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HIGHLIGHTS

THE ENVIRONMENT IN THE EAST OF UKRAINE: THREATS TO NATIONAL SECURITY

Since the outbreak of the armed conflict in the East of Ukraine and the annexation of Crimea the civil society has been raising concerns over environmental damage to the environment in those areas. On June 7 Ukrainian Helsinki Human Rights Union presented a [report](#) "At the edge of survival: destroyed environment in the armed conflict in the East of Ukraine". The report covers the impact of armed conflict on the environment of Donetsk and Lugansk regions, including uncontrolled territories, as well as internal legal mechanisms for protection of the environment and the opportunities to bring to justice those responsible for the environmental damage during armed conflict.

Environmental crisis in the East of Ukraine and ways to solve it is also discussed by the public authorities. On June 8 a meeting of informal MPs group "Minsk Platform" was held to develop strategy for peaceful settlement of the situation in the East of Ukraine. During the meeting, vice-minister of environment, V.Vakarash, emphasized the important for reconstruction and improvement of the state environmental monitoring system, as well as environmental safety system, in Donetsk and Lugansk regions. He also reported about preliminary measures taken to ensure environmental monitoring of the situation.

It's obvious that a complex understanding of the state of environment in Donetsk and Lugansk regions, analysis and assessment of risks, as well as its rehabilitation, will require integrated and complex approaches covering (1) cooperation at national and international levels, (2) coordination among central, regional and local authorities, (3) complex of measures implementing such mechanism (including, environmental monitoring, legal responsibility of aggressor state and other persons liable for environmental damages). This also requires careful considerations of timeframes and resources (short-term necessary and feasible measures, and long-term measures).

UKRAINE RATIFIES AGREEMENT ON COOPERATION WITH MOLDOVA FOR PROTECTION OF DNISTER RIVER

On June 7, 2017, the Parliament adopted the Law on Ratification of the Agreement between the Cabinet of Minister of Ukraine the Government of Moldova on Cooperation in Protection and Sustainable Development of Dnister river.

O.Semerak, the Minister of Environment of Ukraine, noted that the agreement with Moldova is the "first transboundary basin agreement aimed to develop partnership between the countries in introducing integrated water management".

Dnister river has always been a difficult issue for Ukraine-Moldova relations, which recently is even hotter due to the plans by Ukrainian side to develop hydro-energy projects on Dnister river. The basin agreement is of a framework nature setting legal basis for cooperation between two countries.

The agreement ratified introduces a modern decision-making mechanism. The key instrument to achieve its goals is bilateral Commission on sustainable development and protection of Dnister river. It should be composed of representatives of central and regional authorities, the civil society and scientists from both sides. The commission has a mandate to monitor and report about the state of water and other natural resources and ecosystem of Dnister river, facilitate dispute resolution on issue related to use and protection of the river, participate in development of plans and projects, as well as in environmental impact assessment of transboundary waters, setting principles for water distribution, etc. Now, the upcoming key issues are when and how the commission will be set up and start working.

MINSK ESPOO CONVENTION MOP: FAR FROM FAIR-PLAY

June 13-16, 2017. Seventh Meeting of the Parties (MOP) of the Espoo Convention on environmental impact assessment in a transboundary context took place in Minsk (Belarus). What happened in Minsk can't be characterized as equal negotiations or negotiations at all. The EU block did not even try to make it look like a fair-play by ignoring procedure, previous practice and, often, a common sense.

“Nuclear” issues cluster

The most important and difficult was discussion over the decision on compliance with the Espoo Convention. Such decision is adopted every time by the MOP reflecting review of specific cases (issues) of non-compliance by the countries with the provisions of the Convention. Such review is carried out by a special body – Implementation Committee.

This time a number of cases dealt with nuclear energy. The non-complying countries included Ukraine (life time extension of nuclear power plant at Rivne), Belarus (construction of a new nuclear power plant) and the UK (Hinckley Point C nuclear power plant). Totally ignoring previous practice, the EU delegation in Minsk started to redraft the text regarding the UK, while Ukrainian and Belarus issues were left out to “corridor” (not discussed in plenary at all). For example, for dealing with Belarus related part of decision a special ad-hoc negotiating group was established, which worked in parallel with main negotiations. Plenary work was largely focused on discussing details of the work plan for the next three years.

As a result, the decision on compliance was not taken at all. The Implementation Committee was mandated to revise it for further adoption at an extra-ordinary MOP of the Espoo Convention (to be held at the end of 2018-beginning of 2019).

Ukrainian Issue

Ukrainian delegation worked hard to take advantage of political momentum: just days before the President of Ukraine signed the Law “On Environmental Impact Assessment”. Therefore, Ukrainian delegation was insisting on adopting a separate decision on one of its cases (Danube – Black Sea shipping canal case), where draft text included politically sensitive wording (on suspension of rights under the Convention). Clearly, adoption of a separate decision would also allow the Ministry of Environment do its homework more effectively immediately after the MOP, without waiting for 1,5 year for the extra-ordinary MOP. In 1,5 year time from now political effect by endorsement of the Law on EIA will fade, and Ukraine will likely need to provide evidence the law is working in practice (this, in particular, requires adoption of numerous secondary legislation acts). The delegation of Ukraine made huge efforts but failed to convince the EU. Even a few words in meeting minutes (report) on “welcoming endorsement of the EIA Law by Ukraine” led to lengthy and unhealthy discussions with the EU delegation.

To summarize, the course of negotiations at MOP is a clear evidence of heavy impact by nuclear lobby on EU position. The EU was ready to apply double standards, change rules of the game. The EU has a “monopoly” on decision-making within European UN bodies, since at any voting they have the majority to adopt a decision. Yet, in previous years this was politically legitimized by creating, in particular, special independent mechanism on review of compliance, where the key element is Implementation Committee, which includes non-EU members and has worked rather independently. This time all the work of the Implementation Committee went down the drain and the EU started to “revise” outcomes of the Committee work. This means a politically biased assessment, not an independent review. Such politicizing of the compliance mechanism undermine its credibility for all counties. Probably, the mechanism needs a total “restart”.