



***Ukrainian Independent Maritime Trade Union***

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***OSCE Human Dimension Implementation Meeting, 2014, Session 16***

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**Threats for Labour and Social Rights of  
Ukrainian Seafarers in the Occupied Crimea**

Dear OSCE and state representatives and NGO colleagues!

Our Union now have the hard duty to defend the rights of Ukrainian seafarers, as in occupied regions of Autonomous Republic of Crimea (ARC) and Sevastopol, so in places where Russian intervention and aggression is ongoing now (Donetsk oblast) or will be in the near future (Kherson and Odessa oblasts). This task is new as for us so for all the OSCE region – specially concerning the seafarers` labour and social rights as a vulnerable category of labour migrants (of course Russian occupation caused other mass violations the human rights but the example of seafarers is most shining).

We are in close tight with our primary organizations and their members in districts of occupied Crimea, we analyze Russian, Ukrainian and separatists decisions, policy and normative acts daily. So we point that special treats to more than 20000 Ukrainian seafarers in Crimea and Sevastopol now may be grouped to some destinations:

- forced giving the Russian citizenship connected with threats to seafarers that are the owners of Ukrainian documents in Crimea;
- impossibility to get on board of vessel and back strait from Crimea as it is demanded by the maritime practice;
- random alienations by separatist regime and Russia the state, common and private property in maritime sector such as ports, shipping enterprises etc.;
- illegal changes of jurisdiction for maritime academies, training centers and crewing offices;
- creation the illegal occupational bodies certifying the maritime activities, essaying the seafarers` documents etc.;
- practice of shipping in closed Crimean ports with violation the safety, ecologic and labour demands.

We demand to use the international legal instrument to solve this situation.

As maritime law and practice, concentrated in such acts as UNCLOS, STWC and MLC does not foresee the specialties of defense the seafarers` rights in condition of foreign occupation. This is connected among other things with the fact that the military occupation (even if it is bloodless or was accomplished without a single shot) – is the outlaw phenomenon. The occupation should not be, because it contraries to the fundamental norms of international law, such as prohibiting the use of force or threat of force, territorial integrity and inviolability of borders. Regulation of the legal regime of occupation was introduced with the sole purpose – for humanizing the situation and for the safety of the population and territories against abuses which may take the occupying State<sup>1</sup>.

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<sup>1</sup> Commentary to Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949. – Art. 47. Part III : Status and treatment of protected persons #Section III : Occupied territories , URL : <http://www.icrc.org/ihl/COM/380-600054?OpenDocument>

Adjusting the labour and social right issues in the occupied territories is carried out by the Hague Convention Respecting the Laws and Customs of War on Land, 1907 and by the Regulations as the Annex to this Act<sup>1</sup>. International law stands on grounds of that changes of the legal status of the occupied territory is possible only on the basis of a peace agreement, and therefore everything that happens during the occupation – regardless of its length – should be limited by the forms of the use and usufruct institutes but not in a form of changing the property title<sup>2</sup>.

During the occupation conditions the institute of the labour and social right issues lets us to suggest that state-occupant may use (*jus utendi*) the immovable public property and consume the real fruits of such property (*jus fruendi*) where it is possible (eg., to use the maritime enterprises, the living resources of the sea etc.). We may add that sanctions of the EU, implemented in July, 2014 on Russia and on Ukrainian separatists, foreseen the embargo for export of all the mineral resources from Crimea (at the same time import the fishery vessels to Crimea was allowed as exclusion in vessels import embargo). So we see that the state-occupant may use the renewable (fish) but not the mineral (shelf gas and oil) resources of occupied territory.

Aspects of crisis with issues of the seafarers` the labour and social rights in occupied Crimea is tallied closely with the position of RF and controlled by RF Crimean and Sevastopol separatist regimes currently operating in those regions of Ukraine. This crisis was caused by the attempt of these forces to spread their own jurisdiction in these areas, which affected both to the order of public control and regulation, and to the regime of property, especially of state maritime one to regime of state maritime enterprises and administration. Thus, the Supreme Council of Autonomous Republic of Crimea (hereinafter – ARC), which names itself as “the State Council of the Republic of Crimea” (hereinafter – “SCRC”) issued the resolution on 17 March 2014, № 1745-6/14 that stated that all the institutions, enterprises and other organizations that were based by Ukraine or by Ukrainian participation in the Crimea, become the institutions, enterprises and other organizations based by so-called “Republic of Crimea”<sup>3</sup> (hereinafter – the “RC”).

Ukrainian maritime state property, which was in the “RC” territory on the date of adoption of this resolution, was declared in it as the state property of “RC”. This “change” of ownership by the sublegal regulation, which has any legal basis and organizational conditions of its approval, was characteristic for “RC” authorities in the next. In addition, the Supreme Rada of ARC, acting the role of “SCRC”, extended for unknown reason in this act its own jurisdiction on the city of Sevastopol (that was not and is not the part of ARC).

The activities of the authorities of “RC” and RF in the maritime sector are a striking example of this “nationalization” of Ukrainian property. Both with Resolution № 1745-6/14 the Resolution of “SCRC” № 1757-6/14 was adopted that “in order to ensure the stable operation of the transport infrastructure, the safety of navigation in the waters of the sea ports and on the approaches to them” attributed to “nationalize to the ownership of “RC” the integral property complexes of area of managing by the Ministry of infrastructure of Ukraine and the Ministry of Agrarian Policy and Food of Ukraine, located in the RC and the city of Sevastopol”.

In particular, this act declared the “nationalization” of the State shipping company (hereinafter – SSC) “Kerch Ferry” and state-owned enterprises (hereinafter – SE) “Kerch Sea

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<sup>1</sup> Hague Convention Respecting the Laws and Customs of War on Land, 1907 : Signed at 18 October 1907 , URL : <http://www.au.af.mil/au/awc/awcgate/law/hague-iv-1907.txt>

<sup>2</sup> Coleman P. Termination of War and Treaties of Peace / Coleman Phillipson. – NY : Dutton, 1916. – P. 10 (486 p.)

<sup>3</sup> On Independency of Crimea : Resolution of the “State Council of the Republic of Crimea” № 1745-6/14, 17 of March, 2014 [on Russian : О независимости Крыма : постановление «Государственного совета Республики Крым» от 17 марта 2014 г. № 1745-6/14] ; URL : <http://www.rada.crimea.ua/act/11748>

Commercial Port” (hereinafter – SCP), “Kerch Sea Fishing Port”, “Captain Service of the Kerch SCP”, “Feodosia SCP”, “Yalta SCP”, “Evpatoria SCP”, “Sevastopol SCP”, “Sevastopol Sea Fishing Port” also as the Kerch State Maritime Technical University and Southern Research Institute of Marine Fisheries and Oceanography (Kerch). Characteristically, that in that ordinance power of “RK” operated by Ukrainian legal addresses of these companies and by their codes in Unified State Register of Enterprises and Organizations of Ukraine.

Also in the Resolution № 1757-6/14 provided for the “nationalization” of property of the SE “Administration of Sea Ports of Ukraine” (“ASPU”) and the State Agency “Statehydrography” that were “on the separated balances” and were “situated on the territory of RC and the city of Sevastopol”; Resolution contained a list of such state property of Ukraine, including – “Branch “Delta-Lotzman”, Kerch Maritime Rescue Coordination Sub-center of Branch of “Maritime Search and Rescue Service”, Sevastopol, Kerch, Feodosian, Yalta, Evpatorian branches of the SE “ASPU”; Kerch District and Sevastopol Branch of “Statehydrography”. Additionally, the Resolution № 1757-6/14 stated the nationalization to the property of “RC” the property of Sevastopol Regional Branch of the Training and Certification of Seafarers Inspectorate and Sevastopol Regional Office of the Classification Society “Shipping Register of Ukraine” located “in the territory of RC and the city of Sevastopol”.

In the Art. 6 of Resolution № 1757-6/14, its authors from “SCRC” decided “for ensuring the effective property management and maintenance the functions of seaports, to transfer the balance while maintaining the organizational structure and number staff» the property and property rights of the pointed objects to the “nationalized” SE of ports on places of their location (for example, all “nationalized” objects located in Kerch, were transferred to SE “Kerch MSP”, and most of the objects that were in Sevastopol – to the SE “Sevastopol Sea Fishing Port”). Also Resolution № 1757-6/14 confirmed the port waters of the five Crimean and Sevastopol SCP and of two maritime (sea) fishing ports as for those SE of “RC”.

“Republican Committee of RC on the Transport and Communications” was defined by Resolution № 1757-6/14 as the governing body for “nationalized integral property complexes and other property of enterprises, institutions and organizations” Art. 8 of this act noted that “enterprises, institutions, organizations that were nationalized to the property in the RC continue to operate under existing legal documents, licenses and other permits, documents of property title and of other real property rights in accordance with legislation of Ukraine in a part that does not inconsistent with normative regulations of RC, till the adoption of the relevant legislation of RC”; this decision (like most other acts of Crimean “nationalization”, 2014) was announced as having come into force “from the date of the adoption”.

