

N. A. Makarenko<sup>1</sup>,  
orcid.org/0000-0001-7772-0047,  
O. Yu. Makarenko<sup>\*1</sup>,  
orcid.org/0000-0002-3020-0658,  
Yu. A. Krasnova<sup>2</sup>,  
orcid.org/0000-0001-7898-9603,  
O. V. Nazymko<sup>1</sup>,  
orcid.org/0000-0001-5418-7438,  
D. D. Ivanenko<sup>3</sup>,  
orcid.org/0000-0002-6728-4488

1 – Donetsk State University of Internal Affairs, Kryvyi Rih, Ukraine  
2 – State organization “V. Mamutov Institute of Economic and Legal Research of the National Academy of Sciences of Ukraine”, Kyiv, Ukraine  
3 – Donetsk State University of Internal Affairs, Kropyvnytskyi, Ukraine  
\* Corresponding author e-mail: [a.y.makarenko@gmail.com](mailto:a.y.makarenko@gmail.com)

## PROBLEMS OF PROSECUTION FOR CRIMES AGAINST ENVIRONMENTAL SECURITY IN THE CONDITIONS OF MARTIAL STATE

**Purpose.** To conduct a study on the problematic issues of prosecution for certain offenses (crimes) related to environmental safety, conduct a study on the criminalization of violations related to environmental safety under martial law. To develop proposals for improving the norms of current legislation in this area.

**Methodology.** The methodological basis of the study is a system of general scientific methods and approaches that provide an objective analysis of the subject under study.

**Findings.** Taking into account the need to properly record the damage caused and obtain an evidentiary base for both national courts and international judicial authorities, it is expedient to urgently develop “Methods for determining damage caused to the natural environment as a result of armed aggression”, which should be approved by a resolution of the Cabinet of Ministers of Ukraine. This will allow obtaining an effective bylaw as quickly as possible. Also, in our opinion, it is expedient to develop the Law of Ukraine “On Establishing Damages Caused by Armed Aggression Against Ukraine” to provide in a broader scope both the appropriate methodology for fixing damages and the circle of authorized persons who can fix such damages. Additionally, it is necessary to provide for the obligation of local self-government bodies to carry out an environmental audit in the territories where hostilities are not taking place, or immediately after their end, with the aim of the fastest fixation of environmental damages and the circle of persons who caused them.

**Originality.** New aspects of the issue of prosecution for crimes against environmental safety in martial law conditions were analyzed on the basis of the analysis of the domestic legal framework, reports and analytical conclusions of representatives of law enforcement agencies of Ukraine, as well as international treaties ratified in Ukraine, and proposals aimed at improving the norms were substantiated current legislation.

**Practical value.** The results of the research are important for legal advisers, practicing lawyers and advocates, teachers and scientists engaged in the research on the relevant issues.

**Keywords:** *liability, environmental safety, tort, crime, damage, damages caused, martial law*

**Introduction.** Currently, Ukraine as an independent, democratic and legal country has faced countless challenges and problems, each of which has the right to a separate scientific study and appropriate ways to solve the problem. It is quite possible that the chosen research topic will not appear to be very important in the eyes of others, but we are sincerely convinced that it would be wrong to underestimate its importance for current and future generations, since the provision of environmental safety in Ukraine is not appreciated by the majority, and the negative consequences that may arise in the event of a violation of environmental safety, will have an impact on both individuals and large industrial enterprises and the country as a whole.

The armed aggression of the Russian Federation towards Ukraine has significantly affected many components of our life, industries and economy, and of course, this influence affects not only our country but also other countries worldwide as a whole. This impact has extreme and long-term consequences at both the micro and macro levels. In addition, it is worth noting that armed aggression has led to the emergence of many risks for citizens and individuals, such as the risk of losing property, health, and death, as well as risks for legal entities (enterprises) that are directly related to the possibility of carrying out their economic activity, the ability to perform contractual obligations or physically exist.

It is obvious that everyone has the full right to determine the priority of such risks and the importance of challenges at their own discretion, but we believe that one of the sufficiently

important issues of the consequences of armed aggression is the issue of compliance with environmental safety. It is undoubtedly an important issue in Ukraine both for us and for the countries that share a common border with Ukraine, and it is important for the whole world. The relevant statement is supported by a significant list of facts, starting from the fact that nuclear power plants operate on the territory of Ukraine, and the facts that a significant number of powerful industrial enterprises operate on the territory of our country, some of which have ceased to operate at the time of writing the article and have been physically destroyed (as the Azovstal Metallurgical Plant and the Mariupol Metallurgical Plant named after Ilyich). Environmental safety is undoubtedly an extremely important component in a safe future of the world. It is also worth noting that the interconnectedness of completely different problems that arose in connection with armed aggression is also confirmed by the fact that on December 21, 2022, the economic court of Zaporizhzhia Oblast began considering the bankruptcy case of the above-mentioned enterprises.

