH;
- Ukraine does not control 100% of natural resources in Crimea, which are estimated at 65.9 billion UAH.;
- Total losses of natural resources are estimated at 193 billion UAH, approximate losses of production potential are accounted for about 300 billion UAH, the largest losses in human potential were assessed at 2.5 trillion UAH, with the total losses accounting for 3 trillion UAH;
- In the article "Losses of National Wealth", “Defense bulletin”, issue No. 10, 2016, the key scenarios and measures for the de-occupation of the territory, ranging from Croatian to Bosnian scenario, as well as the return of control over these territories and environmental control over natural resources are reviewed.



Iryna Loik, Senior Project Assistant of the economic and environmental programme of the OSCE Project Co-ordinator in Ukraine

- The OSCE is currently working on implementing the information monitoring strategy; the presentation is to be held on November 25 of this year;
- A report on soil samples was presented; the results of the studies indicated a low level of soil pollution, with increased content of elements of mercury, cadmium, strontium etc.;
- Creation of information monitoring of the environment with on spot information display in real time;
- The final resource will be handed over to the Ministry of Ecology and Natural Resources of Ukraine;
- These actions should become a part of the state tasks in the medium term.



Tymur Korotkyi, doctoral candidate of the National University "Odessa Law Academy", Associate Professor of the Department of International Law and International Relations, Candidate of Legal Sciences, Associate Professor

- Within the framework of the Ukrainian Helsinki Human Rights Union (UHHRU) assessment mission, the state of the environment in the east of Ukraine was monitored and an appropriate international legal analysis was prepared in order to be published;
- The damage caused by Russia in the east of Ukraine and in Crimea is greater than the damage caused directly by military actions;
- It is necessary to formulate a request to specialized Central Executive organs, in particular to the Ministry of Ecology and Natural Resources of Ukraine, whether it is possible to create an agency containing the representatives of other state bodies, experts, environmentalists, human rights defenders in order to assess the damage caused by the Russian Federation.



Borys Babin, Doctor of Law, Professor, Permanent Presidential representative of Ukraine in the ARC

- The international community needs facts (evidence base) of contamination and destruction of the ecosphere;
- Lack of proper response from the state is observed;
- Environmental issues in Ukraine today are handled by humanitarian professionals, thus, there are no proper environmental and technical studies in Ukraine;
- There are initiatives to create a platform for the assessment of environmental damages, including uncontrolled areas;
- It is necessary to organize research projects and raise funding for their implementation;
- Russia uses ecological “card”, live territorial disputes and legal conflicts in advancing and protecting its own interests in Crimea and Donbas;
- Ukrainian attempts to raise environmental issues in international instances will be followed by an appropriate narrative of the aggressor country;
- At present, environmental adjudication in the arbitration process at the International Criminal Court is the most promising consideration;
- The key problem in the sphere of pollution of marine waters is the illegal extraction of energy resources in the Black Sea shelf by Russia; this problem becomes more serious due to the lack of expert level documents from professional environmentalists that can be introduced to international instances.





Escander Bariiev, Chairman of the Crimean Tatar Resource Center, member of the Mejlis of the Crimean-Tatar people,

- The resolution of the UN Third Committee is a joint work of diplomats, representatives of the Mejlis and the Crimean-Tatar people, human rights organizations;
- Consolidated diplomatic work at all levels for the de-occupation of Crimea and Donbas is important;
- There is no environmental monitoring in the occupied territories to provide the evidence base;
- Foreign diplomats emphasize that the ecological situation in the east of Ukraine and in Crimea is dangerous and poses a threat to the whole Europe; this is a threat not only for Ukraine but also for Europe, which could be the reason for new sanctions against the Russian Federation;
- Public and human rights organizations play a major role. Over the past year and a half they have held 60 relevant events and participated in the work of international platforms;
- The Crimean Tatar Resource Center in 2015-2016 worked on the strategy of public diplomacy of the Crimean Tatars;



