

Tatiana Shevchuk,
PhD in Law, Associated Professor
Kharkov National University of Internal Affairs
(*Kharkiv, Ukraine*)

THE ENVIRONMENT AS A VICTIM OF THE CRIMES OF RUSSIAN AGGRESSION

Environmental safety is a state of the environment in which the prevention of deterioration of the environmental situation and the occurrence of a danger to human health is ensured. It is an important component of Ukraine's national security, and environmental protection is guaranteed by the state. Ensuring environmental protection is one of the tasks of the Criminal Code of Ukraine (hereinafter referred to as the Criminal Code of Ukraine), which establishes responsibility for criminal offenses against the environment that encroach on public relations in the field of protecting the constitutional right of citizens to a safe environment, use, preservation and reproduction of natural resources, ensuring environmental safety, preventing and eliminating the negative impact of economic and other human activities on the environment, preservation of the genetic fund of wildlife, landscapes, natural complexes, unique territories, as well as natural objects related to historical and cultural legacy.

The full-scale invasion of the Russian Federation poses a significant threat to the environmental security of Ukraine, as an element of national security in its domestic and international dimensions.

The current environmental situation in Ukraine is a crisis precisely because of active hostilities, which damage the land, soils, atmospheric air, land fund of Ukraine, water resources, subsoil, forest fund, objects of the nature reserve fund, which is why the environment can be undeniably considered a victim of the armed conflict.

In this regard, the issue of developing a legal mechanism to ensure the implementation of criminal liability for crimes against the environment in the context of Russia's armed aggression against Ukraine is of exceptional importance.

The entire world community is aware of the long-term nature of the consequences of the damage that has already been caused to the environment by the aggressor. The so-called "silent victims" of war, who suffer today, tomorrow will pose a real danger to all living things, and we will inevitably face the destruction of ecosystems, the reduction of biodiversity, catastrophic pollution of soil, atmospheric air, etc.

The fact that the damage to Ukraine's environment from Russian aggression is colossal and long-term is officially stated by the Ministry of Environmental Protection and Natural Resources of Ukraine, which currently estimates the damage to nature from the war at more than 60 billion US dollars.

Given the countless number of missiles that fell on Ukrainian lands, as well as the unknown number of unexploded ordnances, it is possible to predict a potential danger for many decades [1]. Due to the full-scale invasion of the aggressor state of Russia, Ukraine has become one of the most mined countries in the world.

To date, several enterprises of the energy, chemical, metallurgical industries have been damaged or completely destroyed, the destruction of which has caused a detrimental impact on the environment. Russian troops have contaminated the waters of the Black and Azov Seas with missile and other fuels, which poses a significant threat of an environmental catastrophe on a global scale, and can have detrimental consequences for peace, human security and international law and order. We are talking about ecocide, as the mass destruction of flora or fauna, poisoning of the atmosphere or water resources, as well as the commission of other actions that can cause an environmental catastrophe, a crime, criminal liability for the commission of which is provided for by Article 441 of the Criminal Code of Ukraine.

Ukraine is the first country in the world to investigate war crimes against the environment and ensure accountability for them within the framework of national jurisdiction. We are one of the 15 countries in the world whose legislation provides for liability for ecocide. We and the International Criminal Court are developing national and international standards for prosecuting war crimes against the environment. Thanks to Ukraine's proactive position and the involvement of international partners, the environment is no longer a silent victim of war. Our voice in its defense is heard all over the world, said Prosecutor General of Ukraine Andriy Kostin in his column for the Kyiv Post [2].

The norms of international humanitarian law protect the environment in every possible way, it should not be harmed during military conflicts, which is discussed both in environmental treaties and special treaties, the condition for the application of which is the presence of an armed conflict.

Thus, the Additional Protocol to the Geneva Conventions relative to the Protection of Civilian Persons in Time of War, relating to the Protection of Victims of International Armed Conflicts, provides for a provision according to which it is prohibited to use methods or means of warfare that are intended to cause or can be expected to cause widespread, long-term and serious damage to the environment.

The UN Convention on the prohibition of military or any other hostile use of means of influencing the environment provides for the renunciation of military or any other hostile use of means of influencing the natural environment that have widespread, long-term or serious consequences, as means of destruction, causing damage or causing harm to any other state party.

The Rome Statute, on the basis of which the International Criminal Court operates, expressly prohibits the intentional commission of an attack in the event of the knowledge that such an attack will result in accidental death or injury to civilians or cause damage to civilian objects or large-scale, long-term and serious damage to the environment, which would be manifestly excessive compared to the specific and immediately anticipated overall military advantage.

When conducting hostilities, care must be taken to protect the natural environment from widespread, long-term and serious damage. Such protection includes the prohibition of the use of methods or means of warfare intended to cause or are expected to cause such damage to the natural environment and thereby harm the health or survival of the population.

Ukrainian legislation is gradually being transformed in accordance with the challenges of today, in the direction of neutralizing the effect of negative social processes and social contradictions.

However, to date, several issues remain problematic and unresolved either theoretically or in practice, in terms of ensuring environmental safety, environmental protection and environmental preservation during the period of armed aggression, in particular:

- adaptation of the criminal legislation of Ukraine to threats to the security state of the environment and the development of legal mechanisms for the implementation of legal responsibility for crimes against the environment in the context of Russia's full-scale military aggression against Ukraine;

- ensuring the correct application of the criminal law in terms of distinguishing criminal offenses against the environment with criminal offenses against peace, human security and international legal order;

- implementation of measures to ensure the protection and restoration of violated environmental rights and interests of the population in Ukraine during the war;

- ensuring the correct recording of the facts of criminal offenses against the environment in accordance with the requirements of international judicial institutions in order to establish justice and bring to justice for environmental damage caused by hostilities, and ensuring the inclusion of environmental damage in the international register of damages;

- development of mechanisms for assessing the negative impact on the environment as a result of the full-scale Russian invasion and forecasting the consequences of the war in the medium and long term, etc.

References:

1. Eco action. Nature and War: How Russia's Military Invasion Affects Ukraine's Environment. 01.04.2022 URL: https://ecoaction.org.ua/pryroda-ta-vijna.html?gad_source.

2. View: crimes against the environment are crimes against the future. Kyiv Post, 25.04. 2025 p. URL: <https://www.kyivpost.com/uk/opinion/31678>.