It is necessary to specify that the haste for developing and adopting acts during March 17, 2014 (till Crimea was not officially annexed by RF that happened few day after) led to revision of such acts as Resolution № 1757-6/14; for example, the spread of this act to the Sevastopol city was daring even to the “SCRC”. Therefore, the Resolution of “SCRC” on March 26, 2014 № 1833-6/14 excluded from the Resolution № 1757-6/14 all mentions of the objects that are in the territory of Sevastopol. In addition, Resolution № 1833-6/14 canceled the decision on the transfer of “nationalized” property to ports as to Crimean separatist SE enterprises and cancelled the consolidation of coherent waters to those ports<sup>1</sup>.

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<sup>1</sup> On Amendments to the Resolution of the “State Council of the Republic of Crimea” № 1757-6/14, 17 of March 2014 : Resolution of the “State Council of the Republic of Crimea” № 1833-6/14, 26 of March, 2014 [on Russian : О внесении изменений в Постановление Государственного Совета Республики Крым от 17 марта 2014 года № 1757-6/14 «О национализации предприятий и имущества морского транспорта сферы управления Министерства инфраструктуры Украины и Министерства аграрной политики и продовольствия Украины, расположенных на территории Республики Крым и г. Севастополя» : постановление «Государственного совета Республики Крым» от 26 марта 2014 г. № 1833-6/14] ; URL : <http://www.rada.crimea.ua/act/11838>

This was due to the fact that post-soviet model of port management, proposed by the Resolution № 1757-6/14 were not consistent with the port practice of the RF (and Ukraine), as Ukraine borrowed its own port reform in 2013 from the Russian model with the formation of SE “ASPU”. Also Crimean separatists got a problem with the naming and status of state authority of “RC” which was to govern and to manage the “nationalized” state property; at that days leaders of “RC” provided for the formation of “the Ministry of Transport of the RC” (as it was mentioned in the “SCRC” Resolution of 26 March, 2014 № 1818-6/14), but soon after they settled on the status of the “National Committee for Transport and Communications of the RC”, and the nationalized enterprises was given to its competence (except the Kerch State Maritime Technical University that was transferred to the competence of the “Ministry of Education, Science and Youth of RC”<sup>1</sup>.

Also at this time the “RC” authorities “nationalized” the Vessel and Mechanical College of the pointed Kerch University and SE “Design and Technological Bureau “Sudnokompozit”<sup>2</sup>. Later, by the Resolution of “SCRC” on April 30, 2014 № 2079-6/14 Feodosia Polytechnic Institute of National University of Shipbuilding named after admiral Makarov was nationalized<sup>3</sup>.

Next day after the “fateful decisions” of “RC” authorities about the “nationalization” of Ukrainian state property on March 18, 2014 central power of RF organized the “treaty signing” with the “RC representatives” (and apart from them with “representatives of Sevastopol”) to join these “subjects” into the RF composition. Immediately after it RF approved by Federal Constitutional Law on March 21, 2014 № 6-ФКЗ the acceptance of “RC” into RF and the “formation the new subjects of RF” – “RC” and “City of Federal Significance Sevastopol” (hereinafter – “CFSS”). According to Art. 6 of this act “since the day of adoption of RC to the RF and formation new subjects as a part of RF and till January 1, 2015 a transitional period is established, during which the issues of the integration of new RF subjects into the economic, financial, credit and legal system of RF and the system of state power of RF would be regulated». According to the Art. 10, 12 of this document, “state and local agencies, enterprises and organizations that operate in the territories of RC and CFSS on the date of adoption of RC to the RF and formation new subjects as a part of RF do their activities with maintaining the former organizational legal form till the regulation of their status in accordance with the legislation of the RF»<sup>4</sup>.

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<sup>1</sup> On Amendments to the Resolution of the “State Council of the Republic of Crimea” № 1757-6/14, 17 of March 2014 : Resolution of the “State Council of the Republic of Crimea” № 2043-6/14, 11 of April, 2014 [on Russian : О внесении изменения в Постановление Государственного Совета Республики Крым от 17 марта 2014 года № 1757-6/14 "О национализации предприятий и имущества морского транспорта сферы управления Министерства инфраструктуры Украины и Министерства аграрной политики и продовольствия Украины, расположенных на территории Республики Крым и г. Севастополя" : постановление «Государственного совета Республики Крым» от 11 апреля 2014 г. № 2043-6/14] ; URL : <http://www.rada.crimea.ua/act/12078>

<sup>2</sup> On Issues of Managing the Property, belonging to the Republic of Crimea : Resolution of the “State Council of the Republic of Crimea” № 1846-6/14, 26 of March, 2014 [on Russian : О вопросах управления имуществом, принадлежащим Республике Крым : постановление «Государственного совета Республики Крым» от 26 марта 2014 г. № 1846-6/14] ; URL : <http://www.rada.crimea.ua/act/11851>

<sup>3</sup> On Nationalization of Certain Educational Institutions located in the Territory of Republic of Crimea : Resolution of the “State Council of the Republic of Crimea” № 2079-6/14, 30 of April, 2014 [on Russian : О национализации некоторых учебных заведений, расположенных на территории Республики Крым : постановление «Государственного совета Республики Крым» от 30 апреля 2014 г. № 2079-6/14] ; URL : <http://www.rada.crimea.ua/act/12112>

<sup>4</sup> On Admission the Republic of Crimea to the Russian Federation, and Establishing the New Subjects as a part of Russian Federation – Republic of Crimea and Sevastopol City of Federal Significance : Federal Constitutional Law of the Russian Federation № 6-ФКЗ, March 21, 2014 [on Russian : О принятии в Российскую Федерацию Республики Крым и образовании в составе Российской Федерации новых субъектов – Республики Крым и города федерального значения Севастополя : Федеральный конституционный закон Российской Федерации от 21 марта 2014 г. № 6-ФКЗ] ; URL : <http://www.rg.ru/2014/03/22/krym-dok.html>

Also in this act occupation authorities stated that on “the territories of RC” and “of CFSS” documents, confirming the education, property rights, using rights, rights on pensions, allowances, compensations and other social benefits, rights to health care also as permits (licenses, except licenses for banking operations and licenses (permits) for non-credit financial institutions), issued by state and other official bodies of Ukraine, ARC and Sevastopol, operates without time limitation and any confirmation from the state bodies of RF, “RC” or “CFSS”, unless otherwise is stated in the documents themselves or in the nature of the regulated relationship. Displayed formula, as we shall see, is widely used by authorities of “RC” and “CFSS” to resolve the economic and commercial relations in occupied territories, particularly in the maritime labour and economy area.

Interestingly, that the Resolution № 1745-6/14 “On the Independence of the Crimea” and the Law of RF on March 21, 2014 do not specify claims of “RC”, “CFSS” and even of the RF on the Ukrainian sea waters around Crimean Peninsula – such as the historic waters of the Azov Sea and the Kerch Strait, the internal waters and territorial sea, the exclusive economic zone and the Black Sea shelf. In the Art. 3 of the Law № 6-ФКЗ there is indicated only that the limits of the “territory of RC” and “territory of CFSS” are defined by territorial borders of “RC” and “CFSS”, which “existed at the date of their adoption to RF”, and that “the delimitation of maritime spaces of the Black and Azov seas is carried on the basis of international agreements of the RF, of norms and principles of international law”. The so-called “Constitution” of the “RC” from April 11, 2014 does not say anything on the Crimean maritime area, indicating only in part 3 of art. 1 that the territory of “RC” is one and indivisible and is an integral part of the territory of the RF<sup>1</sup>.

The doctrine of international law specifies that the occupation of marine areas (bays, coves, ports, territorial waters) exists only when it is both with the occupation of continental territory. Separate occupation of the maritime spaces (exclusive zone or shelf) also is not possible. Similarly, if land that has access to the sea is occupied and adjacent sea and continental shelf may be considered as occupied territory (but the necessity of such considering is controversial). However, it is clear that neither the ARC, nor Sevastopol never had and have any jurisdiction in the maritime spaces of Ukraine, including the historical waters, territorial sea and exclusive economic zone; because without such jurisdiction, they can not pass it. In addition, the Treaty between the RF and Ukraine on the Cooperation in Exploitation of the Azov Sea and Kerch Strait, 2003 and inter-ministerial bilateral Agreement on the Fisheries` on the Azov Sea, 1993 are not canceled by parties, RF did not make any statement about those act’s power after occupation and annexation of Crimea.

Developing the “successes” of “nationalization” “SCRC” approved a Resolution “On Sea Ports in the RC” № 1831-6/14 on March 26, 2014 “in order to ensure the operation of seaports in RC for [transitional] period”. Resolution gave the official names to the seaports located in Kerch, Feodosia, Yalta and Evpatoria (“Kerch”, “Feodosia”, “Yalta” and “Evpatoria” respectively). Seaports` limits were defined as “boundaries of land not covered by surface water within the seaport, including artificial land (territory of seaport) and water space within the sea port limits (aquatorium of seaport)”<sup>2</sup>. In pgphs. 6-8 of this Resolution there was stated that the ports, in which on the date of its entry into force the provision of services was performed (active ports), are “considered to be open to provide services regardless of the date of assignment of the serial registration number in the Register of Sea Ports of RF”. Resolution stated that “lands within the existing seaport lands belong to the industry, energy, transport,

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<sup>1</sup> “Constitution of the Republic of Crimea”, 11 April, 2014 [on Russian : «Конституция Республики Крым» от 11 апреля 2014 г.] ; URL: <http://www.rada.crimea.ua/content/uploads/files/Constituciya.pdf>

<sup>2</sup> On Sea Ports in Republic of Crimea : Resolution of the “State Council of the Republic of Crimea” № 1831-6/14, 26 of March, 2014 [on Russian : О морских портах в Республике Крым : постановление «Государственного совета Республики Крым» от 26 марта 2014 г. № 1831-6/14] ; URL : <http://www.rada.crimea.ua/act/11836>

communications, radio, television, computer, space, ground defense, security and other special purpose lands or to another category of lands with permitted use to accommodate the seaport”. Before “setting limits of seaports” under the such limits Resolution № 1831-6/14 proposed to understand “formed seaports’ boundaries”. Resolution № 1831-6/14 pointed nothing about the existing and future regime of land, waters, immobile property of Crimean ports.

