



RUSSIAN MILITARY AGGRESSION AGAINST UKRAINE THROUGH THE PRISM OF HAZARD OF HOSTILE MILITARY AND ANTHROPOGENIC INFLUENCE ON ENVIRONMENT

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ABSTRACT. *The paper deals with the problem issues of the development of new risks and threats to the national security of Ukraine of environmental nature in cause-and-effect relation to military aggression of Russia against Ukrainian country in the Anti-Terrorist-Operation / Joint-Forces-Operation zone. Any type of anthropogenic influence, specifically at wartime is a threat to environment and it can cause an ecological disaster on a planetary scale. The environmental issues are becoming a constituent part of the most important political and law-making processes: new economic order, human rights, and common European process. It is always an independent element requiring deep scientific comprehension. The paper highlights, that the issue of preconditions of the threats to environmental security in the context of deterioration of environmental situation in the zone of Anti-Terrorist-Operation / Joint-Forces-Operation resulting from the direct military aggression of Russia against Ukraine has never been researched into. The main idea of this paper is to make known the facts of environmental problems to the international community and to work out proposals on amending and supplementing some legal documents on state security because the environmental pollution of the territory of Ukraine caused by Russian military aggression is becoming more serious. These abuses and breaches committed by Russia result in damage to Ukraine's natural environment and serve as a precondition for war crimes, linked to a survival of civilians both in the zone of military operation and in neighbouring districts. To determine and assess the environmental damage from Russia's aggressive actions and military equipment and weaponry applied it is necessary to perform together with foreign specialists an environmental assessment of inflicted damage. The paper will provide an opportunity to codify and determine the preconditions, risks, threats and specific actions in case of aggression from any state which results in deterioration of environmental situation and causes damages to natural environment.*

Key Words: *threats, environmental security, international environmental law, natural environment.*

Introduction. Current situation in the eastern part of our country resembles a test site on which Russian regular forces are making use of the whole spectrum of methods and means of real-life warfare, employing mercenaries and militants of illegal armed groups, the so-called DPR and LPR. At that Russia neglects international agreements and codes of warfare in force, applying methods involving certain types of weapons and that resembles the "scorched earth" policy, which may finally result in terrible consequences of environmental nature in the zone of military confrontation in the east of our country.

Any type of anthropogenic influence, specifically at wartime is a threat to environment and it can cause an ecological disaster on a planetary scale. Local ecological disasters are always conditionally local and their consequences influence the environmental situation on the Earth in the whole. The participants of the International UN

conference on climate in December 2015 justly came to a conclusion that every coming year brings irreversible biosphere changes, caused by anthropogenic influence, as a result of which threats of environmental nature that in fact endanger the existence of living organisms, biosphere in general and of a man in particular, are on the increase. That is why the subject of international legal regulations in the domain of environmental protection becomes more and more complicated and acquires complex biospheric, global dimension. That is why environmental issues are now becoming a constituent part of the most important political and law-making processes: new economic order, human rights, and common European process; and it is always an independent element requiring deep scientific comprehension.

Furthermore, in the context of actualization of threats to the national security, defined in the

Strategy of National Security of Ukraine, approved by President's Decree #287/2015 of May, 26, 2015, Ukraine officially recognized the fact of military aggression with the participation of Russian regular forces, advisors, instructors and mercenaries in the warfare on the territory of Ukraine, alongside with the temporary occupation of the territory of the Autonomous Republic of Crimea. At that it is acknowledged that Russian threat is of a long-term nature and thus the creation of a new system of ensuring the national security of Ukraine, foreseen by the Strategy of National Security, is needed. In other words, Ukraine, in fact, recognized that it is in a military conflict with Russia and it is unclear when this confrontation will end. Lastly, all the above-mentioned issues warrant the need to mobilize all the efforts (forces and means) of state's military organization to defend Ukraine, protect its sovereignty, national independence and interests, territorial integrity and inviolability and to counter military aggression effectively. It is necessary to mention that while actualizing the threats to Ukraine's national security in environmental dimension, the Strategy for some unknown reason doesn't address the issue of a threat to environmental security, resulting from direct military aggression of Russia against Ukraine and from the application of methods and means which, in cause-and-effect relation, seriously influence the environmental situation in the zone of military confrontation and the eastern (south-eastern) part of Ukraine on the whole.

