

Liberation of Critical Infrastructure Facilities of the Autonomous Republic of Crimea

Oleg V. Batiuk*

Full Doctor in Law, Associate Professor, Professor of the Department of State Security,
Lesya Ukrainka Volyn National University
43025, 13 Volia Ave., Lutsk, Ukraine

Abstract. The relevance of this study is conditioned upon the fact that Ukraine is doing and will do everything possible to restore control over the Crimean Peninsula. Therefore, the development of measures for its reintegration is of immense importance today, especially in the field of critical infrastructure. This topic has not yet been covered by Ukrainian scientists and requires analysis and development of corresponding legal mechanisms, which is the purpose of scientific research. The analysis of current Ukrainian legislation and foreign practices (using the methods of analysis, synthesis, and systemic approach) allowed finding several main organizational and legal factors that would contribute to the acceleration of liberation and reintegration of the temporarily occupied territory of the Autonomous Republic of Crimea. The study substantiates the need for public monitoring of the natural environment in the temporarily occupied territory, namely: the landscape of the earth's surface, minerals, water, air, flora and fauna, natural resources of the exclusive (marine) economic zone of Ukraine, the continental shelf and sea waters to record the facts of environmental illegal acts (crimes). Emphasis is placed on the effective application of international cooperation procedures in the field of environmental protection. The study proved the need to create a unified register of damage caused to the Ukrainian state in general and to citizens and legal entities in particular because of the illegal actions of the occupation administrations, which led to contamination and pollution of nature in the temporarily occupied territory. Emphasis is placed on compliance with the international obligations undertaken by Ukraine, related to the implementation of the provisions of international treaties in the field of environmental protection, primarily regarding the problems of preserving the natural environment of the Azov and Black Seas and preventing the spread of chemical or bacteriological weapons in the waters of the Black Sea. The practical significance of this study lies in the developed legal mechanism of measures to improve the water supply system of the Autonomous Republic of Crimea after the complete liberation of the occupied territory

Keywords: temporarily occupied territories, strategically important enterprises, return of state control, reintegration, regulations

Introduction

The relevance of the chosen topic is determined by the fact that, pursuant to the provisions of the Law of Ukraine "On Critical Infrastructure", the security of critical infrastructure is determined as the state of critical infrastructure security, which ensures the functionality, continuity of work, restorability, integrity and stability of critical infrastructure [1]. Critical infrastructure facilities should be understood as enterprises and institutions (regardless of the form of ownership) of such industries as chemical industry, transport, energy, finance and banks, telecommunications, and information technologies (electronic communications), food, health-care, communal economy. These facilities are vital for the economy and security of the state, society and population, their destruction or failure affects the natural environment, national security, and defence, leads to human casualties, significant financial and material losses [1, p. 85]. On the territory of the Autonomous Republic of Crimea temporarily occupied by the Russian Federation and its occupation authorities (Russia), basic freedoms and human rights are systematically violated. This includes the right to freedom

of worldview and religion, peaceful assemblies, freedom of speech, war crimes, and other violations of norms ensuring security of critical infrastructure facilities, crimes against humanity, international criminal and international humanitarian law, criminal prosecutions based on political motives, systematic persecution of persons condemning the occupation of the territory of Ukraine by Russia, conscription of the local population into the military service of the occupying state, widespread forcing the internal population to acquire Russian citizenship, illegal deprivation of liberty, searches, torture, and the right to a fair trial are violated.

The acuteness of the problem for Ukraine is indicated by the global trends towards the strengthening of natural and anthropogenic threats, the increase in the level of terrorist threats, the increase in the number and complexity of cyberattacks, as well as the damage to infrastructure facilities and numerous attempts to cause such damage during the last decade, which were timely detected and stopped by Ukrainian law enforcement agencies. The danger is increased not only by the hostile behaviour of the neighbouring

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*Corresponding author

state, but also by the actions of individual unconscious citizens and groups supported, and often financed and armed, by the aggressor country.

