

INTERNATIONAL LAW AND INTERNATIONAL RELATIONS

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LEGAL FRAMEWORK OF INTERNATIONAL COMPETENCE AND ACTIVITIES OF THE MISSION OF THE PRESIDENT OF UKRAINE IN THE AUTONOMOUS REPUBLIC OF CRIMEA

Author determines the legal framework for the activities of the Mission of the President of Ukraine in the Autonomous Republic of Crimea in area of international relations in situation of illegal occupation and attempt of annexation of the Crimean peninsula by Russia in 2014-2017. He researched the coherent situation for establishment and functioning of the Mission in the Crimean Autonomy until 2014, of its role under conditions of escalation of the Russian aggression and its temporary movement to the mainland Ukraine, for coherent activation of work of the Mission from August 2017.

It is proved that legal framework of the international competence and activities of the Mission have its grounds in the coherent Constitutional competence of the President of Ukraine and are determined by Law of Ukraine № 1524-III, 2000. It is shown that a new stage of the Mission's functioning for international relations' area was determined by the Decree of the President of Ukraine № 16/2016 dated the January 20, 2016. This document enhanced significantly the Human Rights and international relations' dimensions of the Mission's activities, provided for establishment of separate structural units of the Mission in the city of Kyiv, with preservation of its main office's location in the city of Kherson. Author proved the role of decree of the President № 221/2017 dated the August 17, 2017 provided for special official duties of the First Deputy Permanent Representative of the Crimean Tatar People.

There is pointed that legal framework of the international relations allowed to define clearly the Mission' directions of work, to establish additional grounds for its cooperation with central and regional governmental authorities in Ukraine, for mechanisms of the regular monitoring of situation connected with the internally displaced persons, for analysis of legislation in the context of issues connected with Crimea to resolve them; for its studies in social, economic and political processes on the temporarily occupied territory of Ukraine, as such legal framework provides informational support to all types of its activities.

The main forms of activities of the Mission in this area are devoted to the issues of de-occupation and reintegration of the Crimea, for realization the Action Plan of urgent measures in the field of counteraction to the Russian aggression from the temporarily occupied territory of Ukraine in Crimea, for protection the interests of the state, of citizens of Ukraine and of Ukrainian legal entities in Crimea. They are in permanent cooperation with missions of the international organizations and foreign States in Ukraine, in participation in the international seminars and conferences devoted or related to the issue of Crimea.

Keywords: Permanent Representative of the President of Ukraine in the Autonomous Republic of Crimea, Mission of the President of Ukraine in the Autonomous Republic of Crimea, temporal occupation, international relations, external competence, international organizations, international conflict.

The history of establishment of the Mission of the President of Ukraine in the Autonomous Republic of Crimea (MPUARC) begins from the proclamation of Independence by Ukraine in 1991 and introduction

of the position of the President of Ukraine in the constitutional system, from restoration of the Autonomous Republic of Crimea (ARC) as part of Ukraine in 1991. Alas, any legal research surveys devoted to the MPUARC statute, competence and functions were not done since 1992 to this date.

So the goal of this article is to determine the legal framework for the activities of the MPUARC in area of international relations. The correlation of such activities with the situation of illegal occupation and attempt of annexation of the Crimean peninsula by Russia in 2014-2017 is one of important tasks of this research. Also the coherent legislation devoted to the MPUARC must be lighted and the certain external Mission's activities must be systemized.

On the 17th of December, 1992 the Verkhovna Rada of Ukraine adopted the Law of Ukraine № 2875-XII "On the Mission of the President of Ukraine in the Republic of Crimea". In section X "ARC" of the Constitution of Ukraine, 1996 there was introduced a separate Article 139, according to which the Mission of the President of Ukraine, whose status is determined by a separate law, acts in the ARC. So the MPUARC became the constitutional state authority body of Ukraine. The work of the MPUARC of the President of Ukraine as a state control authority under the Constitution and regulatory legal act of the ARC, Constitution of Ukraine and laws of Ukraine are fixed in the part 4 of the Article 5 of the current Constitution of the ARC adopted by the Verkhovna Rada of the ARC in 1998. In pursuance of the Decree of the President of Ukraine dated April 7, 2000, the Secretariat of the Council of Representatives of the Crimean Tatar People as a form of recognition by the Mejlis of the Crimean Tatar People was established as a part of the Mission's Office.