Analysis of these regulations allows to point on their borrowing (as minimum in parts of determining the boundaries of ports) with Code of Merchant Shipping of the RF on April 30, 1999 № 81-ФЗ, which in Art. 9 give the same definitions<sup>1</sup>. The large part of the provisions of the Resolution № 1831-6/14 was taken from art. 32 “Transitional Provisions” of Federal Law of the RF on November 8, 2007 “On Sea Ports in the RF and Amending some Legislative Acts of the RF” № 261-ФЗ<sup>2</sup>. We can conclude that “SCRC” in order to unify their own and legal Russian practice and standards borrowed the Russian organizational and legal experience, where no special fishing ports (like the Kerch fishing sea port that was cancelled by this Resolution), also “SCRC” refused from the concept of a sea port like separate SE. Anyway practice of state property in port area and combining the practice of governing and managing of such property is post-Soviet and common for Ukraine and RF (and even for separatist Crimean regime). Such practice simplified the “nationalization” processes because separatists have to deal not with owners but with local managers of SE with all-Ukrainian property title.

However, it is worth to mention that these ports nationalized by “RC” as “a set of infrastructure” were not translated automatically into the common Russian Federal State Unitary Enterprise “Rosmorport” documents which still have references to the ports in “RC” and “CFSS”; apparently “Rosmorport” is a company that still does not want to be connected formally with the problem of the property “nationalized” by “RC”<sup>3</sup>. However, the Federal Agency of Maritime and River Transport of RF (Rosmorrechflot) included to the Registry of Sea Ports of the RF all 5 Crimean ports, as it is evidenced by the official website of this state authority body of the RF. In this case, the information contained on the Rosmorrechflot web-cite about the Crimean ports, have no mention about the coherent orders of Rosmorrechflot by which these ports were included in the Register (as it is foreseen by Russian legislation); so Crimean ports were “semi-officially” assigned by RF to its own numbering. Interestingly, that for the port “Sevastopol” Rosmorrechflot described on the web-cite all the list of local marine terminal operators (Ukrainian residents) working in this port and pointed on their service provisions (in other Crimean ports such information is not available)<sup>4</sup>.

Thus, the capacity of “nationalized” Sevastopol port today are exploited by: SE “Sevastopol SCP”; JSC “Stevedoring Company “Avlita”; Shipyard Ltd. “South – Sevastopol”; JSC “Morbud”; “Metal Service Group” Ltd.; “Marine Technology” Ltd.; “Service-Company” Ltd.; Autoterminal Black Sea Ltd; “YuhEkoResurs” Ltd.; SPU “Ecotech” Ltd. and “Yuhtorsan” Ltd. (all those enterprises except the “nationalized” SE “Sevastopol SCP” saved owners and beneficiaries that were before the Russian occupation). Interestingly, that according to part 2 art. 28 of pointed Law № 261-ФЗ of the RF – sea ports lands in RF can not

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<sup>1</sup> Code of Merchant Shipping of Russian Federation № 81-ФЗ, 30 of April, 1999 [on Russian : Кодекс торгового мореплавания Российской Федерации от 30 апреля 1999 г. № 81-ФЗ] ; URL : [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_158435](http://www.consultant.ru/document/cons_doc_LAW_158435)

<sup>2</sup> On Sea Ports of the Russian Federation and on Amendments to Certain Legislative Acts of the Russian Federation : Federal Law of the Russian Federation № 261-ФЗ, November 8, 2007 [on Russian : О морских портах в Российской Федерации и о внесении изменений в отдельные законодательные акты Российской Федерации : Федеральный закон от 8 ноября 2007 г. № 261-ФЗ] ; URL : [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_150202](http://www.consultant.ru/document/cons_doc_LAW_150202)

<sup>3</sup> Federal State Unitary Enterprise “Rosmorport” [on Russian : Федеральное государственное унитарное предприятие «Росморпорт»] ; URL : <http://www.rosmorport.ru/filials.html>

<sup>4</sup> Register of Sea Ports of Russian Federation [on Russian : Реестр морских портов Российской Федерации] ; URL : [http://www.morflot.ru/reestr\\_mp/](http://www.morflot.ru/reestr_mp/)

be owned by foreigners, stateless persons and foreign organizations: so the future of Ukrainian residents as owners in “nationalized” Crimean ports is not optimistic.

It is necessary to point out that according to Art. 12-1 of this Law № 261-Φ3 must be formed the state port administration for two or more seaports in the form of Federal State Budget Institution of the RF, which operates according to the regulations approved by the Rosmorrechflot; list of seaports that are governed by the relevant the state port administration also must be approved by Rosmorrechflot. In the March, 2014 authorities of the “RC” decided to create its own model of port management in Crimea for “transition period”, which resembles Russian (and copied from her Ukrainian), but with certain specific characteristics. On March 24, 2014 Presidium of the “SCRC” approved several decisions: “On the SE “Crimean Sea ports” № 1801-6/14, “On the SE “SSC “Kerch ferry” № 1802-6/14 and “On the SE “Lotzman-Crimea” № 1803-6 /14<sup>1</sup>.

These acts again (after the Resolution on March 17, 2014) “establishes” that the property of Ukrainian SEs “Kerch SCP”, “Kerch Sea Fishing Port”, “Feodosia SCP”, “Yalta SCP”, “Evpatoria SCP”, SSC “Kerch ferry” and property of Azov-Crimean Regional Management Branch “Delta-Lotzman” of SE “ASPU” – all become “the property of RC” (with indicating in Resolution Ukrainian legal addresses and codes). Those property was “transferred” to the newly created “enterprises”; accordingly, the ports` property - to the “SE” “Crimean ports”, property “Delta-Lotzman” – to the “SE” “Lotzman-Crimea”, property of the SSC “Kerch ferry” to the “SE” of the “RC” with the same name.

According to the Art. 6.2 of the Decision № 1801-6/14 ports of “RC”, as well as their employees, whose activity requires the issuance of special permits were allowed to perform their functions and other professional activities on the grounds of presence of existing certificates and (or) other documents entitling the relevant activities in accordance with the regulations in the field of maritime transport, applicable in the territory of “RC” as of February 21, 2014. In a similar art. 6.2 of the Decision № 1802-6/14 for «SSC» “Kerch ferry” ship documents, proofs of certification and other documents required to be followed in the merchant shipping published in the manner prescribed by regulations in the field of maritime transport, applicable in the territory of “RC” till February 21, 2014, declared as “valid until the expiration date specified in such documents”.

According to the Art. 6.2 of the decision № 1803-6/14 marine pilots directly involved in pilotage of ships, also as pilots-operators, engaged in the organization and regulation of vessel traffic management systems, are allowed to perform these functions and other professional activities in the presence of current certificates and (or) other documents which entitle the relevant activities in accordance with the regulations in the field of maritime transport, applicable in the territory of “RC” before February 21, 2014. This approach allowed the specified maritime “SE” of the “RC” to keep legal Ukrainian licenses and certificates; because there is a very high probability that analogical documents given by “RC” authorities or by RF authorities in Crimea will not be recognized by the foreign ship-owners, P&I insurance clubs, classification societies and international organizations.

As we may point the doctrine of the “RC” authorities accepted the legitimacy of Ukrainian organizational-legal acts in maritime area that were before the February, 21, 2014 (as it is known in this day Yanukovich regime was fallen). Such attempt to tight the technical

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<sup>1</sup> On State Enterprise “Crimean Sea Ports” ; On State Enterprise “Lotzman-Crimea” ; On State Enterprise “State Shipping Company “Kerch Ferry” : Decisions of the “Presidium of State Council of the Republic of Crimea” №№ 1801-6/14, 1802-6/14, 1803-6/14, 24 of March, 2014 [on Russian : О Государственном предприятии «Крымские морские порты» ; О Государственном предприятии «Лотман-Крым» ; О Государственном предприятии "Государственная судоходная компания «Керченская паромная переправа» : решения «Президиума Государственного совета Республики Крым» от 24 марта 2014 г. №№ 1801-6/14, 1802-6/14, 1803-6/14] ; URL : <http://www.rada.crimea.ua/act/11806> ; <http://www.rada.crimea.ua/act/11807> ; <http://www.rada.crimea.ua/act/11808>

governing in maritime economy, endorsing labour and social mechanisms for seafarers and politic processes have the clear politic goal but no any legal meaning; it proves the one more time only that Crimean separatism was called not by the self-determination of Crimean population (in this case the date of February 21 that is not the “referendum” date have no any sense) but by the fear of Yanukovich partners in Crimea from possible democratization the social relations in the Crimean territory.

