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*D. Yu. Dvornichenko**Candidate of Political Sciences, Senior Lecturer at Department of International Law and International Relations National University "Odessa Law Academy"***UKRAINE'S WESTERN BORDER: RISKS AND POTENTIAL THREATS TO NATIONAL SECURITY****Introduction**

Ukraine's western borders are inherited from the Soviet Union. They were formed as a result of the Soviet victory in the Second World War and the annexation of part of the territory of Poland, Romania, Hungary. The military and political power of the Soviet Union was the guarantor of the inviolability of its borders. After Ukraine gained independence, the political forces calling for revenge rapidly intensified their activity in the neighboring countries. These political forces have representation in parliament as well as influence on the formation of foreign policy of these countries. Their activity triggered the emergence of a number of disputes in Ukraine's bilingual relations with the above mentioned states. Some of these disputes (for instance, Snake Island Dispute) were a subject of resolution in the International Court of Justice. Other imbroglios are still smoldering having a potential to turn into a real conflict with the painful consequences for Ukraine's integrity.

Territorial claims of Romania*Snake island Dispute*

The continental shelf around Snake Island is a subject of conflict that was brought before the International Court of Justice. The roots of the conflict go back to the XX century. According to the Peace Treaties of 1918 and 1920 after World War I Snake Island was considered a part of Romania. There was no mention about it in any peace treaties after World War II. In 1948 Soviet troops occupied Snake island and moved the Romanian boundary in the Danube Delta towards the west in favor of the USSR, that was strongly disputed by Romania. After 1991 Ukraine took control over the island, although Romania consistently claimed it should be included in its territory. The 1997 basic treaty concluded by the two countries stipulates that negotiations on the shelf's delimitation will continue and, if no agreement is reached, the sides will be able to appeal to the International Court of Justice in The Hague as a last resort. Ukraine agreed under that treaty to deploy no «aggressive weapons» on Snake Island, and, more importantly, to consider it «uninhabited» [3, p. 335].

But several years later 10 million tones of oil and natural gas were discovered under the seabed nearby. BP and Royal Dutch/Shell signed prospect contracts with Ukraine, while Total with Romania. And that was the period when the policy of both Ukraine and Romania towards Snake Island changed rapidly. Both countries became interested in this territory and did their best in order to obtain it.

Romania's position was that Snake Island should be defined only as a rocky outcropping, and therefore need not be considered important enough to be a factor in drawing the Romanian-Ukrainian maritime border.

Ukraine's position was that Snake Island should be defined as an island, as its name suggests, which would

mean that the continental shelf around it would fall to Ukraine's possession. That's why Ukraine refused from its obligation taken in 1997 (to remain it uninhabited) but started to resettle people there, regularly transported water to it, and launched a ship to provide regular service between the mainland and the island. The island was supplied with navigation equipment, including a 150-year old lighthouse. Electric power was provided by a dual wind/diesel power station. The island also had such civil infrastructure as a post office, a bank branch (of Ukrainian bank «Aval»), a first-aid station, satellite television, a phone network, a cell phone tower, and an Internet link.

More than 20 rounds of negotiation meetings conducted thus far between Bucharest and Kyiv produced no results. On 16 September 2004, Romania brought a case against Ukraine before the International Court of Justice (ICJ) relating to a dispute concerning the establishment of a single maritime boundary between the two states in the Black Sea, thereby delimiting the continental shelf and the exclusive economic zones (EEZ) appertaining to them. Romania requested the ICJ to draw the boundary in accordance with international law.

On February 3, 2009 the Court also reached the conclusion that Snake Island should be disregarded in drawing the provisional equidistance line. In this case, the Court indicated that its decision was mostly based on the fact that Snake Island could not be considered to form part of «the coast» of Ukraine, in view of the considerable distance between the island and the mainland coast. As a consequence:

To count Snake Island as a relevant part of the coast would amount to grafting extraneous element onto Ukraine's coastline; the consequence would be a judicial re-fashioning off geography, which neither the law nor practice of maritime delimitation authorizes (para. 149) [1].