The current constitutional status of the MPUARC has been developed by a special Law of Ukraine № 1524-III dated the 2nd day of March, 2000, as amended. The main functions of the Mission are the following: representative, nominating, analytical, information and human rights protection functions that lied in promoting the observance of constitutional rights and freedoms of indigenous peoples and citizens and in achieving the interethnic harmony, social, economic and political stability in the ARC. After the armed seizure of the Crimean peninsula by the aggressor State in February 2014, the activity of the MPUARC in the city of Simferopol were forced to cease, the management of the Mission left the occupied ARC. By the order of the President of Ukraine of May 16, 2014 in order to ensure the renewal of activity of the Mission in conditions of temporary occupation of the territory of Ukraine, the Mission was located in the city of Kherson, which is territorially adjacent to the administrative border with the ARC.

The new stage of the MPUARC's functioning was determined by the Decree of the President of Ukraine № 16/2016 dated the January 20, 2016. This document has significantly enhanced the Human Rights and international relations` dimensions of the MPUARC's activities, provided for establishment of separate structural units of the Mission in the city of Kyiv, with preservation of its main office's location in the city of Kherson. The stage of Deputy of the Permanent Representative of the President of Ukraine in the ARC as a Head of International Connections Department of the MPUARC both as the coherent Department were established by the Decree № 16/2016.

Before such establishment, in 2014-2016 MPUARC was involved in some international contacts devoted to the issue of temporal occupation and illegal attempt of annexation the Crimea. The Permanent Representative of President of Ukraine in the ARC (PRPUARC) held some meetings with observers of the Special Monitoring Mission of OSCE, with Head and officers of the UN Human Rights Monitoring Mission in Ukraine, with officers of the International Red Cross Committee office in Odessa, with delegation of the Embassy of the United States in Ukraine, headed by the coordinator of the US Aid in Ukraine, with Ambassador of France to Ukraine, First Secretary of the Embassy of Sweden in Ukraine, General Consul of Turkey in Odessa, officers of the Embassy of Japan in Ukraine. But neither any officer of International Connections Department of the MPUARC nor its Head were appointed in this period.

The decree of the President № 221/2017 dated by August 17, 2017 provided for special official duties of the First Deputy of the PRPUARC of the Crimean Tatar People and the statute of the Head of International Connections Department as a Deputy of the PRPUARC was cancelled. A position of the Chief of Staff of the MPUARC has been provided in accordance with the new legislation of Ukraine. The Mission clearly defines the directions of work, establishes cooperation with central and regional governmental authorities in Ukraine, introduces a mechanism of regular monitoring of situation connected with the internally displaced persons, performs analysis of legislation in the context of issues connected with Crimea to resolve them; it systematically studies social, economic and political processes

on the temporarily occupied territory of Ukraine, provides informational support to all types of its activities¹.

A part of MPUARK's activities for relations with other state institutions got some international significance from the autumn of 2017. In September, 2017 the PRPUARC took part in the sittings of the Civil Council of the MFA of Ukraine with participation of the heads of MFA's departments, devoted to issues of temporarily occupied Crimea. Also in that month the PRPUARC made report for sitting of the Parliamentary Committee for Foreign Affairs².