Continuing the series of decisions “of the Presidium of SCRC” on March 26, 2014 “SCRC” approved several resolutions: “On the SE “Crimean Sea Transport” № 1832-6/14, “On the SE “Crimean Sea Ports” № 1865-6 /14 , “On the SE “SSC “Kerch Ferry” № 1866-6/14 and “On the SE “Lotzman-Crimea” № 1867-6/14. These acts again declared ownership of the property of those Ukrainian ES as “ownership of the RC”. The feature of this set of regulations was exactly in formation the “SE” “Crimean Sea Transport” at the branches of Ukrainian SE “ASPU” and Kerch District of Public Institution “Statehydrography”; so the “Crimean sea transport” was considered by authorities of the “RC” as their public administration of the Crimean ports; in the rest of these regulations “SCRC” duplicated decision of own “Presidium” dated March 24, 2014. Such “legal” procedure of “nationalization” have no rational argumentation; separatists authorities may watch the “Presidium” of Supreme (State) Council as the head of the “state”, connecting the soviet tradition of Presidiums` decrees that had a power of law (as we see “SCRC” did not adopted the own “laws” in March, 2014).

However, in these resolutions on four created “SE”s Council of Ministers of “RC” was attributed to determine their jurisdiction; resolutions noted that these “SE are strategic and are not subject to limitation in energy supply, heating, and other resources of life”. In those resolutions, dated March 26, 2014 were indicated that the activity of these “SE” “in transitional period till the adoption of other acts in area of the organization of seaports` activities” “is making according to the existing laws and other normative legal acts in the field of maritime transport”, but these resolutions did not specify whether their authors from “SCRC” meant Ukrainian laws or acts of the RF (because “RC” did not approve “own” maritime legislation).

Also those acts predicted effect for Crimean “SE”s of “existing certificates and (or) other documents which entitle the relevant activities in accordance with regulations in the field of maritime transport” issued by the state and other official agencies of Ukraine, ARC and Sevastopol, “without limitation their validity and confirmation by the federal state bodies of the RF, the state bodies of the “RC” and “CFSS”, unless otherwise is stated in the document as itself or being from the relationship, covered by this document”. This formula in the decisions of March 26, 2014 was borrowed from the Federal Law of the RF № 6-ФКЗ on annexation of the Crimea, it was extended to the ship's papers, proofs of certification and other documents necessary for the implementation of activities in the field of merchant shipping, to the maritime pilot documents, documents that certified equipment, etc.

These regulations also stated (Art. 7) that treaties and agreements with participation of Ukrainian enterprises, whose property was transferred to the pointed “SE”s of the “RC”, must be renewed and re-listed with participation of “SE” “in condition of determination by governing body the fact of appropriateness of their re-registration and renewaling”. Employees who previously were in labor relations with Ukrainian enterprises whose property was “transferred” to the property of the Crimean “SE”s, were transferred by those regulations to work in coherent Crimean “SE”s, “except the cases of other will of the employees”. In fact those features of Crimean “nationalization” are not possible in societies with free economy, but they are made in post-Soviet style while governing body know more about the contracts of the enterprises and personnel is able to work after the changing of property title and



jurisdiction of the enterprises – without any special guarantees in occasion that he is not ready to continue own work in the “nationalized” SE.

The powers of the “RC” tend to agree an appropriate system of governing and exploitation business and property with the management and economic standards of the RF. For example, the decision of the “Presidium of SCRC” on April 2, 2014 p. № 1902-6/14 attributed to inventory property of these four Crimean maritime “SE”s, to agree with Rosmorflot the results of the inventory and within a month to determine the list of property to be “transferred to federal property”; to send to the Rosmorflot the proposals for transfer of this property with the addition of the inventory act. In order to implement these measures four “SE”s were allowed to “enter into gratuitous contracts for use with the Federal State Unitary Enterprise “Rosmorport”<sup>1</sup>.

These decisions prove that the “nationalization” of state maritime Ukrainian property in the Crimea is carried out not only in favor of separatists’ authorities of the “RC”, but also for state federal institutions of the RF. In further role of federal governing bodies in occupied Crimean ports increased; when Administration of Sea Ports of the Black Sea (as a Federal State Budget Institution of the RF, FSBI “ASP of the Black Sea”) from July 1, 2014 included in its management and control all the Crimean ports and opened own branches in the coherent port towns: affiliates of this FSBI “ASP of the Black Sea” were opened in Kerch, Feodosia, Yalta, Evpatoria and Sevastopol<sup>2</sup>.

Further, the Resolution of the “SCRC” on April 11, 2014 № 2026-6/14 decided to “nationalize” the property of the Ukrainian Sanitary-epidemiological Service for Rail and Water Transport. Interestingly, that this Resolution pointed as on its “legal basis” as on the Resolution of the “SCRC” № 1745-6/14, so on the resolution of the Verkhovna Rada of ARC on April 21, 1999 № 459-2/99 “On the Management of Property Belonging to the ARC or Transmitted in its Management”. In particular, in a such way the property of the State Institution “Laboratory Centre of State SanEpidService of Ukraine on Water Transport”, located on the territory of the “RC”, was “nationalized”; interesting that a property of this Ukrainian State Centre was “nationalized” as for objects located in Kerch, Yalta and Feodosia so for immobile property of the Crimean Basin Department, located in Sevastopol<sup>3</sup>. Such weird mix of territorial and temporal jurisdictions may be explained as by the total low law technique of the “SCRC” clerks so by common neglect of “RC” to legal procedures.

As it is easy to divine the authorities of the “RC” turned out unable to cover and name for “nationalization” for a limited period of time all the state property of Ukraine in Crimea, so on this occasion “SCRC” adopted a special Resolution on April, 30, 2014 № 2085-6/14. According to this act during the period of the “integration” of the “RC” to the RF and till the separation of property between the RF, the “RC” and municipal property (but no later than January 1, 2015), all the public property (state Ukrainian) and “ownerless” property, which is

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<sup>1</sup> On Issues of Managing the Property of the SE “Lotzman-Crimea”, SE “State Shipping Company “Kerch Ferry”, SE “Crimean Maritime Transport”, SE “Crimean Sea Ports” : Decision of the “Presidium of State Council of the Republic of Crimea” № 1902-6/14, 2 April, 2014 [on Russian : О вопросах управления имуществом ГП «Лотман-Крым», ГП «Государственная судоходная компания «Керченская паромная переправа», ГП «Крымский морской транспорт», ГП «Крымские морские порты» : решение «Президиума Государственного совета Республики Крым» от 2 апреля 2014 г. № 1902-6/14] ; URL : <http://www.rada.crimea.ua/act/11891>

<sup>2</sup> Prescripts of Sea Ports Captains of the FSBI “ASP of the Black Sea”. Sea ports of Kerch, Feodosia, Yalta, Sevastopol, Evpatoria [on Russian : Распоряжения капитанов морских портов ФГБУ “АМП Черного моря”. Морские порты Керчь, Феодосия, Ялта, Севастополь, Евпатория] ; URL : [http://www.ampnovo.ru/index.php?option=com\\_content&task=blogcategory&id=131&Itemid=96](http://www.ampnovo.ru/index.php?option=com_content&task=blogcategory&id=131&Itemid=96)

<sup>3</sup> On Nationalization of the Property of the Sanitary Epidemiology Service on the Railroad and Maritime Transport : Resolution of the “State Council of the Republic of Crimea” № 2026-6/14, 11 of April, 2014 [on Russian : О национализации имущества санитарно-эпидемиологической службы на железнодорожном и водном транспорте : постановление «Государственного совета Республики Крым» от 11 апреля 2014 г. № 2026-6/14] ; URL : <http://www.rada.crimea.ua/act/12055>

located in the “RC”, “considered” as property of the “RC”. This normative act “authorized” the Council of Ministers of the “RC” to “represent the interests of the RC as of the owner to identify” those objects, “and to make the recognition of property rights on them of the RC, including the courts` procedures” with the right to provide such competence to “another executive public authority of the RC”<sup>1</sup>.

By this act the Council of Ministers of the “RC” also got the right “to establish, liquidate and convert unitary state and state-owned enterprises, state budget, state-owned, autonomous agencies, other government organizations that are located in the “RC”, public sharing companies with formation the capital by the property of appropriate state organizations and/or by the property that is being in their operational management, full economic management, or by other public property”. Resolution has also provided approval the special “law” to establish the order and disposition of property of the “RC”, which is not adopted by separatists` regime for this moment (although, as we shall see, a similar law of «CFSS» was approved by the City Council of Sevastopol already).

However, the power of the “RC” does not stop even for the “nationalization” of non-state property. Thus, the Resolution of the ‘SCRC’ on June 25, 2014 № 2256-6/14 “included” to the property of the “RC” movable and immovable property of the JSC “Shipbuilding Company “More”, located on the territory of “RC”, “including property that was included or not included into the authorized capital of JSC “Feodosia Shipbuilding Company “More” consisting of fixed (in tons. part. intangible) and current assets that are on its balance sheet and off-balance sheet accounting”. Such confiscation of private property authorities of the “RC” explained by wish “to create the favorable social and economic conditions for a full download of the enterprise, allowing to contribute greatly the rising of rates of the economic development of the RC, creating new types of sea passenger vessels, that will forward the creation of new working places and increasing the tax revenues”<sup>2</sup>. Such example shows that even privatization of some huge enterprises in Crimea and their private character did not stop the will of separatists` authorities to own it.

