

Andrey Aryamov¹
Russian Academy of Justice, Moscow, Russia
Aleksandar Djuric²
*Ministry of Justice and Public Administration,
Belgrade, Serbia*

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HISTORY NEWER SEVASTOPOL - LEGAL RETROSPECTIVE IN THE CONTEXT OF MODERN ECONOMIC DEVELOPMENT CRIMEA REGION

Abstract

On the example of a retrospective analysis of changes of the status of Sevastopol authors attempts a legal analysis to be replicated in a „western“ media thesis about annexation by the Russian Federation of the Ukrainian sovereign territories; and clarifying the question of who actually committed the act of annexation. The study was carried out on the background of the review of the modern economic development of the Crimean region.

Key words: *Crimean Republic, Crimean region, Russian Federation, RSFSR, the Ukrainian SSR, Ukrainian Republic, Sevastopol, Crimea, referendum, annexation, sovereignty, the right of Nations to self-determination and territorial integrity, political economy, economic development, resources.*

Jel Classification: O10, O13, O14

НОВА ИСТОРИЈА ГРАДА СЕВАСТОПОЉА – ПРАВНА РЕТРОПЕКТИВА У КОНТЕКСУ САВРЕМЕНОГ ЕКОНОМСКОГ РАЗВИТКА КРИМСКОГ РЕГИОНА

Апстракт

На примеру ретроспективне анализе динамике мењања статуса града Севастопоља аутори врше правну анализу исконструисане, „западним“ средствима масовне информације, тезе о анаксији суверених украјинских територија од стране Руске Федерације; и разјашњење питања о томе, ко је заиста извршио акт анаксије. Истраживање је базирано на процесу савременог економског развоја Кримског региона.

Кључне речи: *Кримска република, Кримска област, Руска Федерација, РСФСР, УССР, Украјинска републике, град Севастопољ, Референдум, Анексија, Суверенитет, Право нације на самоопредељење, Територијална целокупност, Политичка економија, Економски развитак, Ресурси.*

¹ aaryamov65@yandex.ru

² sandro.aleksandar@gmail.com or alardur@yahoo.com

Periodization of the considered events

- October 18, 1921 Soviet of People's Commissars made the Decision about the Formation of the Crimean Autonomous Socialist Republic.

- The Crimean ASSR was transformed to Crimean Oblast by the Presidium of the Supreme Council Decree in June 30, 1945.

- The Sevastopol was separate out the Crimean Oblast and became the city of republican (RSFSR) submission in October 29, 1945 by the Presidium of the Supreme Council Decree “About the Allocation of the Sevastopol in the independent administrative center”. All financial and organizational functions in administrative-territorial borders of Sevastopol (as the closed territorial formation – a place of a dislocation of the Black Sea Navy) were carried out under the direct management of Council of Ministers of RSFSR, without any participation of Council of Ministers of Ukrainian SSR, up to December 08, 1991.

- The Crimean Oblast was separate out the RSFSR to Ukraine SSR by the Presidium of the Supreme Council Decree in February 5, 1954. It is a fact of common knowledge that it was an excess of the competence by the Presidium of the Supreme Council of RSFSR and excess of the competence by the officials who signed this Decree; I pay attention to the following circumstance (see the Appendix): in the presented public version of this document there is no signature of the Chairman of Presidium of the Supreme Council of RSFSR M. Tarasov. It is still a question: what else versions of this document are exist. But the considered document can't have validity as well on the formal bases – absence of the signature of the authorized person.

- The Presidium of the Supreme Council Decree of the USSR of February 19, 1954 approved the Appeal of Presidiums of the Supreme Councils of RSFSR and Ukraine SSR about transfer the Crimean area from RSFSR structure to Ukraine SSR structure. The matter was also settled by the Law USSR of April 26, 1954. A question about legitimacies of such decisions has to be a subject of separate research. In this case I pay attention that Crimean Oblast was transferred as administrative-territorial formation, but not the Crimean peninsula as the geographical phenomenon. A transfer of Sevastopol wasn't a subject of this Decree.