Also the heads of the MPUARK activated since 2017 their contacts with foreign states` diplomatic and consular representatives. In September, 2017 the PRPUARC together with his First Deputy, representatives of the Mejlis of the Crimean Tatar People, of Kherson Regional Mejlis of Crimean Tatars met with representatives of British Embassy in Kyiv³. Later, in October, 2017 the PRPUARC held meetings with the representatives of USA Embassy in Ukraine both with U.S. Agency for International Development officers⁴. In October, 2017 the PRPUARC took part in the special events of the Consulate General of the Republic of Turkey in Odessa dedicated to the anniversary of the formation of the Republic. In December, 2017 and January, 2018 the PRPUARC met with the leaders of the diplomatic missions of Great Britain, Canada, Norway and Sweden⁵.

Also the direct contacts with key government officers of some European States were organized by MPUARK since end of 2017. In September, 2017 the PRPUARC and his First Deputy took part with events of visit of the Head and members of Parliament of the Republic of Lithuania and Lithuanian diplomats to the Kherson Region, including the visiting "Chongar" check-point on the frontline with occupied Crimea⁶

The PRPUARC took part in the public seminar "De-Occupation of Crimea: When and How" held on the January 23rd, 2018 in Tallinn by the International Center for the Security and Defense together with the Embassy of Ukraine in the Republic of Estonia. The seminar was opened by the Minister of Foreign Affairs of Estonia Mr. Sven Mikser; Ukrainian and Estonian experts and civil officers also participated in it. The Minister Mikser emphasized the European policy of non-recognition of illegal occupation of Crimea, situation with violation of Human Rights and Rights of Crimean Tatar People who recognized as Indigenous People at the international level, in Crimea by Russia. In his speech, the PRPUARC conveyed thanks of the President of Ukraine Mr. Petro Poroshenko to Estonia as a member of Group of Friends on De-occupation of Crimea, for Estonian position on supporting Ukraine under conditions of the Russian aggression that is permanently friendly. PRPUARC reported on the role of the Mission of the President in counteraction against Russian aggression from temporarily occupied Crimea, on the development of the Plan of Actions and on strategic vectors of work in this area.

During his visit to Tallinn PRPUARC also held working meetings with the Political Director of the Ministry of Foreign Affairs of Estonia and with Member of Riigikogu (Parliament), Head of Parliamentary Group "Estonia-Ukraine". During meetings, the parties discussed issues of current situation in Crimea, escalation of repressions by the occupation authorities, militarization of peninsula as a threat for European and global security, as well as ways of possible Ukraine-Estonian cooperation under conditions of aggressive conflicts unleashed by Russia⁷.

¹ *Recommendations of the round table "Mission of the President of Ukraine in the Autonomous Republic of Crimea: Reassessment of Work under Conditions of the Russian Aggression", dedicated to the 25th anniversary of the establishment of the Mission (December 22nd, 2017, Crimean House, Kyiv) 22.12.2017 (MPUARK).* <<http://www.ppu.gov.ua/en/kruglyj-stil-z-nagody-25-rokiv-utvorennya-predstavnytstva/>>.

² *Ukraina Tışqı işler nazirligi ile işbirlikniñ qavıyleştirilivi 22.09.2017 (MPUARK).*

<<http://www.ppu.gov.ua/intensyifikatsiya-vzayemodiyi-z-mzs-ukrayiny/>> (2018, January, 31).

³ *Büyük Britaniya elçihanesiniñ vekilleri ile körüşiv 29.09.2017 (MPUARK).* <<http://www.ppu.gov.ua/zustrich-z-predstavnykamy-posolstva-velykoyi-brytaniyi-v-ukrayini/>>. (2018, January, 31).

⁴ *Ukraina Prezidentiniñ Qırım Muhtar Cumhuriyetindeki Daimiy Temsilcisi Kiyev şeerinde çeşit-türlü merasimlerde iştirak etti 24.10.2017 (MPUARK).* <<http://www.ppu.gov.ua/uchast-u-zahodah-ta-zustrichi-postijnogo-predstavnyka-u-m-kyiv/>> (2018, January, 31).