Such foreign and Ukrainian researches of ecological law as J. Barros, D. Johnston, A. Springer, V. Andreitsev, N. Barbashova, L. Bondar, I. Bryhadyr, V. Dobrovolskyi, V. Zavorodnia, P. Zahorodniuk, O. Zarzhytskyi, A. Kachynskyi, V. Kurzova, M. Malyshko, O. Olhynskyi, O. Piddubnyi, L. Strutynska-Struk, O. Khimich, V. Shmandii and many others paid a lot of attention both to domestic and international aspects of legal regulation of environmental protection.

That means that the issue of monitoring of the environmental situation in terms of threats to Ukraine's national security in conditions of anti-terrorist operation, of scientific analysis and development of preventive measures of countering these threats are of urgent importance now. At the same time, it is necessary to recognize the fact that the issue of preconditions of the threats to environmental security in the context of deterioration of environmental situation in the zone of

Joint Forces operation resulting from the direct military aggression of Russia against Ukraine has never been researched into.

The purpose of this article is to make a review and systematic analysis of international legal regulations on the protection of natural environment in the context of possible risks and threats to environmental security of Ukraine in conditions of Russia's military aggression against Ukraine; and to work out proposals on amending and supplementing some legal documents on state security, in terms of deterioration of environmental situation, resulting from aggressive actions of Russia against Ukraine, documenting and making these facts known to the international community.

Methods. The methodology applied is based on the scientific and special methods of theoretical research based on the dialectics' laws (scientific literature review, historical method, conceptual analysis of international and national ecological laws, synthesis, deductive and inductive reasoning, generalization, systematization, comparison and judicial methods, sociological research, model and forecasting methods) with the aim to present and set forth effectively the necessity of international legal regulations on the protection of natural environment, and therefore the importance of the determining and assessing the environmental damage from Russia's aggressive actions and military equipment and weaponry applied it is necessary to perform an environmental assessment of inflicted damage in Ukraine.

Discussion. International law plays the key role in ensuring international security including the environmental sphere. For the moment, a relatively independent branch – the law of international security, which is a subsystem within the framework of a coherent system of international law – has developed.

The rules of international security law are codified in many international legal documents, first of all in the UN Statute, statutes of different regional collective security organizations, agreements on disarmament and limitation of the number of armed forces, treaties on mutual trust and some other legal documents. The core of the international security law is formed by the main principles of international law – non-use of force and threats of force, non-interference in the internal affairs and others. At the same time the law of international security has its own special

principles – the principle of equal security and the principle of non-doing harm to states' security [1, 2].

International legal regulation on the protection of natural environment is formed as an independent system of law with its strong internal correlations, structure, specific sources, principles and institutions. Further development of international legal protection of natural environment seeks to expand the sphere of its application, considering the emergence of new kinds of influence upon the environment. The use of different environmental modification techniques for military purposes has become one of the latest "achievements" of mankind. A new specific form of interstate relations is emerging, and the regulation of these relations is currently beyond the framework of conventional system of branches of international law.

Some researchers name this system of international law on environmental protection the "international law of contamination". Some legal systems have agreed on the term "international law of environmental protection" (ILEP).

For the moment, there are theoretical and practical grounds to consider ILEP a separate system of rules that regulate a specific sphere of social relations and form an independent branch of international law, which possesses necessary qualities [3].

ILEP framework agreements and acts of quasi-normative nature, sometimes called as "soft law" (declarations, charters, strategies, ruling principles of states' behaviour in the sphere of environmental protection, adopted by international organizations) have become especially widely used. As recommended by the UN Conference on Human Environment (Stockholm, 1972), the UN based international agency – UN Environment Programme (UNEP) – was created. It was tasked with coordinating already existing and development of new environment programs within the UN.