It is worth agreeing with the researcher who believes that “the illegal annexation of Crimea by Russia in 2014 is widely regarded as a paradigm shift for NATO. After a quarter-century of focusing on crisis management operations, the transatlantic alliance has been prompted to rediscover its traditional core mission of collective defence and deterrence. Accordingly, NATO has embarked on the largest military build-up since the end of the Cold War”. [2]

Certain issues of ensuring the safety of critical infrastructure objects were investigated by such leading legal experts as: M. Gonchar (studied the issue of the seizure of energy infrastructure in Crimea by Russian troops) [3], J. Johannesson, D. Clowes (studied the causes of the Russian-Ukrainian war 2014 from the standpoint of energy industry and energy markets) [4], S.D. Ducaru (studied national methods of protecting critical energy infrastructure, emphasizing that NATO can contribute to solving the problem of infrastructure protection at many levels) [5] and others. Furthermore, worthy of attention is the monograph that started the study of this topic and which presents the author’s opinion on the theoretical and practical aspects of using the provisions and scientific developments of forensics in ensuring the activities of intelligence search and investigative units of law enforcement agencies of Ukraine for the solution and pre-trial investigation of crimes committed on critical infrastructure facilities [6]. It should be noted that the issues of liberation of critical infrastructure objects of the Autonomous Republic of Crimea were not the subject of research by Ukrainian scientists. It was the analysis of these scientific papers that allowed the author of this study to form their opinion of the scientific issue. Therefore, the purpose of this study is to improve the mechanism of liberation and reintegration of the temporarily occupied territory of the Autonomous Republic of Crimea.

This study investigated the legal framework of the regulations defining the legal measures for the liberation of critical infrastructure objects of the Autonomous Republic of Crimea. Based on this, the author’s position was determined regarding the implementation of practical measures for the implementation of the Strategy of liberation and reintegration of the temporarily occupied territory of the Autonomous Republic of Crimea in general and critical infrastructure facilities in particular.

National Policy on Ensuring Liberation of Temporarily Occupied Territories and their Safe Reintegration

It is expedient to classify the objects as critical infrastructure objects of the Autonomous Republic of Crimea by categories, according to the provisions of the Resolution of the Cabinet of Ministers of Ukraine “On some issues of critical infrastructure objects” [7]:

The first category includes particularly important objects that are of national significance, have a considerable impact on other critical infrastructure objects, and the malfunction of which will lead to the emergence of a long-term crisis of national significance.

The second category includes vital objects, the failure of which will lead to the occurrence of a critical situation of regional importance.

The third category includes significant objects, the failure of which will lead to a critical situation of regional importance.

The fourth category includes necessary objects, the failure of which will lead to the occurrence of a critical situation of local significance.

Therefore, reliable protection of critical infrastructure facilities of each state is one of the priorities in ensuring national security needs. Solving this problem at the national level demands a systematic approach to its urgent solution [8].

Regulations prescribe that the main provisions of the Strategy for Liberation and Reintegration of the Temporarily Occupied Territories of the Autonomous Republic of Crimea provide that a cross-cutting part of the policy of liberation and reintegration of the temporarily occupied territory of the Autonomous Republic of Crimea (hereinafter – the temporarily occupied territory) is the implementation of a complex of diplomatic, humanitarian, and economic measures, rather than military measures [9].

The formation of the policy of liberation and reintegration of the temporarily occupied Ukrainian territories is consistent with peace-making activities, strengthening the state’s defence capabilities and ensuring the future Ukrainian economic [10], social, and political genesis based on Euro-Atlantic and European integration.

The author of this study agrees with I.H. Gdanov’s opinion regarding the presence of political, structural, and functional components of the institutional model of the organization and implementation of the liberation policy of the Autonomous Republic of Crimea. The first is characterized by the presence of a suitable regulatory field, the second involves a clear definition of the range of subjects, and the third involves the interaction of all involved institutions and representatives of civil society to clearly fulfil the defined tasks and achieve the set goals [11].

Therefore, the main goals of the national policy to ensure liberation and reliable reintegration of the temporarily occupied territories are as follows:

Firstly, the restoration of the integrity of the territories of Ukraine within its recognized state border, ensuring the sovereignty of Ukraine.

Secondly, ensuring the stability and cohesion of Ukrainian society and the Ukrainian state, national unity.

Thirdly, the cessation of the use of temporarily occupied territories for activities that threaten the national security of Ukraine and/or its purpose is the destruction of peace and international security.

Fourthly, defining the legal foundations of justice in the transition period.

Fifthly, the implementation and formation of policies in the legal, social, humanitarian, informational, educational, and other spheres regarding the growth and strengthening of the level of trust, guaranteeing the rights and legitimate interests of citizens of Ukraine who suffered from the temporary occupation.

Sixthly, ensuring a stable economic-humanitarian, socio-political Ukraine in compliance with the specified rules of external and internal policy, strategic vector of the state towards the full accession of Ukraine to the North Atlantic Treaty Organization and the European Union.