⁵ *Interaction of the Mission on Humanitarian Issues 15.12.2017 (MPUARK).* <<http://www.ppu.gov.ua/en/vzayemodiya-predstavnytstva-z-gumanitarnyh-pytan/>> (2018, January, 31).

⁶ *Litva Cumhuriyeti Seyminiñ eyeti Herson vilâyetinen işğal etilgen Qırım arasındaki memuriy sınırnı ziyaret etti 04.09.2017 (MPUARK).* <<http://www.ppu.gov.ua/tt/vizyt-lytovskoyi-deligatsiyi-na-choli-z-golovoyu-cejmu-lytovckoyi-recpubliky-viktoracom-prantsketicom/>> (2018, January, 31).

⁷ *Issues of De-occupation of Crimea discussed in Estonia 23.01.2018 (MPUARK).* <<http://www.ppu.gov.ua/en/pytannya-deokupatsiyi-krymu-obgovoryuvalysya-v-estoniyi/>> (2018, January, 31).

MPUARK informed via channels of the Ukrainian MFA on the appointment of new PRPUARC and his First Deputy the structures of the UN, OSCE and Council of Europe. Not only official letters was got afterwards by PRPUARC (such as from the Secretary General of CoE from December 6, 2017 and Special Advisor to CoE's Secretary General for Ukraine dated November 2, 2017) but some working meetings were organized. In September 2017 the First Deputy of the PRPUARC held meeting with the UN Population Fund's representatives and in October, 2017 – with the representatives of the UN High Commissioner for Refugees Representative in Ukraine¹

In November, 2017 the PRPUARC met with Ms. Fiona Frazer, head of the UN Monitoring Mission on Human Rights in Ukraine (HRMMU), and the staff of the HRMMU. The parties discussed the activities of the Mission related to the provision of primary legal aid to Crimean residents, coordination of the law-enforcement bodies on the issues of documentation of violations of their rights by the occupation authorities and coordination of bodies providing administrative services. The practical ways of cooperation with the HRMMU in the field of periodic exchange of information on human rights violations in Crimea, provision of free communication of the representatives of the Monitoring Mission with victims of the occupation in mainland Ukraine were determined².

In November, 2017, the PRPUARC and officers of Mission met with the head and with head assistant of the office of the International Committee of the Red Cross (ICRC) in Odessa. The parties discussed issues of assistance and support to the internally displaced persons and persons from the temporary occupied territory of Ukraine in the ARC who arrived for a short-term staying, as well as joint interaction in the programs and projects aimed at supporting these categories of citizens³.

In the December, 2017, the PRPUARC held a working meeting in Kyiv with the leaders of the delegation of the ICRC in Ukraine. The parties discussed further activation of the ICRC to help the citizens residing in the temporarily occupied territory or internally displaced persons to cross the checkpoints to realize their own rights and humanitarian needs. The PRPUARC met with the representative of the OSCE Project Co-ordinator in Ukraine in that time also⁴.

On the 8th day of November, 2017 PRPUARC held a working meeting with a Special Advisor to Council of Europe's Secretary General for Ukraine in Kyiv. The parties discussed urgent and strategical ways of cooperation on issues related to the defense of rights of internally displaced persons from the Crimea and population of peninsula. Special Advisor acquainted himself with a plan of the first priority steps in organization of provision of administrative and transport services for Crimean residents in Kherson region proposed by the Mission. The PRPUARC informed of the Special Advisor about major violations of the international standards of human rights, rights of indigenous peoples and humanitarian law in Crimea by the aggressor country⁵.

In September, 2017 the PRPUARC took part in the High Level Round Table devoted to defense the Human Rights of internally replaced persons via solutions the housing issues held by CoE's Project "Improvement of the National Legislation on the Protection of Human Rights of the Internally Displaced Persons". In December, 2017, the PRPARC participated in the expanded session of the Working Group on the Improvement of the National Legislation on the Protection of Human Rights of the Internally Displaced Persons, formed under the auspices of the pointed project of the CoE⁶.