According to UNEP nowadays there are about three hundred general, regional and bilateral international agreements and decisions of international organizations and conferences on the problems of environment. The most important of these are: Stockholm Declaration of the United Nations Conference on the Human Environment (1972), Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (1977) and two of

Geneva Conventions on its review of 1984 and 1992, UN General Assembly Resolution "Historical Responsibility of States for the Preservation of Nature for Present and Future Generations" (1980), World Charter for Nature (1982), a number of conventions, aimed at protection of sea environment, including UN Convention on the Law of the Sea (1982), Vienna Convention on the Protection of the Ozone Layer (1985), Convention on Early Notification of a Nuclear Accident (1986), Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency (1986) and some others.

The majority of the agreements were reached under the auspices of the UN Economic Commission for Europe: Convention on Long-Range Transboundary Air Pollution of 1979, Convention on Transboundary Effects of Industrial Accidents of 1992, Convention on Protection and Use of Transboundary Watercourses and International Lakes of 1992, and Convention on Environmental Impact Assessment in a Transboundary Context of 1991 [4].

The most important event, which marked the beginning of a qualitatively new phase of international protection of environment, was the UN Conference on Environment and Development that was held in June 1992 in Rio de Janeiro. At this conference, a big number of vital issues of international cooperation in the sphere of environmental protection and economic development, creation of conditions for global partnership for conservation and protection of the Earth's ecosystem was considered. Some key international legal documents were adopted: Rio Declaration on Environment and Development, Convention on Biological Diversity, Framework Convention on Climate Change, and the Agenda for the XXI century – an overarching collection of guidelines for countries, governments, international and non-governmental organizations, fulfilment of which has to ensure the protection of environment and sustainable development in the XXI century. Rio Declaration, advancing the ideas of Stockholm Conference, contains 27 principles that are of vital importance for the development of international environmental law.

These principles reflect the concept of "global partnership", which provides for the necessity to consider specific conditions and needs of the countries with transitional economies, among which Ukraine and Russian Federation were listed. According to the decision of the Conference

a new body within the UN was instituted – Commission on Sustainable Development. The majority of states participated in its formation. Thus, the Conference became the very forum, after which the concepts of natural environment and social and economic development cannot be isolated one from another anymore [4].

A great deal of attention to the problems of natural environment is paid by the Organization for the Security and Cooperation in Europe (OSCE), in particular in terms of development of a large-scale nature conservation road map for Europe. A lot of agreements on countering transboundary pollution of environment were made within the European community (Treaties of the Council of Europe).

International community paid specific attention to the international legal prohibition of military environmental modification techniques. Among international legal documents on environmental protection at time of war, which date to the XIX century, it is necessary to mention Saint Petersburg Declaration of 1868; Hague Convention on Laws and Customs of War on Land of 1907 and its Provisions; Geneva Convention Relative to the Protection of Civilian Persons at a Time of War of 1949; Additional Protocol I of 1977; Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (1977); Convention on Certain Conventional Weapons of 1980; UN General Assembly Resolution #47/37 "Protection of Environment in Times of Armed Conflict" of 1992. Article 35 of the Additional Protocol I, for instance, contains the formalized principle of environmental protection a ban on the application of such means or methods of warfare that are aimed at or may cause large-scale long-term and serious damages to environment. Damaging the environment as an act of reprisal or targeting the environment are also prohibited [2, 5, 6, 7].

Even the everyday routine of armed forces at the time of peace may harm the ecosystem significantly both in an obvious and hidden ways. First of all, it is linked to the development, testing, dismantling and burial of the samples of weapons, military equipment, ammunition, and also to the operation of military facilities [2].

Conducting military operations in eastern parts of Ukraine, Russian Forces, alongside with supported by them mercenaries and militants of LPR and DPR illegal armed groups, which claim to be protecting "Russkiy mir" ("Russian world") in

Donbass, not only bring about losses of lives and damages, but also harm significantly the environment of the eastern region. According to OSCE more than 10 thousand people, including citizens of Russia lost their lives in the east of Ukraine. Among them there are more than 5 thousand Ukrainians, including volunteers, members of territorial self-defence groups, Army and law-enforcement. There are a lot of wounded and missing persons. Also, there are significant losses among the civilians. Hundreds of thousands of locals had to abandon their houses.