Since the beginning of the temporary occupation by Russia, there has been a systematic and massive blocking of access to the functioning and provision of access to

Ukrainian information resources on the territory of the Autonomous Republic of Crimea. This particularly concerns the security management of critical infrastructure facilities, official websites, media of state bodies of Ukraine and local self-government bodies, authorities, websites of individual public associations on the Internet, making information and propaganda resources of Russia sometimes the only available source of news for Ukrainian citizens in the temporarily occupied territories.

On the Strategy of Liberation and Reintegration of the Temporarily Occupied Territory of the Autonomous Republic of Crimea

The author of this paper agrees with the conclusion made by M. Bida and I. Ruda that “economic losses from the war comprise not only incurred losses and a decrease in GDP, but also lost development opportunities and unearned profits” [12].

E.A. Huddad believes that “given the internal geography of Ukraine’s economic structure, damage to physical infrastructure and supply chain disruptions are likely to spread to other parts of the country due to the intricate pattern of production and income linkages” [13].

At the same time, it is worth agreeing with the results of the parliamentary summit of the Crimean platform, organized by Ukraine and Croatia in Zagreb on October 25, 2022. There, it was decided that the return of Crimea to the control of Ukraine is not a long-term prospect, and therefore the legal mechanisms proposed in this study will be useful. One of the consolidating joint efforts is “overcoming the adverse impact of the temporary occupation of Crimea on the economy, cultural, and educational rights of Ukrainians and Indigenous peoples, including indigenous Crimean Tatars, on the environment” [14].

Therefore, the provisions of the Strategy for Liberation and Reintegration of the Temporarily Occupied Territory of the Autonomous Republic of Crimea are correct in that the implementation of a complex of military, diplomatic, economic, humanitarian, informational, and other measures is relevant.

Specifically, the provisions of the Strategy for Liberation and Reintegration of the Temporarily Occupied Territory of the Autonomous Republic of Crimea clearly and correctly prescribe that the prerequisites for restoring state control over the temporarily occupied territory of the Autonomous Republic of Crimea are as follows:

- the development of democratic institutions and mechanisms for ensuring the protection of human and citizen rights and freedoms;
- the genesis of the Ukrainian economy, which should ensure the gradual approximation of the quality of life of Ukrainians to the standards of life in Europe;
- improvement of national stability, prevention of potential future conflicts;
- resolving the issues of internally displaced individuals who suffered from Russian armed aggression, armed conflict, temporary occupation of Ukrainian territories;
- constant development and support of humanitarian, cultural, informational, social relations with citizens of Ukraine living in the temporarily occupied territories;
- promoting the strengthening of Ukrainian society, modelling a static, patriotic outlook, improving, and preserving the moral and spiritual values of Ukrainian citizens;
- consolidation of international efforts to facilitate the

liberation of temporarily occupied territories, solving problems related to Ukrainian territories bordering with Russia, namely regarding mediation during negotiations in various international formats, implementation of monitoring, provision of economic, humanitarian, military and technical, and other support to Ukraine;

- ensuring the education of Ukrainian citizens living in the temporarily occupied territories, as the right to education is enshrined in the Constitution of Ukraine [7].

Compliance with the provisions for ensuring the safety of critical infrastructure facilities on issues of liberation and reintegration of the temporarily occupied territory of the Autonomous Republic of Crimea should be combined with measures regarding:

- continuation of monitoring of the natural environment of the temporarily occupied territories, namely subsoil, land, underground and surface waters, forests and other green spaces, atmospheric air, animal life, natural resources of territorial waters and marine environment, continental shelf and exclusive (marine) economic space of Ukraine, the state of the environment, natural objects and territories subject to special protection, and accounting of cases of environmental crimes and offences;

- full application of the mechanisms of global cooperation in the field of environmental protection;

- creation of a register of damages caused to the Ukrainian state, its legal entities, and citizens because of Russia’s hostile activities, which led to adverse environmental consequences in the temporarily occupied territories;

- compliance with Ukraine’s international obligations regarding the application of measures to ensure the implementation of international agreements in the field of natural environmental protection in the temporarily occupied territories, specifically by taking part in the improvement and implementation of various interstate projects, ensuring inspection activities, which lie in saving the Azov and Black Seas, destroying the remains of biological, chemical, and other weaponry in the waters of the Black Sea;

- ensuring the implementation of various measures for the organization of water supply to the Crimean Peninsula after the liberation of the temporarily occupied territories and the restoration of the constitutional order of Ukraine in this territory [15].

