

Application of the Protocol on Water and Health in case of Mariupol

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Overview of the Protocol (1)

Protocol on Water and Health to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (London, 1999)

main aim - to protect human health and well being by better water management, including the protection of water ecosystems, and by preventing, controlling and reducing water-related diseases

the first international agreement of its kind adopted specifically to attain an adequate supply of safe drinking water and adequate sanitation for everyone, and effectively protect water used as a source of drinking water



Overview of the Protocol (2)

Parties are required

- to establish national and local targets for the quality of drinking water and the quality of discharges, as well as for the performance of water supply and waste-water treatment
- to reduce outbreaks and the incidence of water-related diseases
- both Ukraine and RF are Parties to the Protocol
- entered into force on 4 August 2005 for both Ukraine and RF



Humanitarian catastrophe in Mariupol

According to City Council, as of June, due to a severe bombing in Mar-May 2022:

- 20 000 civilians killed, 100 000 remain under occupation;
- centralized water supply and sewerage destroyed;
- No waste removal/disposal: the city is literally drowning in garbage and sewage;
- mass graves and shallow burials all over the city;
- the summer heat hastened the decomposition of thousands of corpses under the rubble;
- lack of adequate medical care: no medicines, medical institutions destroyed, equipment stolen, personnel left
- the sea and other water bodies are polluted with municipal waste, sewage and corpse poisons.



Duties of an occupying power under international law

Upon seizing control of territory of another state, an occupying power also adopts certain duties and obligations *vis-à-vis* persons within such territory under both international humanitarian and human rights law.

Main duties of the occupying power under international humanitarian law (1907 Hague Regulations, Fourth Geneva Convention of 1949) include:

- the occupying power must take measures to restore and ensure, as far as possible, civil life and public order and safety;
- to the fullest extent of the means available to it, the occupying power must ensure sufficient hygiene and public health standards, as well as the provision of food and medical care to the population under occupation.



International Human Rights Law Obligations

The International Court of Justice (ICJ) has concluded that an occupying power remains bound by those human rights treaties which it ratified in all areas under its jurisdiction - including outside its own territory.

UN Human Rights Council also state that an occupying power continues to bear responsibility for implementing its human rights treaty obligations in areas it is occupying to the extent that it continues to exercise jurisdiction in those territories.



Protocol's compliance mechanism

Compliance Committee –

- made of 9 independent members serving in their personal capacity
- non-adversarial, non-confrontational and non-judicial and consultative in nature
- goal - to facilitate and assist Parties in resolving problems, rather than condemning Governments, to help redressing a situation of non-compliance by Parties concerned, that may also affect individuals
- not empowered to decide on any monetary compensation of damages
- may decide on measures assisting a Party in its efforts to comply with the Protocol
- a communication may address:
 - Specific events, acts, omissions or situations which demonstrate a failure of the State authorities to comply with or enforce the Protocol;
 - Specific instances of violation of rights of individuals under the Protocol.



Communications from the public

- Any member of the public, i.e. any natural or legal person, or group of people may submit a communication to the Committee.
- A communication may also be filed by a non-governmental organization, including an environmental organization or a human rights organization.
- The person filing the communication is not required to be a citizen of the State Party concerned, or, in the case of an organization, to be based in the State Party concerned.
- A member of the public does not need to be affected in order for him or her to submit a communication.
- Meaning that EPL has a right to file a communication against RF on its non-compliance with the Protocol in Mariupol or other occupied territories



What can be achieved (1)

Based on findings, decision on measures and any recommendations of the Committee the Meeting of the Parties may:

- Provide advice and facilitate assistance to individual Parties, which may include assistance in seeking support from specialized agencies and other competent bodies;
- Request or assist the Party concerned to develop an action plan to achieve compliance with the Protocol;
- Make recommendations to the Party concerned on specific measures to address the matter raised by the member of the public;
- Facilitate financial assistance and provide technical assistance, facilitate technology transfer;



What can be achieved (2)

Based on findings, decision on measures and any recommendations of the Committee the Meeting of the Parties may:

- Issue cautions;
- Issue declarations of non-compliance;
- Give special publicity to cases of non-compliance;
- Suspend the special rights and privileges accorded to the Party concerned under the Protocol.