As a result Romania received almost 80 percent of disputed maritime domain in the Black Sea which has increased its continental shelf in a region rich in oil and gas reserves.

The conflict over the use of Danube Delta

The dispute over the use of the transport potential of the Danube Delta has further deteriorated the relations between Romania and Ukraine. In 2004 the Ukrainian government began developing the Danube-Black Sea deep water navigation route in the Ukrainian part of the Danube Delta on the Bystroye canal [8]. The objective of this project, which connects the Danube's Kilia arm with the Black Sea, is to increase the volume of goods transported via Ukrainian ports on the Danube. The Ukrainian project, which claims to offer a higher capacity, two-way traffic and lower fees for ships, represents a direct challenge to Romania's monopoly of goods transported on the Danube Delta and an economic threat to Romania's canal built further upstream which links the Danube to the Black Sea.

Estimates suggests that Romania might lose up to 1,5 million dollars annually as international shipping could use the alternative cheaper Ukrainian route to the Sulina branch of Danube River Delta. Romania claimed, that the Ukraine's canal was threatening the unique eco-system of the Danube Delta. In 2008, Bucharest decided to take the dispute with Ukraine outside bilateral relations and put it on the agenda of the Espoo Convention Implementation Committee (which evaluates the impact on the natural environment in the cross-border context) and of the EU council of ministers for the environment in order to cause these bodies recommend Ukraine cease work on the development of the channel. As a result of Bucharest's allegations the further development of the Bystroye canal has been temporarily blocked [10, p. 24].

Maikan Island is another disputable territory, which belongs to Ukraine. It is situated on the Danube, where the current of the river was agreed to set the Ukrainian-Romanian border. However, as a consequence of a natural change in the trajectory of the current to Ukraine's disadvantage, the island is now located on the Romanian side of the border, and Bucharest is insisting that Kyiv should relinquish its rights to this island [8].

The Conflict over Southern Bessarabia and Northern Bukovina

Since the collapse of the USSR and the emergence of an independent Ukraine Romanian politicians have on numerous occasions called into question the legality of the change of the Romanian-Soviet border in 1940, as a consequence of which Bessarabia (now the Republic of Moldova), Southern Bessarabia and Northern Bukovina on the Black Sea, which had belonged to the Kingdom of Romania, became part of the USSR.

In May 2010, President Basescu thus stated: «Kiev should not forget about the return of Southern Bessarabia and Northern Bukovina, territories which the former USSR annexed from Romania after the Second World War.»

In January 2006, Basescu had declared that «the *minimal policy* of Romania is for the unification of the Romanian nation to take place within the EU.» The notion «*minimal policy*» assumes the existence of a *maximal policy* that presumably goes way beyond mere unification with Moldova. The reality of the project is apparent in the decision to grant Romanian citizenship to all residents of the territories belonging to the pre-1940 Greater Romania and their descendants, up to the third generation including the denizens of Bukovina (Chernovtsy) and southern Bessarabia (Budjak) [11].

The official justification for facilitated access to citizenship for persons who have lost Romanian citizenship «against their will or for other reasons not imputable to them» is mainly framed in the language of justice. The post-communist state assumed the duty to restore Romanian citizenship, albeit upon individual request, to all those who had been unjustly deprived of citizenship status. In this context Traian Basescu stated that It is not citizen Dumitrescu from [the Moldovan city of] Cahul who has decided to lose his [Romanian] nationality, it's Stalin who has decided for him [6, p. 339].

Any conflict between Ukraine and Romania might jeopardize not only the revision of border between two States. Both Ukraine and Romania are objects of geopolitical influence of more powerful players. Therefore, the Ukrain-

ian-Romanian conflict can be deliberately used as an element of destabilization of the situation in South-Eastern Europe with inevitable engagement of Russia and the European Union. That is why Ukraine should review its policy towards Romania and build it on the basis of the following steps:

1. Preservation of Moldova as a buffer between Ukraine and Romania. The viability of Moldova in the long run will determine the level of conflict in relations between Kiev and Bucharest. The disappearance of Moldova from the political map of the world automatically transfers the motion vector of Romania to Ukraine.