- Sevastopol is fixed in quality of the city of republican (Ukraine SSR) value by the Constitution of Ukraine SSR of 1978. On the one hand, it took place absolutely illegitimate fixing of a claim for the territory, legal grounds for which possession weren't available. On the other hand, there was a fixing of the independent status of Sevastopol from the Crimean Area / the Crimean Republic. It is obvious that the administration of Ukraine SSR didn't identify (didn't consider one as a part of another) the Crimean Oblast and Sevastopol at that time. Any attempts to extend Ukraine SSR jurisdiction to the territory of Sevastopol was made.

- The Republic of Ukraine made use of the catastrophic economic and political situation in Russian Federation, the constitutional crisis in the Russian Federation and extended the jurisdiction to Sevastopol in attendance order without any legal grounds (i.e. made the act of annexation of the sovereign friendly State territory (within the CIS)) in 1991 - 1992.

- The resolution of the Supreme Council of the Russian Federation No. 5359-1

“About the status of Sevastopol” (officially not cancelled and have validity until now)” of July 09, 1993 confirmed the Russian federal status of Sevastopol in administrative-territorial borders of the City District as of December, 1991. Thus illegitimacy of claims of the Ukrainian Administration on this territory was designated. Hence there was no “acquiescence” (the order by default) of rejection of the specified territory from the Russian Federation.

Conclusions

1. The Administration of the Republic Ukraine’s actions for rejection from the Russian Federation and a taking (annexation) of the territory of Sevastopol have no legal ground and contradict the following norms of International Law:

a) Art. 5 of the Agreement on Creation of the Commonwealth of Independent States of December 8, 1991 speaking about recognition and respect of mutual territorial integrity and inviolability of the existing borders within the Commonwealth;

b) The Almaty declaration of December 21, 1991 which confirmed this approach;

c) Art. 3 of the Charter of the CIS of January 22, 1993 which fixed among the interconnected and equivalent principles of the relations in the CIS as inviolability of frontiers, recognition of the existing borders and refusal of illegal territorial acquisitions, and territorial integrity of the states and refusal of any actions directed on a partition of others territory;

d) The declaration on observance of the sovereignty, territorial integrity and inviolability of borders of the State Parties of the CIS of April 15, 1994;

e) Item 4 of Art. 2 of the Charter of the UN;

f) Art. 1 of the Declaration of the UN “About the principles of international law concerning friendship and cooperation between the states according to the Charter of the UN” (on October 24, 1970);

g) Art. 1 of the Final act of Meeting on safety and cooperation in Europe (Helsinki, on August 1, 1975).

2. Actions of the Ukrainian Administration of a taking the territory of Sevastopol in 1991-19992 fully fall under the concept “annexations”. Possession of this territory was illegitimate; reasoning on acquirer prescription are insolvent in this case on the following base:

a) The private-law institute of acquirer prescription doesn’t extend on the international public relations;

b) This specified institute doesn’t extend on the conscious offenses (first of all on an illegal abatement the land plots) even in civil law, because the requirements of integrity of possession are violated (Art. 234 of the Civil Code of the Russian Federation, Art. 344 Civil Code of Ukraine and similar standards of civil codes of all civilized countries).

c) Moreover, the legislation of Ukraine (Art. 344 of the Ukraine’s Civil Code) says that the general norm about the acquisitive prescription doesn’t extend on misappropriation of the land plots, and also that the property right of the acquisitive prescription arises only on the judgment basis.

3. All payments from the Russian Federation to the Ukraine Republic for rent of bays of the water area of Sevastopol port for placement of the Russian Federation Black Sea Navy also free placement of the Republic Ukraine Navy in the territory of the Sevastopol port are superficial enrichment of the Ukraine Republic and are subject to enforce.

4. The Federal Constitutional Law “About Acceptance the Republic of Crimea to the Russian Federation the and Foundation a New Subjects as a part of the Russian Federation - the Republic of Crimea and the City of Federal Value Sevastopol” of March 21, 2014 not fully reflects legal realities of the occurred political event. The bases of the made decision designated the Declaration of the Independence of the City with the special status Sevastopol, and its offer on acceptance it in structure of the Russian Federation. The Decision about the foundation a new subject - the city of federal value - Sevastopol as a part of the Russian Federation is made on this basis. The legal mechanism concerning the Republic of Crimea is fixed: acceptance in structure of the Russian Federation this administrative-territorial formation after Declarations of its Independence, and foundation a New Subject of Federation in this regard. The obvious legal uncertainty concerning Sevastopol is present: on the one hand, it is told about declaration of its independence, on the other hand, the question of acceptance the Sevastopol in structure of the Russian Federation is held back and formation of the new subject of the Russian Federation is stated directly. In this case the question of emergence this territory as a part of the Russian Federation assumes dual interpretation. Including the legal fiction of legitimacy of loss this territory by the Russian Federation in 1991 is introduced into legal circulation.