Clearly, the provisions of the Strategy for Liberation and Reintegration of the Temporarily Occupied Territory of the Autonomous Republic of Crimea prescribe that the defence and security policy of Ukraine makes provision for the reform and improvement of the defence and security sector according to the Law of Ukraine “On National Security of Ukraine” [16], the National Security Strategy of Ukraine [17] and some other legislative regulations of Ukraine.

According to Article 51 of the UN Charter, Ukraine is entitled to use all means of protection of human and citizen freedoms and rights, state control, independence, and territorial integrity, prescribed by international norms and legislation of Ukraine [18].

Legal Measures of Liberation and Reintegration of the Temporarily Occupied Territory of the Autonomous Republic of Crimea

It is worth agreeing with the opinion of scientists that to implement effective measures for the liberation and reintegration of

the temporarily occupied territory of Crimea, it is advisable to define and implement the following measures legislatively:

- firstly, to develop the Crimean platform as an important external political tool for the consolidation of international efforts planned for the liberation and restoration of the territorial integrity of Ukraine, as well as the protection of the interests and rights of Ukrainian citizens;

- secondly, to take measures to support the importance of the issue of only temporary occupation and Russia's attempts to include the lands of the Autonomous Republic of Crimea in European and world politics, Russia's violation of one of the principal norms of international law regarding the integrity of state borders;

- thirdly, to actively use international security mechanisms to increase pressure on Russia to ensure the liberation of temporarily occupied territories, namely the mechanism of the Memorandum on Security Guarantees, which makes provision for Ukraine's accession to the Treaty on the non-proliferation of nuclear weapons;

- fourthly, to carry out all potential foreign policy activities to counter and prevent cases of violations of the international policy of non-recognition of Russia's efforts to annex the territory of the Autonomous Republic of Crimea, recorded in the corresponding acts of the UN, NATO, the Council of Europe, the European Union, UNESCO, and other international organizations, decisions of friendly Ukraine states. Together with international partners, Ukraine is developing and implementing measures aimed at neutralizing Russia's activities aimed at the international legitimacy of Russia's attempt to annex the Autonomous Republic of Crimea;

- fifthly, to apply special economic and other limited methods (*imprimaturs*) against Russia, legal entities, and citizens of Russia, other foreign subjects involved in Russia's armed aggression against Ukraine and the temporary occupation of the territory of the Autonomous Republic of Crimea, cooperate with foreign partners to strengthen international sanctions for putting pressure on Russia to restore the territorial integrity of Ukraine;

- sixthly, to use the real possibilities of international judicial instruments and international cooperation in general to reduce the adverse impact of Russia's temporary occupation of the Autonomous Republic of Crimea;

- seventhly, to take an active part in cooperation aimed at preventing crimes and protecting freedoms and human rights, the rights of national minorities and the indigenous population in the temporarily occupied territory;

- eighthly, to actively cooperate with foreign partners and ensure effective monitoring and documentation of the facts of Russia's violation of international law and bringing it to international legal responsibility for the forced aggression against Ukraine, the temporary occupation of the territory of the Autonomous Republic of Crimea.

According to the author of this paper, the expected results of the implementation of the Strategy for Liberation and Reintegration of the Temporarily Occupied Territory of the Autonomous Republic of Crimea are currently important and absolutely necessary, namely:

- restoring the territorial integrity of the Ukrainian state within its internationally recognized borders, ensuring state control by Ukraine, and establishing security and peace;

- complex economic, legal, security, ecological, political, informational, social, and humanitarian aspects of the temporarily occupied territory;

- restoration and improvement of the social, humanitarian, and economic spheres of the liberated territories;

- increasing the degree of social stability and unity of Ukrainian society;

- development of the legal foundations of justice in the transitional period, namely the implementation of the mechanism of compensation due to the military aggression of the Russian Federation, the temporary occupation of the territories of Ukraine, the restoration and protection of rights that were forcefully taken away, the prosecution of those guilty of crimes against peace, the international legal order, and human security, ensuring the right to the truth about armed confrontation, preventing the emergence of a military conflict in the future.

- ensuring the rights of representatives of the Crimean Tatar people and other national minorities and peoples;

- increasing the local stability of Ukraine;

- increasing the capacity of the bodies of the defence and security sector of Ukraine;

- presentation of an example of economic and social development of liberated territories.

- resistance strengthening of territories that became the object of Russia's military aggression.