2. Ukraine should strengthen its position in Transnistria, as in the case of Romania's absorption of Moldova Transnistria becomes the last buffer which separates Ukraine and Romania.

3. The development of economic projects in the region will integrate the countries of South-Eastern Europe, thus reducing the level of conflict.

Territorial Claims of Hungary

Transcarpathia is a region that has been a part of numerous territorial transfers and occupations in the 20th century, and comprises of large ethnic populations of Hungarians, Rusyns, Romanians and other minorities. Historically an integral part of the Kingdom of Hungary, Transcarpathia was annexed by Czechoslovakia in 1920 as a result of the post-WWI Treaty of Trianon which denied the principles of self-determination or a plebiscite for Hungarian minorities. The region was awarded to Hungary in 1939; and was then ultimately transferred to what was then Soviet Ukraine in 1945. Notwithstanding the regions tangled history, the ethnic composition of Transcarpathia has withstood decades of attempts at forced assimilation and discriminatory practices by governments in Prague, Moscow and Kiev; but has largely retained its 150-160,000 strong Hungarian minority in pocket communities along the Ukraine-Hungary border [5].

The Hungarian government placed considerable diplomatic and public pressure on Ukraine to protect its minority populations. According to the new Hungarian Constitution «Hungary shall bear responsibility for the fate of Hungarians living beyond its borders, and shall facilitate the survival and development of their communities; it shall support their efforts to preserve their Hungarian identity, the assertion of their individual and collective rights, the establishment of their community self-governments, and their prosperity in their native lands, and shall promote their cooperation with each other and with Hungary» [2].

In a speech on March 4, 2014 Hungarian Prime Minister Viktor Orban – whose government has made a cornerstone of its policy the protection of Hungarian minorities – criticized a decision of the new government of Ukraine to repeal the 2012 law «On the principles of the state language policy» which granted the minority language the status of a regional language approving its use in courts, schools and other government institutions in areas of Ukraine where the percentage of representatives of national minorities exceeds 10% of the total population of a defined administrative district. Passage of the repeal bill was met with regret by Hungary who considers it as a tool to suppress minority groups in Ukraine. Viktor Orban expressed Hungary's objection to the abolition

of the Ukrainian language law as illegitimate and unacceptable. Subsequent policy remarks by Orban advocating autonomy as an option for Hungarian minorities aggravated Ukrainian officials who had been already hesitant towards Hungary's liberal citizenship policy towards Hungarian minorities in neighboring states.

Currently the radical nationalist Jobbik party has demanded that full territorial autonomy be granted to the Hungarian and Ruthenian minorities in Transcarpathia. It is a reminder that the West, having failed to stop Russia's «territorial» adjustments in Georgia in 2008 or in Ukraine in 2014, has opened the door not only to Vladimir Putin but to other leaders around the world who may decide that the era of fixed borders is over and that they have everything to gain by seeking to expand their own.

Territorial claims of Poland

Kresy Wschodnie or Kresy («Eastern Borderlands», or «Borderlands») is a term that refers to the eastern lands that formerly belonged to Poland. These territories today lie in western Ukraine, western Belarus, as well as eastern Lithuania.

In the interbellum, the term Kresy roughly equated with the lands beyond the Curson line, suggested in December 1919 by the British Foreign Office as the eastern border for Poland. After the 1919–1921 war between Poland and the Soviet Russia Kresy became Polish. In September 1939, these territories were incorporated into the Soviet Union. Even though Kresy, or the Eastern Borderlands, are no longer Polish territories, the area is still inhabited by a significant Polish minority, and the memory of a Polish Kresy is still cultivated.