It is interesting to see how the authorities of the “RC” aim to disseminate their own jurisdiction to the “nationalized” property and to get material benefits from its exploitation. In this context, the Resolution of the “SCRC” on May 28, 2014 № 2178-6/14 “On the Rates of the Port Charges (Charges for Services from Vessels) in Sea Ports of the RC” is characteristic<sup>3</sup>. It is necessary to point out that, according to the part 4 of art. 19 of the above mentioned federal law of the RF № 261-ФЗ about sea ports, the list of the port charges that have to be charged directly in every seaport, is set by Rosmorrichflot<sup>4</sup>. As we may see the separatist legislation on the “nationalized” Crimean property may counter even to the common occupational legislation of the RF.

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<sup>1</sup> On Issues of Managing the Property of the Republic of Crimea : Resolution of the “State Council of the Republic of Crimea” № 2085-6/14, 30 of April, 2014 [on Russian : О вопросах управления собственностью Республики Крым : постановление «Государственного совета Республики Крым» от 30 апреля 2014 г. № 2085-6/14] ; URL : <http://www.rada.crimea.ua/act/12118>

<sup>2</sup> On Issues of the Property of the Republic of Crimea : Resolution of the “State Council of the Republic of Crimea” № 2256-6/14, 25 of June, 2014 [on Russian : О вопросах собственности Республики Крым : постановление «Государственного совета Республики Крым» от 25 июня 2014 г. № 2256-6/14] ; URL : <http://www.rada.crimea.ua/act/12317>

<sup>3</sup> On Rates of Port Charges (Fees for Services from Vessels) in the Sea Ports of the Republic of Crimea : Resolution of the “State Council of the Republic of Crimea” № 1831-6/14, 28 of May, 2014 [on Russian : О ставках портовых сборов (сборов за услуги с судов) в морских портах Республики Крым : постановление «Государственного совета Республики Крым» от 28 мая 2014 г. № 2178-6/14]

<sup>4</sup> On Sea Ports of the Russian Federation and on Amendments to Certain Legislative Acts of the Russian Federation : Federal Law of the Russian Federation № 261-ФЗ, November 8, 2007 [on Russian : О морских портах в Российской Федерации и о внесении изменений в отдельные законодательные акты Российской Федерации : Федеральный закон от 8 ноября 2007 г. № 261-ФЗ] ; URL : [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_150202](http://www.consultant.ru/document/cons_doc_LAW_150202)

However charms of the “transition period” allowed to the authorities of the “RC” “to ensure the activities and operation of seaports in the RC..., pending regulatory acts governing these issues and to ensure maritime safety and order at sea ports of the RC and the approaches to them”, to approve “rates and procedure for collecting port charges in the RC”. Additionally Resolution № 2178-6/14 specifies that the calculation and collection of port charges (lighthouse, administrative, vessel, channel, berthing, sanitary, pilotage and anchorage charges) in the “RC” is carried by the “SE” “Crimean Sea Ports”. The annexes to this Resolution contains the groups of vessels and floating structures, from which port charges must be paid, rates of tonnage, canal, berthing charges, health data fees, pilot fees and fees for services from vessel traffic regulation – distributed by all the ports of “RC” and by the groups of vessels.

Resolution № 2178-6/14 contains an interesting art. 6, in which the rates on cabotage are fixed; they should be applied for navigating between the “ports of the RF” from the ships flying the flag of the RF, and both from the “vessels flying the flag of Ukraine and belonging to ship-owners registered in the RC”. In this normative positions powers of the “RC” recognized a huge problem of the flag state – as for vessels of new “owners” of the “nationalized” Ukrainian SE, which had its own fleet, so for other (private) vessels registered by Ukraine in the Crimean ports. It is possible to see clear that Russian flag on these vessels will not be recognized in any foreign country and in international waters also; so at least for a transitional period authorities of the “RC” can not take “nationalized” vessels out of flying the Ukrainian flag. That is why Resolution № 2178-6/14 specified that “state nationality of the vessel and accordingly her granted status during charging port charges are determined by the flag the vessel is flying, with no matter who is the owner and who uses it, except vessels under the flag of Ukraine belonging to ship-owners registered in the RC”.

For “additional legalization” of the “SE” “Crimean Sea Ports” “SCRC” adopted a Resolutions on June 4, № 2218-6/14 and on June 25, 2014 № 2255-6/14. This acts, calling this “SE” as “unitary”, states according to the common formula of “nationalization” that it is while “doing economic activities” apply licenses and other permits (other than licenses for banking operations and licenses (permits) for activities of not credit financial institutions)” issued by governmental and other official agencies of Ukraine, ARC and Sevastopol, “without limitation of their actions, unless otherwise is stated in the document itself or being from coherent relationship” to the companies on the basis of which this “SE” was created; the Resolution contained a set of the “nationalized” Ukrainian SEs, including the Crimean CSPs, and the property of the “State Inspection for Maritime and River Security of Ukraine” (UMRI) affiliates<sup>1</sup>. Statute of the “Crimean Sea Ports” was adopted by order of Republic Committee on Transport and Communications of the RC” on June, 4, 2014 № 69. Soon after in the Crimean ports were created the affiliates of the “Crimean Sea Ports”; for example Provision on such affiliate – “Evpatorian Commercial Port” – was adopted by acting as General Director of SE "Crimean Sea Ports" from June, 18, 2014 № 49.

Any way we can't point on further activities of the “SE” “Crimean Sea Ports” as there is any official information or even the actual web-cite of such “enterprise”. Anyway in June-July, 2014 “Rosmorport” gave the Russian numbers to the Crimean ports and this ports were added to the managing and control competence of the FSBI “ASP of the Black Sea” and its affiliates in five Crimean occupied town, including Sevastopol.

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<sup>1</sup> On Licenses and Other Documents of Permits Character for Implementetion the Economic Activities : Resolution of the “State Council of the Republic of Crimea” № 2255-6/14, 25 of June, 2014 [on Russian : О лицензиях и других документах разрешительного характера для осуществления хозяйственной деятельности : постановление «Государственного совета Республики Крым» от 25 июня 2014 г. № 2255-6/14] ; URL : <http://www.rada.crimea.ua/act/12316>

This FSBI created the service of “captains of sea ports” in this places as we may see from some prescripts of “captains of ports” of Kerch, Feodosia, Yalta, Sevastopol, Evpatoria that are placed on the official web-site of the FSBI “ASP of the Black Sea”. As examples we may point on prescript of the “Captain of the Sea Port Sevastopol” [Stryzhak A.N.] № AC-04-p from July 1, 2014 “On the Organization of Security Measures in the Preparation and Conduct of Bunkering Operations in the Sea Port of Sevastopol”; on the prescripts of the “Captain of the Sea Port Evpatoria” [Levchenko S.B.] № CJL-2-p from 1 July, 2014 and № CJL-3-p on July 11, 2014 (on the same issue) “On Ensuring the Safety of Navigation in the Waters of Lake Panskoe of Yarylgach Harbor of Karkinitsky Bay of the Black Sea”; prescript of the Captain of the Sea Port Yalta [Nadezhdin V.B.] № BH-3-p on June 9, 2014 “On the Order of Informing about the Acts of Unlawful Interference, Accidents, Emergency Situations and Traffic Accidents in the Transport Infrastructure of the Aquatorium of Yalta Sea Port and Vessels”<sup>1</sup>

Since the July 1, 2014 Russian offices of “Captain of the Sea Port Sevastopol” and “Captain of the Sea Port Kerch” declared beginning the changing the Ukrainian documents for seafarers living in Crimea, to the Russian ones. As such new “documents” are issued by occupational authorities without any legitimacy and with strait violation the MLC and STCW demands – most all the Crimean seafarers regardless on their politic preferences refused to pass coherent procedures. More, the common situation appeared with diplomas and education in “nationalized” maritime high schools of ARC and Sevastopol (such as Sevastopol National Technic University, Kerch State Maritime University and some maritime colleges), also as with the training centers for seafarers. Such diplomas and certificates issued by transformed structures are no more legal neither for Ukrainian state bodies nor for the world shipping system.

It is necessary to point out that in the Sevastopol city, occupied by the RF, the “nationalization” of public property was followed by the similar procedures, although with using some other terms. So the Decision of the Sevastopol City Council (SCC) on March 17, 2014 № 7156 “On the status of Sevastopol” noted that “the activity of state bodies of Ukraine in the City of Sevastopol is terminated, their powers, property and funds are transferred to the bodies, determined by the SCC”<sup>2</sup>. Also Decision stated that “all institutions, enterprises and other organizations founded by Ukraine or with Ukrainian participation in the City of Sevastopol, are the institutions, enterprises and other organizations, founded by the city of Sevastopol” and that “state property of Ukraine, which is in the City of Sevastopol on the date of adoption of this solution are the property of Sevastopol”. Interestingly, that the so called “Charter of Sevastopol City” from April 14, 2014 № 1-3C<sup>3</sup> give any normative attention to the issues of such “municipalized” property, as well as to the status of the territory and waters of Sevastopol City (that is a separate region of Ukraine).