Therefore, the effectiveness of the Strategy for the liberation of the temporarily occupied territory of the Autonomous Republic of Crimea should be based on early preparation, an agreed detailed action plan of all stakeholders (considering the probable consequences that are contrary to the expected ones) and the symbiosis of civil society and state authorities. Helping increase citizens' awareness to prevent panicky moods and actions also stays a prerequisite.

At the same time, the development of criminal law and procedural standards at the international level with further implementation into national legislation is necessary for comprehensive countermeasures against threats to critical infrastructure facilities. This will enable the effective investigation of crimes on a global scale, the acquisition, storage, investigation, and provision of electronic evidence, considering the cross-border nature of crimes.

Conclusions

Having investigated the issue of liberating the critical infrastructure assets of the Autonomous Republic of Crimea, it should be noted as follows:

Firstly, Ukraine should legislatively adopt national programs that would ensure internal security through cooperation with infrastructure operators, owners, and the Agency for Cybersecurity and Infrastructure Security, which find potential vulnerabilities in infrastructure facilities.

Secondly, to introduce government support for the creation of national laboratories on the platform of public institutions of higher education (universities) and private industrial colleagues, to develop better ways to protect critical infrastructure and, in case of a malfunction, to ensure measures to promptly restore it.

Thirdly, to engage in constant testing and development of innovative ideas to provide better protection against floods, explosions, various anthropogenic and natural disasters and solar storms that threaten critical infrastructure facilities.

Fourthly, the work to ensure the security of facilities will help improve critical infrastructure and significantly minimize the threat of disruption of daily trade and interaction provided by such systems and increase the security of Ukraine.

The proposed legal measures are quite real and can ensure the performance of the tasks set in the Strategy before the start of the active phase of liberation.

An important recommendation arising from the results of the conducted research is the creation of a single register of damage caused by the Russian Federation. This is necessary for reliable recording with the further purpose of

filing a lawsuit regarding the illegal activities of the occupying authorities in international courts, to compensate for the damages and unreceived benefits (losses).

The further development of comprehensive measures by the state to counter illegal influence on the functioning of critical infrastructure objects, which would involve the use of modern knowledge and capabilities, stays a promising vector of research.

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Деокупація об'єктів критичної інфраструктури Автономної Республіки Крим

Олег Володимирович Батюк

доктор юридичних наук, доцент, професор кафедри державної безпеки
Волинського національного університету імені Лесі Українки
43025, просп. Волі, 13, м. Луцьк, Україна

Анотація. Актуальність дослідження зумовлено тим, що Україна робить і робитиме все можливе для відновлення контролю над півостровом Крим, а тому розробка заходів щодо його реінтеграції має велике значення вже сьогодні, особливо у сфері критичної інфраструктури. Ця тема поки не досліджувалась українськими науковцями та потребує аналізу і напрацювання відповідних організаційно-правових механізмів, що і є метою наукової розвідки. Аналіз чинного українського законодавства та закордонного досвіду (із застосуванням методів аналізу, синтезу та системного підходу) дав змогу визначити низку основних організаційно-правових чинників, які б сприяли прискоренню деокупації та реінтеграції тимчасово окупованої території Автономної Республіки Крим. У статті обґрунтовано необхідність здійснення суспільного моніторингу природного середовища на тимчасово окупованій території, а саме: ландшафту поверхні землі, корисних копалин, води, повітря, рослинного та тваринного світу, природних ресурсів виключної (морської) економічної зони України, континентального шельфу та морських вод з метою фіксування фактів екологічних протиправних діянь (злочинів). Наголошено на ефективному застосуванні процедур міжнародного співробітництва у сфері охорони довкілля. Доведено потребу в створенні єдиного реєстру заподіяної шкоди Українській державі загалом і зокрема громадянам та юридичним особам унаслідок неправомірних дій окупаційних адміністрацій, які призвели до зараження та забруднення природи на тимчасово окупованій території. Акцентовано на дотриманні взятих Україною на себе міжнародних зобов'язань, пов'язаних з виконанням положень міжнародних договорів у сфері охорони довкілля, насамперед щодо проблем збереження природного середовища Азовського та Чорного морів та недопущення розповсюдження хімічної чи бактеріологічної зброї в акваторії Чорного моря. Практичне значення статті полягає в розробленому організаційно-правовому механізмі заходів щодо вдосконалення системи водопостачання Автономної Республіки Крим після повного звільнення окупованої території

Ключові слова: тимчасово окуповані території, стратегічно важливі підприємства, повернення контролю держави, реінтеграція, нормативні акти