At present terrorists with the support of the Russian Army and mercenaries hold under control more than a third of the Joint Forces operation zone. Other territories, that were freed, are the so-called deseparatised zones. Deterioration of the environmental situation in the east of Ukraine is not the internal Ukrainian problem of a slow annihilation of Ukrainian citizens in the ATO zone; it is a problem that directly influences the environment both on the regional and global scales.

At the same time the environmental pollution of the territory of Ukraine caused by Russian military aggression is becoming more serious. In the course of the military operation Russia is trying to utilize its outdated ammunition by shelling the Ukraine controlled parts of the Joint Forces operation zone. That worsened the environment and became a precondition to the increase in risks and threats of environmental nature both to the national security of Ukraine and to the security of many states in the region.

That is why the Ukrainian authorities have to intensify their activities on identification and documenting the facts of the application of illicit methods and means of warfare by the Russian Forces, mercenaries and illegal armed groups of quasi-republics of LPR and DPR (that act with the support of Russia). The final goal is to submit all the documented facts to international organizations, first of all to the UN and its Security Council. Major efforts should be directed at the determination of the risks and threats to the environmental security of our country at the time of war, namely: contamination of soil, underground waters, water basins, ponds and reservoirs; contamination of river bed silt; destruction of hydrological system of the area that hamper the drinking water supply; erosion of soil and linked to this limitations on the use of particular lands; contamination of the upper layer of the forest grounds

and of forest plants by the military machinery and gunfire; a threat to forest and endangered animals and plants, cases of mass bird and fish deaths; to utilization of outdated ammunition and chemical waste of military nature by shelling the Ukraine controlled parts of the ATO zone and etc.

In the course of its military aggression against Ukraine Russia has broken, among others, international acts on prohibition of military and other hostile environmental modification techniques. That is why, with the support of the international community, using the collected information and strengthening sanctions it is possible and necessary to make Russia stop the abuse of international law and act according to its obligations within international agreements and admitted principles of international law.

Further neglect of the rules imposed by the international community may put Russia beyond the framework of international law and finally, if there is enough evidence, the notion of criminal responsibility of Russia's political leaders according to the provisions of the Rome Statute of the International Criminal Court for war crimes may be brought about, including the crimes, connected with the creation of dangerous (aggressive) environment that can potentially cause mass loss of human lives in the warzone. Article 8 of the Rome statute of the International Criminal Court names, among others, such crimes of war as Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated [2].

Conclusions. Systematic analysis of corresponding international laws and of current situation in the zone where Russian military aggression is met with rebuff in the framework the oper-

ation of Joint Forces gives evidence for the conclusion that there is massive abuse and breaches of international environmental law committed by the Russian Federation.

These abuses and breaches committed by Russia result in damage to Ukraine's natural environment and serve as a precondition for war crimes, linked to a survival of civilians both in the zone of military operation and in neighbouring districts.

Hence, all law-enforcement and specialized services should take necessary measures to obtain and document the information about environmental crimes committed.

To determine and assess the environmental damage from Russia's aggressive actions and military equipment and weaponry applied it is necessary to perform together with foreign specialists an environmental assessment of inflicted damage.

Moreover, in order determine strict correlation between environmental threats and environmental losses resulting from Russian military aggression against Ukraine it is suggested to amend Article 7 (heading "in the sphere of ecology") of the Law of Ukraine "On the fundamentals of national security of Ukraine" and Clause 3.9 of the National Security Strategy of Ukraine, approved by the Decree of the President of Ukraine of May, 26, 2015, #287/2015 by adding o specific paragraph containing the following: "a severe deterioration of a natural environment linked to a survival of Ukrainian people resulting from military aggression or from application of military and other hostile environmental modification techniques". The mentioned above will provide an opportunity to codify and determine the preconditions, risks, threats and specific actions in case of aggression from any state which results in deterioration of environmental situation and causes damages to natural environment.