- 6 goals of the strategy: the Crimean Tatars, as the European nation; creation of a global network of friends and partners of the Crimean Tatars; raising awareness about the Crimean Tatars as indigenous people of Crimea; astonish the world with a creative and non-violent resistance to occupation and create a potential for reliable and fast-acting public diplomacy; to ensure the long-term sustainability of the public diplomacy of the Crimean Tatars;
- The development of the strategy took into account the existing experience, and effective campaigns on international platforms were already conducted;
- Rhetoric on the ecological systems of the ARC should take into account the right of indigenous people to use their own resources, which could appeal to 300 million of other indigenous peoples around the world;
- The Russian Federation not only occupied Crimea as a territory, it also does not take into account the position of the indigenous population regarding the careful use of ecological resources;
- State policy on monitoring environmental systems in the temporarily occupied territories should be systematized;
- It is necessary to attract the attention of international organizations to the monitoring through the photos and video materials of the Crimean Tatar activists;
- Today's round table should be the start of serious work. Currently there is no content in English, German, French and Spanish in foreign publications on environmental issues. In this context the Institute of International Relations can set up a laboratory, within the framework of which, the students of this institute may be involved;
- The Crimean Tatar Resource Center could promote and encourage young people to work in the international arena.





Victoriia Mozhova, Procurator of the ARC Prosecutor's Office

- Crimean Prosecutor's Office initiated criminal proceedings on the construction of the Kerch Bridge in February 2017 within the context of Article 236 of the Criminal Code of Ukraine "Violation of the rights of environmental safety";
- Ecological infrastructure of the island of Tuzla has been destroyed because the Russian Federation used it as a building platform for the bridge engineering;
- The Russian Federation has begun construction of this bridge in violation of all bilateral and multilateral agreements; the ecological system that has been damaged by the construction of the bridge will not be restored. According to experts, the strengthening of the shores alone will cost 10 billion UAH;
- Comprehensive engineering and environmental expertise is being held and appropriate requests are being made;
- An inquiry has already been sent to international institutions and specialized experts to assess the damage caused by the construction of this bridge; bridge engineering companies are currently included in the sanctions lists;
- Environmental impacts of the construction of the bridge will affect other Black Sea states;
- The issue of initiating the criminal proceedings in international courts is currently under investigation.





Oleksii Vasyliuk, expert (environmental scientist) of the International charity foundation “Ecology-Law-Human”

- NGO "Ecology Law Human" carries out monitoring of the consequences of military hostilities;
- Assessment of the damage caused is impossible due to the scale of the problem, however, the organization managed to assess violations of the nature-reserved fund, namely, damages of the objects of the nature-reserved fund;
- The first Ukrainian nature reserves, except for Askania Nova, are located in the occupied territories of Donbas;
- As part of the research, the organization turned to NASA for obtaining photo and video fixation of processes, which allowed assessing losses;
- As of today, about 80 objects of the fund have been damaged; according to pilot assessment as a result of fires and shellfire of the Donetsk ridge losses make up 14 billion UAH; this is 1/10 of all forests burned in the ATO zone;
- A unit in the Central Executive organs should be established, with the purpose to assess the losses;
- Damage to the environment grows every day.





Kateryna Polianska, Ph.D. (Geography), expert (environmental scientist) of the International charity foundation “Ecology-Law-Human”

- Ukraine is a party to the Berne Convention on the Conservation of European Wildlife and Natural Habitats, within which it is a direct participant of the development of the national territory of the emerald network; The representative of Ukraine is the Ministry of Ecology and Natural Resources;
- Ukraine is a party to the Ramsar Convention on Wetlands of International Importance especially as Waterfowl Habitat; There are a lot of such protected areas in Donbas and Crimea; Military exercises and tests, cause the least damage to the households and rural infrastructure objects and are usually carried out in natural areas, causing damage to the ecological systems;
- Changes in the environment influence different groups: ranging from local level e.g. human health to large ecosystems of the Black and Azov Seas;
- Infrastructure and logistical damages to water supply facilities (e.g. power outage) are of the most importance within the context of water resources management;
- Construction of the Kerch Bridge will add up to damages to the environment;
- Soil contamination by heavy metals and land mining are also of the great importance;
- The impact of shelling and fires: in particular, the Avdiyivskii and Yasynivskii coke plants, the Lysychansk oil refinery and the Kramatorsk machine tool plant, “Tochmash” and “Styrol” were damaged due to artillery shelling. The danger to the environment can also be incurred by the shells to places of concentrated dangerous substances such as drilling rigs, gas, oil, and ammonia conduits.