Offers

1. To make changes into the Federal Constitutional Law “About The Acceptance of the Republic of Crimea to the Russian Federation and Foundation a New Subjects as a part of the Russian Federation - the Republic of Crimea and the City of Federal Value Sevastopol” of March 21, 2014 of the following contents.

It is necessary to add to art. 1 by p. 1.1: The Russian Federal Status of the Sevastopol is restored in administrative-territorial borders of the City District as of December, 1991.

It is necessary to read the art. 1 by p. 2 after the words “The grounds of acceptance of the Republic of Crimea to the Russian Federation” supplement “and the recovery of the Federal status of the Sevastopol”.

To add the art. 1 p. 3 with the following words “To consider the Russian Federal Status of the Sevastopol restored from the effectiveness of the Present Law”.

It is expediently to state in details the legal justification of this decision in the explanatory note to this bill, that there was no doubt: who and when actually made the act of annexation the Crimean Territories.

2. The stated position can be strengthened by the authority. If a certain public organization appeals against solutions of a representative body of Sevastopol about the

appeal to the Russian Federation on acceptance in structure of the Russian Federation (in the location of this body to Sevastopol) or the decision of the State Duma of the Russian Federation about the formation of the new subject of Federation (in Moscow) in a judicial proceeding, there will be no legal grounds for satisfaction of such claim (it's satisfaction it will be unambiguously refused to any by the impartial qualified judicial authority even if it will be the International Court of Justice, on condition of lack of it's involvement).

3. It is necessary to make the detailed calculation of the superficial enrichment of the Republic of Ukraine which resulted from illegal use of the territory of Sevastopol: payment for placement of the Black Sea navy of the Russian Federation, gratuitous placement of navy of Ukraine, unreasonably received port customs duties etc. After realization of a claim order of collecting this debt, it is possible to realize the extrajudicial unilateral test mechanism (offset of the counter uniform requirement), or the mechanism of counter protection of the violated rights. This dispute on jurisdiction is subject to permission in Economic court of the CIS Minsk. It is necessary to widely cover this process in mass media, for a dethronement of the myth which is artificially created by unfriendly promotion: who, what and to whom actually has to in the Crimea.

Marxism is popular axiomatic truth: “Politics - is the concentrated expression of economics”. By virtue of the above seems appropriate to “impose” outlined political developments “on tracing” the current economic situation on the Crimean peninsula.

Since 2014. “New” Government Republic of Ukraine has taken and is taking a series of still odious events:

1. Naval blockade of the Crimea (up to the arrest of ships calling at the ports of the Crimea).
2. The energy blockade of the Crimea (where the supply of electricity to the peninsula, although the Russian electricity supply under the pretext of the Crimea continued to receive has been completely stopped in the middle of the heating season).
3. Food and commodity blockade of the Crimea.
4. Water block (when the Dnieper channel that supplied the entire Crimean peninsula was blocked).
5. Gas blockade.

Within two months after the introduction of the water blockade of Ukraine were organized large-scale activities on the drilling of artesian a borehole in the entire Crimea. As a result, domestic water needs are satisfied at 100% and production by 85%, though no company has not stopped the work on the grounds of shortage of water.

During their stay in the Crimea in Ukraine annually consumes 1,3 megawatts of electricity. Of which 800 megawatts comes with the territory of Ukraine mainland and 500 megawatts consumed by local energy resources. After the “Crimean Spring” and the introduction of the energy blockade of Ukraine electricity supplies from Ukraine completely stopped. As an interim measure with mainland Russia were set free (along with a huge supply of fuel) diesel power plant the powerful army, which provided 450 megawatts within six months (the missing electricity needs overlap due to the introduction of the hard mode energy saving and the use of fan power outages). During this period, it was organized by the unprecedented construction of dual power bridge across the Kerch Strait. The first line of energy bridge was put into operation in December 2015.