However, these issues were additionally regulated by the “Law of Sevastopol” adopted by the “Legislative Assembly of Sevastopol” (now the SCC names itself in such kind) on April, 23, 2014 № 3-3C – “On the Former State Property of Ukraine and Determining the

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<sup>1</sup> Prescripts of Sea Ports Captains of the FSBI “ASP of the Black Sea”. Sea ports of Kerch, Feodosia, Yalta, Sevastopol, Evpatoria [on Russian : Распоряжения капитанов морских портов ФГБУ “АМП Черного моря”. Морские порты Керчь, Феодосия, Ялта, Севастополь, Евпатория] ; URL : [http://www.ampnovo.ru/index.php?option=com\\_content&task=blogcategory&id=131&Itemid=96](http://www.ampnovo.ru/index.php?option=com_content&task=blogcategory&id=131&Itemid=96)

<sup>2</sup> On Statute of Sevastopol City-Hero : decision of extraordinary session of Sevastopol City Council № 7156, 17 of March, 2014 [on Russian : О статусе города-героя Севастополя : решение внеочередной сессии Севастопольского городского совета от 17 марта 2014 г. № 7156] ; URL : [http://docs.sevsovet.com.ua/index.php?option=com\\_k2&view=item&id=2403:%E2%84%967156-от-17-марта-2014-года-о-статусе-города-героя-севастополя](http://docs.sevsovet.com.ua/index.php?option=com_k2&view=item&id=2403:%E2%84%967156-от-17-марта-2014-года-о-статусе-города-героя-севастополя)

<sup>3</sup> “Statute of the Sevastopol City”, 14 of April, 2014 № 1-3C [on Russian : “Устав города Севастополя” от 14 апреля 2014 г. № 1-3C] ; URL : [http://docs.sevsovet.com.ua/index.php?option=com\\_k2&view=item&id=2452:устав-города-севастополя&Itemid=226](http://docs.sevsovet.com.ua/index.php?option=com_k2&view=item&id=2452:устав-города-севастополя&Itemid=226)

Order of Inventory, Management and Disposition of the Property of Sevastopol City”. Art. 1 of this “Law” stated that “all lands within the territorial boundaries of the CFSS, except privately owned lands with statute on a date of March 17, 2014, are the state property of the CFSS»<sup>1</sup>. Interestingly, that in this act “CFSS” authorities appropriated as state property of Ukraine so all the property of the Black Sea Fleet of the RF, as well as any other landed property that is not private but not the state one (property of the trade unions also).

«Law» № 3-3C contains the reference to the pointed Decision of the SCC № 7156; in particular, this act provide the moratorium for the privatization of “nationalized” enterprises, institutions and other organizations and also for meeting the claims of creditors of those enterprises, institutions and other organizations through their property. Additionally «Law» № 3-3C specifies that the “Sevastopol City have no property and other liability” for the obligations of “nationalized” enterprises, institutions and other organizations, of state authority bodies, and of “nationalized” “offices, branches and other separate structural units of state enterprises, institutions and organizations based by Ukraine or with her participation, the property of which is the property of Sevastopol”. As we may see the Sevastopol model of “nationalisation” foresees less legal ties of “old” and “new” titles of Ukrainian state property, then Crimean model and is more rigid in issues of “nationalisation” the non-state public property.

In Art. 4 «Law» № 3-3C give the competence of governing and managing the “nationalized” property to such interesting separatist power figure as “Acting as Governor of Sevastopol”, this person “is qualified” to:

- account the “nationalized” enterprises, institutions and other organizations;
- inventor and record the property, payables and receivables, cash and other assets and liabilities of the “nationalized” enterprises, institutions and other organizations, as a “new” property of Sevastopol;
- ensure management of “nationalized” enterprises, institutions and other organizations, management and disposal of their property, of the property of “nationalized” state bodies of Ukraine, as well as the “new” property of Sevastopol, and provide measures to “preserve” this property;
- appoint and dismiss the heads of the “nationalized” enterprises, institutions and other organizations.

The fate of the Sevastopol sea ports that are Ukrainian SE could be considered as an example of such “nationalization”. On March 27, 2014 deputies of SCC (as “Legislative Assembly of Sevastopol”) approved the creation of the Port of Sevastopol on the basis of Sevastopol CSP and Sevastopol Fishing Sea Port. Then it was approved a resolution of the “Sevastopol Government” on June 2, 2014 № 29 “On the Establishment the State Unitary Enterprise “Sevastopol Sea Port”<sup>2</sup>. Unfortunately analysis of these acts is impossible today because they are not in the public domain; at the same time it is obvious some duplication of “RC” “nationalization” practice in Sevastopol.

It should be noted that the state authorities of Ukraine responded to the listed events and threats with a significant delay. This was due to a change in leadership of the central Ukrainian

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<sup>1</sup> On the Former State Property of Ukraine and Determining the Order of Inventory, Management and Disposition of the Property of the City of Sevastopol : "Law of the City of Sevastopol," adopted "by the Legislative Assembly of the City of Sevastopol", 23 April, 2014 № 3-3C [on Russian : О бывшей государственной собственности Украины и определении порядка инвентаризации, управления и распоряжения собственностью города Севастополя : «закон города Севастополя», принят «Законодательным Собранием города Севастополя» 23 апреля 2014 г. № 3-3C] ; URL : [http://docs.sevsovet.com.ua/index.php?option=com\\_k2&view=item&id=2470:№3-зс-от-24042014-г-о-бывшей-государственной-собственности-украины-и-определении-порядка-инвентаризации-управления-и-распоряжения-соб](http://docs.sevsovet.com.ua/index.php?option=com_k2&view=item&id=2470:№3-зс-от-24042014-г-о-бывшей-государственной-собственности-украины-и-определении-порядка-инвентаризации-управления-и-распоряжения-соб)

<sup>2</sup> Ozarenko E. United Sea Port is Created in Sevastopol [on Russian : Озаренко Е. В Севастополе создан единый Морской Порт] ; URL : <http://sevastopol.su/news.php?id=59406>

state power authorities, which took place in March-May 2014, and the overall pro-Russian mood of a significant number of the middle and lower parts of state personnel responsible for managing and governing the state property in ARC and Sevastopol.

Yet on April 15, 2014 the Law of Ukraine № 1207-VII “On Protection of Rights and Freedoms and on the Legal Regime on the Temporarily Occupied Territory of Ukraine”. This law is quite a unique phenomenon in the modern world. Such normative material currently found only in Georgia<sup>1</sup>, where due to the aggression of the RF in 2008 the occupation of the territory established. Considering the provisions of this Georgian Law, the Venice Commission noted its inaccuracy in determining the adjacent marine areas that are considered occupied, particularly because until then there was no delimitation of maritime boundaries between Georgia and Russia, and thus makes impossible to pinpoint the occupied area on sea (pgph 14)<sup>2</sup>. In terms of the Venice Commission with regard to protect and guarantee the property rights this Law of Georgia is not sufficiently developed. Thus, the Law of Georgia actually prohibits any act of property, thereby depriving people of the right to inheritance or deal with own private property. In addition, the norms of this Law of Georgia have retroactive effect, that could lead to serious disorders. Despite the number of observations, exactly this law was the prototype of Law of Ukraine № 1207-VII.

Prior to the approval of the Law of Ukraine № 1207-VII responsible Ukrainian state authorities made no action in response to the processes of “nationalization” of state property in the Crimea. At best, they fixed officially own incapacity to govern in the Crimea. Thus, in the official report of the Ukrainian Inspectorate for Training and Certification of Seafarers from April 10, 2014 there was noted that this structure after May 30, 2014 would have to “suspend indefinitely the work of state commissions for endorsement the qualification of seafarers in Sevastopol Regional Branch of Inspectorate”. Crimean seafarers, who want to obtain or renew Ukrainian diplomas, proofs and evidences, were encouraged to contact the Ismail, Mariupol, Nikolayev and Odessa Branches of Inspectorate<sup>3</sup>.

Law of Ukraine № 1207-VII allowed to the national authorities to obtain legal basis for their actions; particularly in art. 3 to the temporarily occupied territories have been allocated as:

- land territory of ARC and Sevastopol and Ukraine inland waters of these areas;
- internal sea waters and territorial sea of Ukraine around the Crimean peninsula, the area of the exclusive (maritime) economic zone of Ukraine along the coast of the Crimean peninsula and of the continental shelf of Ukraine – adjacent to the coasts that are within the jurisdiction of the government of Ukraine – in accordance with international law, the Constitution and laws of Ukraine,
- airspace over these areas<sup>4</sup>.