Andrii Nadzhos, Deputy Director General of Directorate General for the European Union and NATO of the Ministry of Foreign Affairs of Ukraine

- The Association Agreement entered fully in effect in September 2017, a year later than it could, due to the position of the Netherlands;
- One of the key issues with environment monitoring is physical access to the territories;
- It is necessary to employ fully the instruments of classical diplomacy in the context of conflict situations - international institutions or conventions to which Ukraine is a party;
- The only time the Council of Europe Monitoring mission on Human Rights to Ukraine managed to visit the ARC was 2016, when High Commissioner of the Secretary-General of the Council of Europe received a permit from the Ukrainian and Russian sides to travel to Crimea in order to assess the state of things in the field of human rights and other issues. The report was adopted at the meeting of the Committee of Ministers (CM) of the Council of Europe with the conclusion that the Russian side is called upon for cooperation with international institutions. It is difficult to negotiate with the Russian Federation today because it does not fulfill the decision of the CM of the Council of Europe. Since the beginning of the occupation, 14 such decisions were adopted;
- The most discussed issue regarding the pollution of the occupied territories of Luhansk and Donetsk regions among European colleagues is the shelling of the Avdiyivskii Coke Plant. A discharge of water from flooded mines leads to an increase in the level of natural radiation and contamination of the Azov Sea basin;
- There are several instruments of influence within the framework of the Ministry for Foreign Affairs of Ukraine: to keep communication with international community and keep the issue of sanctions floating, which were introduced, in particular, by the EU against the Russian Federation;
- The MFA has initiated visits of European parliamentarians, the European Commission representatives on the line of fight during these last three years, last visit was in September, 2017 to Avdiyivka;
- Water supply problem in the temporarily occupied territories is still relevant;
- EURONEST session, held in October 2017, adopted the resolution, calling upon the RF to pay significant attention to the problems of ecology; Russia does not consider itself a party to the conflict, therefore, it distances itself from those processes;
- It was agreed with the Prosecutor's Office of the ARC to jointly work on the possibility of holding of the fifth round of consultations in Brussels on the legal consequences of the temporary occupation of Crimea. A request was also made to the EU Member States to include Kerch Bridge Engineering companies into the sanction list.



Lesia Karnaukh, Director General of the Department of strategy and European integration of the Ministry of Ecology and Natural Resources of Ukraine

- Since 2014 after the beginning of aggression The Ministry of Ecology and Natural Resources of Ukraine is actively involved in diplomatic activities; As an example - a meeting of the UNECE Committee on Environmental Policy was taking place in Geneva in November, 2017 and only the Russian representative was presented there, another political and environmental front are in Geneva;
- The Ministry is lacking systematized and consolidated information and supports the OSCE in the monitoring project, the enormous job in it was achieved by the NGO "Ecology-Right-Human";
- Counteracting threats from the RF in the context of ecology should be separated into 2 parts: Crimea and Donbas. Those situations can not be compared, they are substantially different;
- The ecological situation in Crimea is a bit better, because there are no military hostilities, and the internationally legal basis is a bit stronger - there are facts of violations of international law that can be used against the RF;
- In Donbas it is difficult to classify crimes against environment. The first attempt to classify such actions was presented at the United Nations General Assembly on Environment in 2016 in Nairobi; in early December 2017, there will be 3 sessions of the Assembly, where Ukraine will try to strengthen its own positions only in case of consolidated support;
- Ukrainian delegations are not huge, which does not allow to have an extended composition with the inclusion of scientists and experts, researchers from NGOs;
- It is worth to involve students and researchers within Ukrainian delegations;
- Organizing environmental campaigns to attract attention would be appropriate;
- The Ministry is lacking systematized and consolidated information and support.