And in April 2016 energy bridge was used to full capacity. In 2016 taking into account the energy saving mode of the first four months of electricity consumption in the Crimea totaled 1.1 thousand megawatts. The planned capacity of the electricity consumption in 2018 be 2 thousand megawatts.

27 December, 2016 after completion of the connection of the gas pipeline system of the Crimean peninsula to the main gas pipelines of mainland Russia was the start of gas supply of the peninsula, which fully meet both household and industrial needs of the region. Even planned construction of two gas-fired power plants of 480 megawatts each. The total length of the pipeline is already Crimean today is 358,7 km (except Simferopol autonomous pipeline 27,3 km).

Moreover, resuscitated out its work in the period of existence of Ukrainian shipyards in Kerch, Sevastopol and Theodosius. Rebuilt a new civilian airport in Simferopol, as a result of its passenger traffic has tripled. Padded for two years more than 700 km new roads. The development of agriculture, wine and all kinds of tourism and spa industry. 32 new higher education institutions were opened. An indicator of economic growth in the region is the dynamics of real estate prices; over the past two years, property prices in the Republic of Crimea and Sevastopol in the equivalent of the euro / dollar rose to two times; and this against the background of large-scale economic crisis in Russia and Ukraine, was marked “subsidence” of national currencies twice and three times, respectively. The size of pensions and social benefits has tripled.

The state of 2013 more than 60% of Crimea’s economy accounted for by the service sector (trade, transport, communications, tourism, etc.), on the industry accounted for 16% and agriculture - 10%. The structure of the industrial sector of the economy represented the following range: electronics - 25%, food industry - 35%, dry - 20%, machinery - 10%, mining - 5%, other - 5%. As a result of the sanctions and blockade action in 2014 economic growth in the Crimea amounted to only 80% of the level of similar indicators of 2013. In August 2014 it was adopted by the Federal Target Program (FTP) “Socio-economic development of the Republic of Crimea and Sevastopol till 2020” by the Government of the Russian Federation. Total financing of the federal program is 681221,18 million rubles, including the federal budget –658135,88 million rubles, the funds off-budget sources – 230085,3 million rubles.

In addition, from 1 January 2015, entered into force on the Federal Law of the Russian Federation from November 29, 2014 №377-FZ “On the development of the Crimean Federal District and the free economic zone on the territory of the Republic of Crimea and the federal city of Sevastopol values”. According to the law, a free economic zone (Special Economic Zone - SEZ) in the Crimea, created 25 years (until 31 December 2039) with the possibility of extension. SEZ provides for a special regime of entrepreneurial and other activities, as well as the application of the free customs zone procedure. SEZ presupposes a special mode of doing business, including tax breaks and the provision of compensation to certain expenses resident companies.

1. Reduced rate of corporate income tax:

- The federal budget - 0% for 10 years;

- Crimean budget - 2% in the first 3 years, 6% from 4 to 8 years, 13,5% to 9 years.

2. Exemption from business property tax for 10 years.

3. The use of accelerated depreciation in respect of its own depreciable fixed assets by a factor of 2.

4. Exemption from payment of land tax organizations - participants of the SEZ in respect of land located on the territory of SEZ and used in order to implement the agreement on the implementation of activities in the SEZ for 3 years from the month of occurrence of ownership for each plot of land.

5. Reduced rates of insurance contributions – 7,6%, including:

- the Pension Fund - 6%;
- The Social Insurance Fund of Russia – 1,5%;
- Federal Compulsory Medical Insurance Fund – 0,1%.

Simultaneously with the creation of SEZ in the territory of the Crimean Peninsula to create a free customs zone. Application on SEZ customs procedure of free customs zone is carried out in accordance with the „Agreement on the free (special) economic zones in the customs territory of the Customs Union and the customs procedure of free customs zone“ of 18 June 2010.