In 2014 Poles in the Zhitomir Region demand to form autonomy with broad self-governance rights on the territory of Ukraine. According to the statements made by some representatives of that ethnic minority, «over the last decades they have been going through difficult times being prosecuted and discriminated against by the Ukrainian authorities». The radical nationalist party of Ruch Narodowy together with the Hungarian Jobbik Party has published a joint statement demanding autonomy for the Poles and Hungarians living on the territory of Ukraine [7].

The attachment to the «myth of Kresy», the vision of the region as a peaceful, idyllic, rural land, has been an issue in Polish public discourse. «Restitution Kresy», a recently established organization, was created in 2015 to deal with the return of Polish property in the Western Ukraine. The organization brings together heirs of former owners of property nationalized in 1939-40. With a corresponding database at their disposal they are organizing a group of lawyers to prepare legal actions. The organization wants to return the property to heirs in case they produce evidence to go upon and prove themselves rightful owners.

It could be ignored, but the issue of «eastern Polish borderlands» (Polish Ukraine) is not only a public discourse. Polish schools and vocational colleges run a special course on «eastern borderlands». The students are invited to discuss the topics like «The days of territories' culture», «Guests from Ukraine», «Let's save Polish graves in Ukraine», «Meeting those who love the territories» etc [9].

Implications for Europe: the formation of aspirations to change existing borders in Eastern Europe in places of compact residence of national minorities in the west of Ukraine.

Conclusion

Being a new and important space on the Eurasian chessboard, Ukraine has a strong human potential, considerable opportunities to develop in industrial and agricultural spheres, as well as a favorable geographical position. Zbigniew Brzezinski famously argued that «Ukraine plays the role of a critically important geopolitical pivot» [4, p.46], that requires all geopolitical centers of power to pursue a balanced and rational approach towards Ukraine. United Europe should be no exception.

European decision-makers need a better understanding of historical peculiarities of Ukraine's development and its place in the regional political and socio-economic processes, as well as its ethnic and linguistic diversity. Such an approach will contribute to the genuinely rational foreign policy carried out towards the whole region and particular states, promotion of the interests of European investors, protection of human rights and freedoms, and the security and strengthening of democracy on the European continent.

European politicians and representatives of the expert community must recognize the seriousness of a whole range of external threats to Ukraine. Such an approach will stop their spread as well as contribute to the development of mechanisms and measures to prevent further disintegration of Ukraine and creation of new zones of instability in Eastern Europe.

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Анотація

Дворніченко Д. Ю. Західний кордон України: ризики та потенційні загрози національній безпеці. – Стаття.

У статті аналізуються передумови виникнення та тенденції розвитку викликів безпеці України. Особливу увагу приділено аналізу політичної та дипломатичної боротьби навколо західного кордону України. Визначені ключові осередки потенційної напруги у відносинах України з її західними сусідами.

Ключові слова: безпека, потенційні загрози, територіальна цілісність, територіальні претензії, західні сусіди України.

Аннотация

Дворниченко Д. Ю. Западная граница Украины: риски и потенциальные угрозы национальной безопасности. – Статья.

В статье анализируются предпосылки возникновения и тенденции развития вызовов безопасности Украины. Особое внимание уделено анализу политической и дипломатической борьбы вокруг западной границы Украины. Определены ключевые очаги потенциальной напряженности в отношениях Украины с ее западными соседями.

Ключевые слова: безопасность, потенциальные угрозы, территориальная целостность, территориальные претензии, западные соседи Украины.

Summary

Dvornichenko D. Yu. Ukraine's western border: risks and potential threats to national security. – Article.

The article analyzes the prerequisites of emergence and trends in development of Ukraine's security challenges. Particular attention is paid to the analysis of the political and diplomatic struggle over Ukraine's western border. Key imbroglions in the relations between Ukraine and its western neighbors are identified.

Key words: security, potential threats, territorial integrity, territorial claims, Ukraine's western neighbors.