¹ *BMT Qaçaqclar işleri Yuqarı Komissarı idaresiniñ vekili ile iş körüşüvi 20.10.2017* (MPUARK)

<<http://www.ppu.gov.ua/en/robocha-zustrich-z-upovnovazhenym-predstavnykom-uvkb-oon/>> (2018, January, 31).

² *Interaction between the Mission of the President of Ukraine in the Autonomous Republic of Crimea with the UN Monitoring Mission 09.11.2017* (MPUARK). <<http://www.ppu.gov.ua/en/vzayemodiya-z-monytoryngovoyu-misiyeyu-oon/>> (2018, January, 31).

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⁶ *Participation in the Meeting of the Working Group on the Improvement of the National Legislation on the Protection of Rights of the Internally Displaced Persons 15.12.2017* (MPUARK). <<http://www.ppu.gov.ua/en/uchast-u-zasidanni-robochoyi-grupy-z-udoskonalennya-natsionalnogo-zakonodavstva-stosovno-zahystu-prav-vnutrishno-premishhenyh-osib/>> (2018, January, 31).

The possibility of substantive registration for the OSCE Office for Democratic Institutions and Human Rights (ODIHR) Conferences gave to the MPUARK the unique chance to realize own tasks on the coherent level in 2017. On 18th of October 2017 First Deputy of the PRPUARC took part at the ODIHR Conference “Combatting Intolerance, Discrimination and Hatred Against Muslims; Towards a Comprehensive Response in the OSCE Region” in Vienna, devoted to 10th anniversary of OSCE’s Cordoba Conference and Declaration. First Deputy in his speech and during discussions informed the Participating States` and OSCE bodies` representatives also as international experts on situation with violations by aggressor-state the collective rights of the Crimean Tatar People on ethnic, cultural and religious originality in conditions of temporal occupation the territory of Ukraine in Crimea. MPUARC took part in elaboration the recommendations on the basis of the work of the ODIHR Conference with a goal of including the provisions, condemning the Russian activities against the Crimean Tatar People¹.

On November 02nd, 2017 the PRPUARC participated in the Supplementary Meeting of the OSCE ODIHR in Vienna on the topic of “The Role of Free Media in a Comprehensive Approach to Security”. PRPUARC reported to the delegations of the member-states, officials and experts of the OSCE on the situation with the freedom of media in Crimea and paid particular attention to the issues of prohibition of Ukrainian language and restrictions of activity of Crimean Tatar media aspects of illegal broadcasting from the occupied territory to adjacent territories of Kherson region, inciting hostility against language and aggressive propaganda on the first session of the meeting.

In the framework of the Additional Meeting of the OSCE ODIHR, the PRPUARC actively participated in a side-event “The Prohibition of Liberty of Speech and Media Freedom for Indigenous Peoples in the Occupied Crimea” held by the Crimean Tatar Resource Center with the involvement of Crimean journalists who suffered from the temporary occupation of the ARC. The reports on the situation of informational ghetto in Crimea, hate speech of Crimean media controlled by the Russian Federation about violation of the informational rights of indigenous people and the escalation of Russian broadcasting from the occupied territories were submitted to the diplomats of the European Union, Austria, Bulgaria, Great Britain, Georgia, Italy, Lithuania, the United States of America, Montenegro, Sweden and other member-states².

During visit to OSCE the PRPUARC held a working meeting with the OSCE Representative on Freedom of the Media. During the meeting, the PRPUARC informed the OSCE Representative on Freedom of the Media about the mandate of the MPUARC and about those tasks that are currently solved in the context of armed aggression of the Russian Federation and attempts at annexation of the Crimean peninsula. PRPUARC also met with the First Deputy of the OSCE ODIHR, the parties discussed the possible ways of interaction between the MPUARC and the ODIHR³.