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РОСІЙСЬКА ВІЙСЬКОВА АГРЕСІЯ ПРОТИ УКРАЇНИ ЧЕРЕЗ ПРИЗМУ ЗАГРОЗ ВІЙСЬКОВОГО ТА АНТРОПОГЕННОГО ВПЛИВУ НА ДОВКІЛЛЯ

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РЕЗЮМЕ. У статті розглядаються проблемні питання розвитку нових ризиків та загроз національній безпеці України екологічного характеру у причинно-наслідкових відносинах до військової агресії Росії проти України в рамках проведення операції Об'єднаних сил (далі – ООС). Зазначається, що будь-який тип антропогенного впливу, зокрема у воєнний час, є прямою загрозою для довкілля і може спричинити екологічну катастрофу в планетарному масштабі.

Мета дослідження: донести до відома міжнародного співтовариства факти екологічних проблем у зоні ООС та виробити пропозиції щодо внесення змін та доповнень до деяких міжнародних та вітчизняних нормативно-правових документів з питань національної безпеки, оскільки забруднення навколишнього середовища території України, спричинене військовою агресією Російської Федерації (далі – РФ), набагато серйозніше, ніж вважає міжнародна спільнота. Злочинні дії РФ призводять не тільки до шкоди навколишньому природному середовищу України, а й інших країн, адже локальні екологічні проблеми є чисто умовними. Такі дії РФ слугують передумовою щодо військових злочинів, пов'язаних із виживанням у складних екологічних умовах цивільних осіб як у зоні військових дій, так і в сусідніх районах країни, отже, підпадають під кримінальну відповідальність не тільки українського законодавства, а й міжнародного. Пропонується визначити та оцінити екологічну шкоду від агресивних дій РФ, від застосовуваної військової техніки та озброєння на сході України. Спільно з іноземними фахівцями провести екологічну оцінку завданої шкоди. Документ надасть можливість кодифікувати та визначити передумови, ризики, загрози та конкретні дії і в подальшому у випадку агресії з боку будь-якої держави, що призводить до погіршення екологічної ситуації та заподіяння шкоди навколишньому природному середовищу.

Ключові слова: безпека, довкілля, забруднення, кримінальна відповідальність, міжнародне співробітництво.

РОССИЙСКАЯ ВОЕННАЯ АГРЕССИЯ ПРОТИВ УКРАИНЫ В ПРИЗМЕ УГРОЗ ВОЕННОГО И АНТРОПОГЕННОГО ВОЗДЕЙСТВИЯ НА ОКРУЖАЮЩУЮ СРЕДУ

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РЕЗЮМЕ. В статье рассматриваются проблемные вопросы развития новых рисков и угроз национальной безопасности Украины экологического характера в причинно-следственных отношениях к военной агрессии России против Украины в рамках проведения операции Объединенных сил (далее – ООС). Отмечается, что любой тип антропогенного воздействия, в частности в военное время, является прямой угрозой для окружающей среды и может вызвать экологическую катастрофу в планетарном масштабе.

Цель исследования: донести до сведения международного сообщества факты экологических проблем в зоне ООС и выработать предложения по внесению изменений и дополнений в некоторые меж-

дународные и отечественные нормативно-правовые документы по вопросам национальной безопасности, поскольку загрязнение окружающей среды территории Украины, вызванное военной агрессией Российской Федерации (далее - РФ), гораздо серьезнее, чем считает международное сообщество. Преступные действия РФ вредят не только окружающей среде Украины, но и других стран, ведь локальные экологические проблемы являются чисто условными. Такие действия РФ служат предпосылкой военных преступлений, связанных с выживанием в сложных экологических условиях гражданских лиц, как в зоне военных действий, так и в других районах страны, следовательно подпадают под уголовную ответственность не только украинского законодательства, но и международного. Предлагается определить и оценить экологический ущерб от агрессивных действий РФ, от применяемой военной техники и вооружения на востоке Украины. Совместно с иностранными специалистами провести экологическую оценку ущерба. Документ позволит кодифицировать и определить предпосылки, риски, угрозы и конкретные действия и в дальнейшем в случае агрессии со стороны любого государства, что приводит к ухудшению экологической ситуации и наносит вред окружающей среде.

Ключевые слова: безопасность, окружающая среда, загрязнение, уголовная ответственность, международное сотрудничество.

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