According to Art. 9 of this Law, state governing agencies and local self-government bodies formed under the Constitution and laws of Ukraine, their officials and officers must act in the temporarily occupied territory only on the grounds, in the limits, and by the manner

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<sup>1</sup> On Occupied Territories : Law of Georgia № 431-II, 23 October, 2008 ; URL : [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2013\)056-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2013)056-e)

<sup>2</sup> Opinion On the law on Occupied Territories of Georgia : adopted by the Venice Commission at its 78th Plenary Session (Venice, 13-14 March 2009) URL : [http://www.caucasus-dialog.net/Caucasus-Dialog/Activities\\_&\\_Docs\\_files/Venice%20Commission\\_occup-Territories\\_Opinion%20Kopie.pdf](http://www.caucasus-dialog.net/Caucasus-Dialog/Activities_&_Docs_files/Venice%20Commission_occup-Territories_Opinion%20Kopie.pdf)

<sup>3</sup> Inspection on Training and Certification of Seafarers of Ukraine [on Ukrainian : Інспекція з підготовки та дипломування моряків : офіційний сайт] ; URL : <http://www.itcs.org.ua/ru/node/226>

<sup>4</sup> On Providing the Rights and Freedoms of Citizens and Legal Regime for the Temporarily Occupied Territory of Ukraine : Law of Ukraine № 1207-VII 15 of April, 2014 [on Ukrainian : Про забезпечення прав і свобод громадян та правовий режим на тимчасово окупованій території України : Закон України від 15 квітня 2014 р. № 1207-VII // Відомості Верховної Ради України. – 2014. – № 26. – Ст. 892].

prescribed by the Constitution and laws of Ukraine. Any bodies, their officials and officers in the temporarily occupied territory and their activities are considered illegal if these bodies or entities were set up, elected or appointed in the manner that is not provided by Ukrainian laws; any act (decision, document) issued by such authorities and/or is void and does not create legal consequences.

Networking and cooperation of the state governing agencies and local self-government bodies of Ukraine and their officials, with illegal bodies (and officials) created in the temporarily occupied territory, shall be permitted only to ensure Ukraine's national interests, rights and freedoms Ukraine, to implement the international treaties ratified by the Verkhovna Rada of Ukraine, to promote the recovery constitutional order of Ukraine in the temporarily occupied territories.

These provisions of the Law № 1207-VII can determine the position of Ukraine on the activities of separatist authorities of “RC” and “CFSS” (that de-jure and de-facto are still the Supreme Council of ARC and the SCC), on their illegal decisions approved from February, 2014. At the same time as there is a real prospect of “transferring” the public and commercial property in the Crimea into the federal Russian ownership and of centralized management of these objects by the central authorities of the RF, which is not in the Crimea (such as Rosmorrechflot etc.), but the rules of Law № 1207-VII do not allow to define a clear position of Ukraine on such bodies, their acts and decisions.

On the other hand, according to the art. 17 of the Law № 1207-VII, government agencies of Ukraine would use the mechanisms provided by the laws of Ukraine and international law, to protect the national interests of Ukraine. Also Ukraine is obliged by this law to take all possible measures envisaged by the Constitution and laws of Ukraine, international law, for the speedy liberation of Ukraine from occupation, restoring the integrity and sovereignty of the state. However, the rules of the Law № 1207-VII on the property in the Crimea are ambiguous. Thus, according to its art. 4 a special legal framework was established for the elections, for the human rights – but this law does not give a particular regime of property in the Crimea. However, under Art. 11 of the Law № 1207-VII ownership in the temporarily occupied territory is protected under the laws of Ukraine.

Additionally, the Law № 1207-VII stressed that land, its subsoil, air, water and other natural resources within the territory of Ukraine, the natural resources of its continental shelf, the exclusive (maritime) economic zone, which is the objects of property of the Ukrainian people, the military property and property of government agencies, state enterprises, institutions and organizations that are in the temporarily occupied territory and is the property of the state Ukraine – those property can not pass into the ownership of other countries, entities or persons otherwise than in way, foreseen by the laws of Ukraine. However, in Art. 13 of the Law № 1207-VII were noted that the specialties of the economic activities in the temporarily occupied territory are defined by law (but legal mechanism in this area still has not been adopted).

Law № 1207-VII does not provide the specific penalties for individuals for collaboration and for other criminal acts against the interests of Ukraine in the occupied Crimea, including the illegal appropriation of property. However, this law introduced new versions of Art. 96-3, 96-4 of the Criminal Code of Ukraine (in the form of amendments to the Law of Ukraine of 23 May, 2013 № 314 -VII). It provides the liability for entities (legal persons) for the offense the crimes under the articles 109, 110, 113, 146, 147, 160, 260, 262, 436, 437, 438, 442, 444, 447 of the Criminal Code of Ukraine (“Actions aimed on the violent overthrow or change of the constitutional order or seizure of state power”, “Trespass the territorial integrity and inviolability of Ukraine”, “Sabotage”, “Unlawful imprisonment or kidnapping”, “Hostage-taking”, “Violation of the legislation on a referendum”, “Creation the illegal paramilitary or armed groups”, “War propaganda”, “Planning, preparation, launching and maintaining an

aggressive war”, “Violations of the laws and customs of war”, “Genocide”, “Crimes against persons and institutions that have international protection” and “Mercenaries”).

We can see that these offenses do not apply to cases of illegal seizure of maritime property, except the art. 109 of the Criminal Code in the context of acquisition the property of public governing and management authorities in order to prevent their activities and to format the alternative authorities and government, although part 4 of art. 96-3 of the Criminal Code refers to the duty of reception the “undue advantage” as the aggravating circumstances of this crime).

The specified version of Art. 96-3 of the Criminal Code of Ukraine, however, can be applied by the court to the “subjects of private and public law, as residents and non-residents of Ukraine, including enterprises, institutions or organizations, government agencies, authorities of ARC, local governments, organizations established by them in the prescribed manner, foundations, and international organizations, other legal persons established in accordance with national or international law. So it is impossible to bring to justice the illegal structure (such as “Acting governor of Sevastopol”) or an organization formed in illegal manner (such as “SE” “Crimean Sea Ports”), which are acting now in the Crimea. However, the activity of “SCRC” and ‘Legislative Assembly of Sevastopol” as the illegal activity of Supreme Council of the ARC and SCC, that illegally appropriated to themselves different status, name and authority, particularly in the field of public property.

Also, the law number 1207-VII establishes responsibility for individuals for violations of the order of enter departure from the temporarily occupied territory; it is crime if it had the purpose of causing harm to the interests of the state, with the aggravating circumstances in the forms of repetition, prior conspiracy, made by state officer by or organized group (new Art. 332-1 of the Criminal Code of Ukraine). These issues on the property area are important primarily for commercial shipping and aviation, as Cabinet of Ministers of Ukraine by its Prescription on April 30, 2014 № 424-p closed temporary the checkpoints and border control points located in the ARC and Sevastopol, most of them were in ports, also in airports and on Kerch ferry (20 maritime control points)<sup>1</sup>.

Prescription № 424-p justifies these actions by “the situation in the ARC and the invasion armed forces and extremist-minded people to the Ukraine, and by military aggression by the RF, by blockade of the checkpoints and controls points located in the ARC, which leads to the impossibility of their further proceeding and impedes the kinds of state control for crossing the border foreseen by the legislation of Ukraine”. This act instructed MFA of Ukraine to bring such information to the attention of the diplomatic missions of foreign states in Ukraine, as well as to the diplomatic missions and consular offices of Ukraine abroad.

At the same day, on April 30, 2014 the Prescription № 578-p “Some Issues of Functioning of Maritime and River Transport” was approved by the Cabinet of Ministers of Ukraine; it attributed to the Ministry of Infrastructure and to the State Inspection of Safety on Maritime and River Transport of Ukraine (Ukrmorrichinspektsiya) to make arrangements for temporary termination of its authorities on the territory of ARC and Sevastopol and to close, according to the official common procedure, approved by the Cabinet of Ministers of Ukraine on 11 July, 2013 № 495, seaports Evpatoria, Feodosia, Kerch, Sevastopol, Yalta, located in the occupied area<sup>2</sup>.

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<sup>1</sup> On Temporal Closing the Points of Crossing the Border and Control Points : Prescript of Cabinet of Ministers of Ukraine № 424-p, 30 of April, 2014 [on Ukrainian : Про тимчасове закриття пунктів пропуску через державний кордон та пунктів контролю : розпорядження Кабінету Міністрів України від 30 квітня 2014 р. № 424-p // Офіційний вісник України. – 2014. – № 37. – Ст. 997].

<sup>2</sup> Some Issues of Functioning of Maritime and River Transport : Prescript of Cabinet of Ministers of Ukraine № 578-p, 30 of April, 2014 [on Ukrainian : Деякі питання функціонування морського та річкового транспорту : розпорядження Кабінету Міністрів України від 30 квітня 2014 р. № 578-p // Офіційний вісник України. – 2014. – № 51. – Ст. 1347].



Prescription № 578-p instructed the MFA of Ukraine to inform the international organizations about the closure of seaports after the entering decision into force. These instructions were justified “in the inability of seaports, located in the ARC and Sevastopol, to service vessels and passengers, to carry freight, transport, expedition and other related economic activities, to ensure the proper level of maritime safety and compliance with international agreements of Ukraine, to ensure the environmental protection”.