By results of 2015 the index of production in many sectors was 90% from the previous period, but in some sectors experienced significant growth: “Production of other non-metallic mineral products” – 117,7%, “Production of mineral products” – 11,5%, “Extractive industries” - 102, 9%, “Production and distribution of electricity, gas and water” – 207,4%, “Building” - 230%, “Manufacturing” - 350%. In general, the index of industrial production for 2015 it amounted to 112,5%. At 100% capacity loaded shipyards “Gulf” and “Fiolent”. The segment of the mining industry can be characterized by the following indicators: Sand - 180% gravel and stone - 131%.

In Sevastopol created Greenfield industrial park type area of over 85 hectares. The basic branches of the industrial park are instrumentation, electrical and electronic production. Planned to create engineering and transport infrastructure of the industrial park at the expense of budget funds: power lines, pipelines, parking lots, water supply and drainage system. Financing costs of its creation is planned in the framework of the federal target program “Social and economic development Republic of Crimea and Sevastopol till 2020” in the amount of 1.665 billion rubles. Building the infrastructure of the industrial park 2015-2018 years.

It should be noted the high level of risks in the economy of Crimea. First and foremost among the factors may be noted riskoobrazuyuschih external sanctions and blockade measures. At the level of the Crimean economic risk and impact is extremely high depreciation of fixed assets (about 74% - the highest rate in Russia).³

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Appendix

ПОСТАНОВЛЕНИЕ ПРЕЗИДИУМА ВЕРХОВНОГО СОВЕТА РСФСР

О передаче Крымской области из
состава РСФСР в состав Украин-
ской ССР

Учитывая общность экономики, территориальную близость
и тесные хозяйственные и культурные связи между Крымской областью
и Украинской ССР, Президиум Верховного Совета РСФСР постановляет:

Передать Крымскую область из состава РСФСР в состав
Украинской ССР.

Настоящее постановление внести на утверждение Президиума
Верховного Совета СССР.



Председатель Президиума
Верховного Совета РСФСР М. ТАРАСОВ

Секретарь Президиума
Верховного Совета РСФСР
(И. ЗИМИН)

И. Зимин

5 февраля 1954 года
д. № 712

У К А З

Президиума Верховного Совета СССР О передаче Крымской области из состава РСФСР в состав УССР

Учитывая общность экономики, территориальную близость и тесные хозяйственные и культурные связи между Крымской областью и Украинской ССР, Президиум Верховного Совета Союза Советских Социалистических Республик **постановляет:**

Утвердить совместное представление Президиума Верховного Совета РСФСР и Президиума Верховного Совета УССР о передаче Крымской области из состава Российской Советской Федеративной Социалистической Республики в состав Украинской Советской Социалистической Республики.

**Председатель Президиума Верховного Совета СССР
К. ВОРОШИЛОВ.**

**Секретарь Президиума Верховного Совета СССР
Н. ПЕГОВ.**

Москва, Кремль, 19 февраля 1954 г.

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⁴ Decree of the Presidium of the Supreme Soviet “About the transfer of the Crimean Oblast”. Supreme Council Herald, 9 March 1954. Taking into account the integral character of the economy, the territorial proximity and the close economic and cultural ties between the Crimea Province and the Ukrainian SSR, the Presidium of the USSR Supreme Soviet decrees: “To approve the joint presentation of the Presidium of the Russian SFSR Supreme Soviet and the Presidium of the Ukrainian SSR Supreme Soviet on the transfer of the Crimea Province from the Russian SFSR to the Ukrainian SSR.”