Victor Savinok, postgraduate student of the International Relations and Foreign Policy Chair of the Institute of International Relations

- Mine waters damage the mining infrastructure; water blends;
- Technologies used for water pumping are obsolete;
- With the outbreak of aggression and after the "nationalization" a whole series of mines stopped working; respectively it led to the water pouring;
- Such situation is dangerous for the infrastructure of the entire region;
- Nobody owns the real situation because of the lack of access to uncontrolled territories and funds;
- It is necessary to modernize the equipment of mines in uncontrolled territories, to create an interdepartmental working group on the assessment of the potential damage to uncontrolled areas, assessment of financial losses;
- It is necessary to raise environmental issues at the meetings of the National Security and Defence Council and the Trilateral Contact Group on Ukraine;
- It is desirable to expand cooperation with the OSCE.



Anton Korynevich – Coordinator of the scientific work of the Institute, Ph.D. (Law), Associate Professor of the Chair of International Law of the Institute of International Relations Taras Shevchenko National University of Kyiv

- Crimes against international law (in national doctrine referred to as international crimes) include four categories: genocide, crimes against humanity, war crimes and aggression;
- We should remember that International Criminal Court does not have jurisdiction over aggression;
- In the Criminal Code of Ukraine Article 441 defines the term «ecocide» as «serious damage to the environment». Here rises the question whom to charge, how to work with this crime, whether really exists practice of bringing to responsibility according to this crime. Maybe it is necessary to initiate the change of this term;
- The category we can apply in this respect is crime, having negative impact on the environment;

- Genocide includes creation of conditions, hindering birth of children and the development of the particular national group, therefore they are connected with environmental damage only indirectly. The main component in bringing to responsibility for genocide is the existence of special intention, and it is difficult to fix the intention;
- It's possible to include the aspect of environmental damage to notice to the ICC, but only as one of the components, not as the most important element;
- There is the perspective that in the future while considering crimes against international law, not only damage to the particular subjects will be taken into account, but also damage to the objects;
- We may apply this approach in the Tribunal for the Law of the Sea concerning the Kerch bridge.



Maryna Medvedieva – Ph.D., Doctor of Law, Professor of the Chair of International Law of the Institute of International Relations Taras Shevchenko National University of Kyiv

- Environment is a civil object, therefore it is possible to bring to the responsibility;
- There is no precedent of bringing to responsibility for environmental damage, but there were attempts of commencement of actions, in case of Yugoslavia there were addresses to the International Court of Justice against NATO soldiers, special groups of experts were established, but they were not brought to responsibility as it is possible to bring to responsibility only in case if the damage was substantial, large-scale and longstanding at the same time;
- As a variant for Ukraine to present its position is to claim that crimes against environment are instruments for committing other crimes, e.g. military crimes;
- There are arbitrary proceedings within UNCLOS (United Nations Convention on the Law of the Sea) on the Kerch bridge, prevention of access of the Ukrainian party to the fish resources;
- We may also speak about violation of environmental human rights, that is well known concept;
- In February 2017 OSCE presented its report, where it was mentioned, that there was violation of the right to access to clean water;
- It is important to formulate consolidated position, or to set up commission on remuneration (such commission was established after invasion of Iraq to Kuwait);
- War is not a reason for the state not to comply with its commitments under international law.