It is necessary to point that the implementation of this Prescription by the responsible authorities was slow. Ukraine in middle of May, 2014 notified the International Maritime Organization (IMO) on «the upcoming decision on the closure of the Crimean port” (according to official information, the Ministry of Infrastructure of Ukraine dated July 7, 2014)<sup>1</sup>. According to the press service of the IMO, the letter stated that Ukraine as a state can no longer fulfill its international obligations on the Safety of Maritime Navigation, on preservation of human life at sea, on search and rescue in the waters of the Crimean ports “that came out of the actual management and control of Ministry of Infrastructure through occupation of the peninsula”. The letter noted that the ports of Evpatoria, Kerch, Sevastopol, Feodosia, Yalta were seized by power of illegal groups from March 27, 2014; since that day access to public property was blocked, services of maritime pilots and captains of ports ensuring the safety of navigation in the waters of the Crimean ports were captured<sup>2</sup>.

In this situation IMO reported to all the states about the high level of risk for property on approaches and in the waters of sea ports in the Crimea and Sevastopol. At the same time the following message Ukraine was clearly insufficient, because RF in its turn in early July, 2014 informed the IMO that RF is able to ensure the safety of navigation in the Crimean ports. We may suggest that the reducing the ideas of RF and/or of Crimean separatist regime about the local Crimean system of governing in maritime industry and demonstrative rapid creating the affiliates of the FSBI “ASP of the Black Sea” on the occupied territories were called by those international processes.

Later the Ministry of Infrastructure of Ukraine made the next step and approved the order on June 16, 2014 № 255 “On Closing the Sea Ports”. This order was approved on the basis of the submission of the SE “ASPU” dated by April 1, 2014 № 1330, agreed with Ukrmorrichinspektsiya; this order closed ports of Kerch, Sevastopol, Feodosia, Yalta, Evpatoria “till restoring the constitutional order of Ukraine on the temporarily occupied territory of ARC and Sevastopol”.

This act attributed the SE “AMPU” to provide:

- entering the appropriate information in the Register of the Sea Ports of Ukraine;
- elimination the administrations of seaports Kerch, Sevastopol, Feodosia, Yalta, Evpatoria;
- implementation the measures prescribed by law, for further operation of the port infrastructure in the territory and waters of the temporarily closed ports, as well as carrying out other related activities;
- in consultations with Ukrmorrichinspektsiya, after the restoration of constitutional order of Ukraine on the temporarily occupied territory to make in offers due course on the opportunities of opening the temporarily closed seaports.

Additionally Ukrmorrichinspektsiya, enterprises, institutions and organizations subordinated to the Ministry of Infrastructure of Ukraine were instructed to bring their own

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<sup>1</sup> Ukraine Close Officially the Sea Ports of Crimea for International Shipping : report of Press-service of Ministry of Infrastructure of Ukraine, 7 of July, 2014 [on Ukrainian : Україна офіційно закриває для міжнародного судноплавства морські порти Криму : повідомлення прес-служби Міністерства інфраструктури України від 7 липня 2014 р.] [http://www.kmu.gov.ua/control/publish/article?art\\_id=247438297](http://www.kmu.gov.ua/control/publish/article?art_id=247438297)

<sup>2</sup> Ukraine Close the Crimean Ports for Foreign Vessels : Ukraine press [on Ukrainian : Україна закрила для іноземних суден кримські порти / Преса України] ; URL : <http://uapress.info/uk/news/show/25287>

acts in accordance with this Order. Ministerial Department of State Policy in the Field of Maritime and River Transport was additionally attributed to ensure the publication of notice about closure of seaports in the official printed publication “Notices to the Mariners of Ukraine” and to publish it on the official website of the Ministry of Infrastructure.

Closing the Crimean sea ports by Ukraine was in common recognized by the world maritime community. We need to remind that UN confirmed sovereignty of Ukraine on Crimean territory by General Assembly Resolution 68/262 “Territorial integrity of Ukraine” adopted on 27 March 2014; OSCE confirmed sovereignty of Ukraine on Crimean territory by Parliamentary Assembly resolution “Clear, gross and uncorrected violations of Helsinki Principles by the Russian Federation” adopted on 1 July 2014.

But more than 50 vessels during spring-summer of 2014 visited Crimean ports (this number is twice smaller than shipping in coherent period of 2013). List of the vessels, violating the norms of the international law, the UN decisions and demands of Ukrainian legislation is available on link: <http://www.blackseanews.net/en/read/85713> Vessels-violators were certified mostly by Russian Maritime Shipping Register, 38 of vessels-violators were under Russian ownership and 32 among them were flying the Russian flag.

Such processes caused the attention to Crimean public property in area of maritime industry during the processes of imposing sanctions by EU. Among the EU acts on sanctions against Russia and Ukrainian separatists (such as EU Council Decisions № 2014/386/CFSP of 23 June 2014, № 2014/499/CFSP of 25 July 2014 and № 2014/508/CFSP of 30 July 2014; EU Council Regulations № 692/2014 of 23 June 2014 and № 811/2014 of 25 July 2014; EU Council Implementing Regulations № 810/2014 of 25 July 2014 and № 826/2014 of 30 July 2014) we must specially point on the EU Council Implementing Regulation № 810/2014 implementing Regulation № 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine<sup>1</sup>.

This Implementing Regulation № 810/2014 contains annex III “Entities whose ownership has been transferred contrary to Ukrainian law” that fix nine economy subjects that were confiscated in Crimea by separatist regime. This list includes “State ferry enterprise [SSC] ‘Kerch ferry’”, “SE ‘Sevastopol commercial seaport’” and “SE ‘Kerch commercial sea port’”. EU Council pointed on such grounds of the sanctions, implemented for those enterprises, like their illegal “effectively confiscation by the Crimean ‘authorities’”, with regarding on some acts of “nationalization” – on pointed resolutions of “SCRC” №№ 1757-6/14, 1802-6/14 and 1865-6/14. We may see that EU Council listed not all the illegal acts of confiscation (no any Sevastopol acts were pointed) and pointed not on all the confiscated SEs; we may suggest that EU officers had some politic grounds and limits and were guided by factor of global economic importance of certain confiscated enterprise and its role in European trade. For example, in list of SEs EU Council pointed that Sevastopol port “is the biggest commercial seaport in Crimea” and Kerch port is the second one.

Thus, we can come to some conclusions. The occupation and annexation of the Crimea, made in 2014 by the RF in collaboration with separatist forces in the SCC, in the Supreme Council and Council of Ministers of ARC, was the result of illegal changes in systems of the maritime security and navigation, in system of training and certification of the seafarers, in alienation of public maritime property, in favor of the so-called “RC” and “CFSS”, as “new subjects” of the RF; anyway those acts and decision are totally illegal by form, procedure and volume. They do the urgent threat to the labour and social rights of Ukrainian seafarers in Crimea. The relevant processes received from the occupational authorities format of the

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<sup>1</sup> Council Implementing Regulation (EU) No 810/2014 of 25 July 2014 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine ; URL : [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:JOL\\_2014\\_221\\_R\\_0001](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:JOL_2014_221_R_0001)

“transitional” and should be completed by the RF till the end of 2014; more complex issues such as Russian systems of seafarers` certification, maritime licensing, vessels registration, etc. are not yet resolved by the occupation authorities as it is impossible in conditions of global maritime law demands.

Taking into account international experience, we can safely say that after returning illegally annexed territories to the Ukraine not only the state will require compensation for illegal use and disposal of public maritime property, i.a. vessels, ports and academies in the occupied territories. Ukrainian seafarers will claim the modern demands for compensation of their violated rights as to the international bodies so to the state-aggressor and duty of trade unions is to support the defense and restoration of violated seafarers` right in occupied Crimea.

So we may recommend to the OSCE, to Ukraine and to Russian Federation to make such steps for the maintenance and protection the seafarers` right in Crimea.

*We recommend to OSCE:*

- *inform everybody whom it concerns about this situation to stop any risk for vessels and seafarers, any violation of the crew safety and to refrain from any attempts to organize, cover or facilitate those illegal actions in Crimean ports and on commercial vessels alienated by Russia;*

- *to monitor the situation on forced giving the Russian citizenship in Crimea, the random alienations the property in Crimea, the illegal changes in training, education and certification system for persons residing in Crimea;*

- *to cooperate with IMO, ILO and European Maritime Safety Agency for collecting the facts on violation the seafarers` rights in Crimea and in a way of establishing the modern standards of seafarers` right such as MLC-2006, to struggle against violation the common, labor and social rights of seafarers and to struggle and prevent the seafarers` discrimination in OSCE region. Coherent organizational and programmatic OSCE mechanisms must be created..*

*We ask to Ukraine:*

- *to ratify and implement immediately the MLC-2006 and use it for defense the seafarers` rights on international level;*

- *to modernize the system of state control and policy in maritime area with establishing the clear set of functions for national Maritime Administration;*

- *to modernize the state port and flag policy with liberalization the commercial relations and reducing the corruption;*

- *to develop the effective humanitarian and social policy, including the administrative services, for the Ukrainian seafarers that resides or leaved the occupied territories;*

*We demand to Russia:*

- *to implement in Crimea own duties of the state-occupier correctly, without violation the human rights, i.a. the seafarers` rights;*

- *to stop the practices of alienation the illegal maritime property, of “certification” in maritime area and issuing the “maritime documents” in Crimea;*

- *to stop the violation the international maritime law demands, safety and ecology demands by organizing the shipping in waters around Crimea;*

- *to provide the free movement from Crimea to other regions of Ukraine and back to all the Ukrainian seafarers and cadets residing in Crimea for crewing services, education, employment and repatriation.*