ЗАКОН

О передаче Крымской области из состава РСФСР в состав Украинской ССР

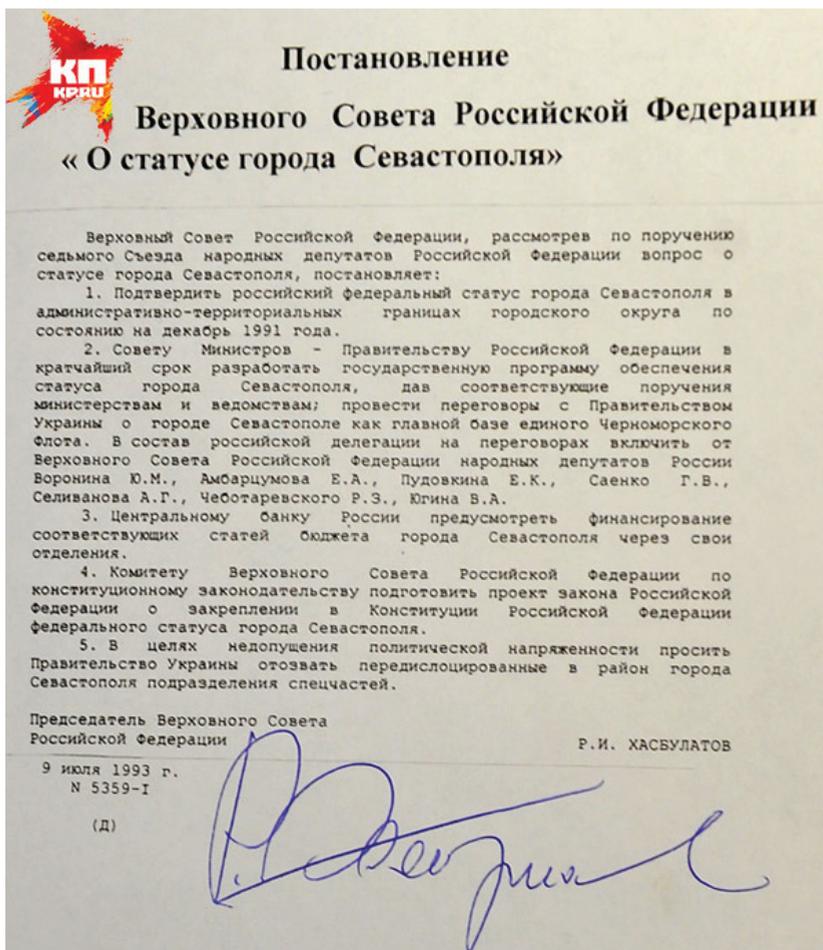
Верховный Совет Союза Советских Социалистических Республик постановляет:

- 1. Утвердить Указ Президиума Верховного Совета СССР от 19 февраля 1954 года о передаче Крымской области из состава Российской Советской Федеративной Социалистической Республики в состав Украинской Советской Социалистической Республики.**
- 2. Внести соответствующие изменения в статьи 22 и 23 Конституции СССР.**

**Председатель Президиума Верховного
Совета СССР К. ВОРОШИЛОВ.
Секретарь Президиума Верховного
Совета СССР Н. ПЕГОВ.**

Москва, Кремль. 26 апреля 1954 г.

⁵ The Supreme Council of the Union of the Soviet Socialist Republics decides: 1. To approve the Decree of Presidium of the Supreme Council of the USSR of February 19, 1954 about transfer of the Crimean area from structure of the Russian Soviet Federal Socialist Republic to structure of the Ukrainian Soviet Socialist Republic. 2. To make corresponding changes to articles 22 and 23 of the Constitution of the USSR.



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⁶ The Supreme Council of the Russian Federation, having considered a question of the status of the city of Sevastopol at the request of the seventh Congress of People's Deputies of the Russian Federation: 1. To confirm the Russian federal status of the city of Sevastopol in administrative-territorial borders of the city district as of December, 1991. 2. Council of Ministers — the Government of the Russian Federation should develop a state program of providing the status of the Sevastopol, having given the corresponding instructions to the ministries and departments in the shortest possible time; hold negotiations with the Government of Ukraine on the Sevastopol as to the main base of the Black Sea Navy. Voronin Yu.M., Ambartsumova E.A., Pudovkina E.K., Saenko G. V., Selivanov A.G., Chebotarevsky R. Z., Yugina V.A. should be included in structure of the Russian delegation from the Supreme Council of the Russian Federation of People's Deputies of Russia of V to the negotiations. 3. The Central Bank of Russia should provide financing of the relevant articles of city budget of Sevastopol through the offices. 4. The Committee of the Supreme Council of the Russian Federation on the constitutional legislation should prepare the bill of the Russian Federation that fixing in the Constitution of the Russian Federation the federal status of the Sevastopol. 5. For prevention of a political tension to ask the Ukraine Government to withdraw the divisions of special units relocated to the district of the Sevastopol.