Svitlana Andrushchenko – Ph.D. (Political Sciences), Associate Professor of the Chair of International Relations and Foreign Policy of the Institute of International Relations Taras Shevchenko National University of Kyiv

- It is necessary to form on the basis of the existing organs the informational centre, which would gather information, to which one could apply for the consultative and administrative assistance;
- International cooperation should be used for clarifying our position;
- There is a lack of understanding by Ukraine how to present our position at the UNEP Conference and within the frameworks of other international organizations;
- There should be consolidated position of Ukraine, which we could present, thus we will have a possibility to coordinate our actions and respond quickly;
- Ukrainian party doesn't have preventive tactic, Ukraine only reacts to the actions of Russia;
- Public diplomacy of the Ministry of Foreign Affairs should be maximized;
- Cultural events, exhibitions on this topic shall be held;
- Currently Ukraine holds the Presidency in the BSEC, but doesn't rise the issue of consequences of the militarization of Crimea, which is our fault;
- We may also use conferences within SIPRI as the fora to this end (next year there will be the Conference on militarization of Crimea in Bucharest).



Recommendations on the State policy of Ukraine on the results of the Round Table

« International and legal aspects of the consequences of the hostilities on the East of Ukraine and occupation of Crimea for the Ukraine's environment»

(15th November 2017, Kyiv)

Taken into account the necessity of maximum usage of the best international and legal practices for the conduct of monitoring, awareness-rising activities, as well as application of the law, proactive diplomatic activities with international partners of Ukraine and within international organizations on neutralizing and eliminating environmental threats, risks and damages on the temporarily occupied territories of Lugansk and Donetsk regions, as well as possible bringing of Russia to the international legal responsibility for the damage, caused to the environment of Ukraine as a result of the Russian aggression, the participants of the Round Table have adopted the following recommendations to improve state policy:

1. To initiate elaboration and spread of information content, as well as strategy of neutralization and eliminating environmental consequences of hostilities on the East Ukraine, occupation of Crimea, building of the Kerch bridge on the basis of accounts of state agencies, non-governmental organizations and international structures, bring to the attention of public possible risks and threats of such actions of the Russian Federation.
2. To strengthen activities on bringing to the attention of the international community the consequences of the hostilities of the ecological nature on the East of Ukraine and occupation of Crimea by the Russian Federation, that have transborder character.
3. To elaborate consolidated pretension and to ensure its further presentation to the Russian Federation through the UN institutes, by incorporating to it environmental component, per se, to define the notion of environmental damage, caused in the result of occupation of Crimea and hostilities on the East of Ukraine.
4. To take measures, targeted at formation of the international monitoring group on environmental security with representatives of the UN, OSCE, Ukrainian government, international human rights and environmental organizations participating, with a view to efficient monitoring of the state of the objects with increased environmental threat, located in the area of Anti-Terrorist Operation.

5. To take measures, targeted at formation of the international monitoring group on environmental security with representatives of the UN, OSCE, Ukrainian government, international human rights and environmental organizations participating, with a view to efficient monitoring of the state of the objects with increased environmental threat, located in the regions, adjacent to Crimea and in the Azov and Black sea areas, Kerch strait and Syvash bay.
6. Within the competence of the Ministry for Foreign Affairs of Ukraine and Ministry of Ecology and Natural Resources of Ukraine to address the UNEP with a view to receiving consultations and technical assistance on post-conflict monitoring of environmental situation in Donbas subject to the resolution «Protection of environment in the districts, affected by the armed conflict».
7. To foster adoption of the resolutions of international organizations on commitments of the Russian Federation as aggressor-state on management, conservation and non-appropriation of natural resources and objects of cultural heritage on the occupied territories.
8. Urge all state agencies within their competence to work upon evidence base on causing environmental harm by the Russian Federation on the territory of Crimea, continental shelf of Ukraine and Black and Azov Sea areas within arbitration proceedings subject to Annex 7 of the UN Convention on the Law of Sea, as well as causing damage by the Russian Federation on the territories of Donetsk and Luhansk regions, as well as efficient and comprehensive Strategy on replacement of resources and neutralization of environmental consequences of the conflict at the national and international levels in the interests of Ukraine and Ukrainian people.