The first steps of MPUARC`s activities in area of the international relations were summarized on December 22, 2017, when the Crimean House in Kyiv hosted a round table “MPUARC: Reassessment of Work under Conditions of the Russian Aggression”, dedicated to the 25th anniversary of the establishment of the Mission. The people`s deputies of Ukraine, representatives of central executive authorities, law enforcement bodies, of the Mejlis of the Crimean Tatar People, representatives of the OSCE Project Co-ordinator and Special Monitoring Mission, the UN Monitoring Mission on Human Rights, the Mission of the International Committee of the Red Cross, the EU Mission in Ukraine, Council of Europe Office in Ukraine, of foreign embassies, also as scientists and experts took part in the event. The parties discussed the activities of the Mission in the years 1992-2017, in particular, the establishment and functioning of the Mission in the Crimean Autonomy until 2014, role of the body under conditions of escalation

¹ *Combatting Discrimination Against Crimean Tatar People: Cooperation of Mission and ODIHR OSCE 18.10.2017* (MPUARK). <<http://www.ppu.gov.ua/en/protydiya-dyskryminatsiyi-krymskotatarskogo-narodu-vzayemodiyapredstavnytstva-ta-bdipl-obsye/>> (2018, January, 31).

² *The Crimean Issue at the Supplementary Meeting of the Organization for Security and Cooperation in Europe on Free Media 03.11.2017* (MPUARK). <<http://www.ppu.gov.ua/en/krymske-pytannya-na-dodatkovij-naradi-obsye-z-pytan-vilnyh-media/>> (2018, January, 31).

³ *Meetings of the Permanent Representative with Officials of the Organization for Security and Cooperation in Europe 03.11.2017* (MPUARK). <<http://www.ppu.gov.ua/en/zustrichi-postijnogo-predstavnyka-z-posadovtsyamy-obsye/>> (2018, January, 31).

of the Russian aggression and its temporary movement to the mainland Ukraine, activation of work of the Mission from August 2017¹.

Such conclusions may be done related to the MPUARC's competence for the international relations' area. A new stage of such competence and activities was determined by the Decrees of the President of Ukraine № 16/2016, 2016 and № 221/2017, 2017. The legal framework of the international relations allowed to define clearly the Mission` directions of work, to establish additional grounds for its cooperation with central and regional governmental authorities in Ukraine, for mechanisms of the regular monitoring of situation connected with the internally displaced persons, for analysis of legislation in the context of issues connected with Crimea to resolve them; for its studies in social, economic and political processes on the temporarily occupied territory of Ukraine, as such legal framework provides informational support to all types of its activities.

The main forms of activities of the Mission in this area are devoted to the issues of de-occupation and reintegration of the Crimea, for realization the Action Plan of urgent measures in the field of counteraction to the Russian aggression from the temporarily occupied territory of Ukraine in Crimea, for protection the interests of the state, of citizens of Ukraine and of Ukrainian legal entities in Crimea. They are in permanent cooperation with missions of the international organizations and foreign States in Ukraine, in participation in the international seminars and conferences devoted or related to the issue of Crimea.

If the contacts with ICRC, OSCE, including SMM OSCE in Ukraine, both as with UN HRMMU and CoE Representatives, foreseen by mandate of those structures, started in 2014 and become sustainable for MPUARC since 2017, the Mission's relations with diplomats, consuls and key government officers of some European States were quite limited. Legal significance of the participation of the PRPUARC and his First Deputy in international high-level conferences may be the interesting field for the additional scientific researches.

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¹ *Recommendations of the round table "Mission of the President of Ukraine in the Autonomous Republic of Crimea: Reassessment of Work under Conditions of the Russian Aggression", dedicated to the 25th anniversary of the establishment of the Mission (December 22nd, 2017, Crimean House, Kyiv) 22.12.2017* (MPUARK). <<http://www.ppu.gov.ua/en/kruglyj-stil-z-nagody-25-rokiv-utvorennya-predstavnytstva/>>.

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