Thus, in a speech on “Ecological Safety”, the Minister of Environmental Protection and Natural Resources of Ukraine, Ruslan Strilets noted that since the beginning of the invasion of the Russian Federation on the territory of Ukraine, no less than two hundred and fifty-seven cases of ecocide had been recorded. Among such cases, there were reductions by burning combustible material warehouses, oil product bases, which in turn creates complex negative consequences for both business and the natural environment. Additionally, it is appropriate to note that aviation damage was carried out to strategic enterprises of the chemical industry, critical infrastructure (including sewage

treatment facilities), loss of fertile soil properties, burning of bushes and forests, and destruction of nature reserves [1].

The problematic issues of environmental crime make a separate topic for research, both in the field of environmental protection and in terms of responsibility issues associated with several possible types of the last one, namely disciplinary, administrative-legal, material (civil-legal) and, accordingly, criminal as the most severe possible responsibility, which is directly indicated in Article 68 of the Law of Ukraine "On Environmental Protection" [2]. However, the criminal liability is the most severe and requires additional study and research. It is described in the eighth chapter of the Criminal Code of Ukraine. The issue of legal responsibility for individual actions, including those of nature-use entities (both individuals and legal entities, including mining and beneficiation enterprises), has been repeatedly studied by scientists, and of course, criminal liability, as the most effective way of deterring and protecting against relevant offenses, has worked effectively enough. However, with the beginning of the armed aggression, the number of criminal offenses (crimes) increased significantly, and the possibility of stopping offenses and bringing the guilty to justice decreased significantly, for objective reasons. The authorities of Ukraine have also repeatedly drawn the attention of the world community to the environmental consequences of the armed aggression, as these consequences will affect the entire world.

Punishment, primarily provided for by the Criminal Code of Ukraine, may be applied to relevant subjects who, in turn, have committed criminal offenses with a corresponding (high) level of environmental danger both to human health and life, and to the natural environment, especially if the damage to the environment is particularly large [3].

Currently, the number of such offenses and real damages cannot be reliably established. Even at the time of writing this article, the actual losses have already increased significantly, and at the time of publication, unfortunately, the situation will continue to deteriorate. The consequences for the natural environment from the destruction of large industrial enterprises in Donetsk region are, in general, colossal. But in addition, the destruction of the enterprise has a direct impact on both labor and tax relations, which actually affects entire related industries.

Thus, to date in Ukraine, according to the materials of the Security Services of Ukraine, 184 criminal proceedings regarding environmental crimes were opened in 2020–2021 alone – the head of the Security Service of Ukraine, Ivan Bakanov, reported this at a meeting in the Prosecutor General's Office [4]. Of course, the fact of initiation of criminal proceedings does not mean that it will be successfully investigated, the materials will be submitted to the court, and the guilty persons will be brought to justice as a result of a guilty verdict. However, such a number of proceedings initiated by only one law enforcement agency confirms the high level of the problem.

Certainly, for objective reasons, in recent years, the topic we chose for research was not studied regarding the specifics of armed aggression, and only after the beginning of full-scale armed aggression, we all began to understand the consequences of environmental crimes, there was an urgent need for both scientific research, regulatory and legal changes in many areas of law, which in turn should provide theoretical and practical tools for the work of law enforcement agencies, authorities and local self-government.

The majority of scientists studied the problems related to the concept, system, qualification of environmental crimes, in particular, crimes against environmental safety, which formed a significant mass of scientific information. However, environmental crimes under martial law have not been widely studied in the scientific literature of Ukraine and need to be studied, since the state in the person of relevant specialists was not ready to work under martial law. The investigation of crimes in the relevant direction requires new norms, or changes to existing ones in criminal procedural law, training of persons authorized to investigate environmental crimes under martial law. The cor-

responding gaps in the legislation and, therefore, the relevance of the topic is explained extremely simply, the last time we really needed the appropriate legal tools was several decades ago.

The impact of criminal law on environmental crime is determined primarily by the perfection of norms that establish responsibility for environmental violations. Therefore, criminal legislation in the field of environmental security must meet the requirements of internal consistency and systematicity, because improved legislation that does not have gaps is a guarantee of improving state institutions.

**Literature review.** Practical and theoretical problems of the criminal process and criminal-legal protection of the natural environment were discussed in the works by famous scientists, in particular, S. B. Havrish, A. P. Hetman, M. I. Verevicheva, O. L. Dubovik, and other.

However, considering the above-mentioned relevance of the topic, it is appropriate to admit that before the armed aggression of the Russian Federation against Ukraine on February 24, 2022, the indicated topic, in the definition formulated by the authors, was not researched at all, as it was not realistic and not relevant for Ukraine at that time. Of course, a part of scientific research in the direction of studying the issue of responsibility (including criminal) for so-called environmental or natural resource crimes was present, administrative and material (civil-legal) responsibility was also studied separately. Ukrainian scientists also studied the issue of responsibility for the specified crimes (offences) of both individuals and legal entities, as a result of which changes were made to the current Criminal Code of Ukraine. Thus, as a result of such changes, at the moment, the highest punishment for legal entities can be liquidation, which is actually an analogue of the death penalty for an individual (which is currently absent as a punishment in Ukraine). However, all these studies and practical changes did not take into account the specifics of hostilities or armed aggression of other countries in relation to Ukraine. By the way, such type of punishment as the liquidation of a legal entity can be applied for several types of crimes.

Therefore, although we recognize certain progress in legal science, in the study on issues of legal and criminal responsibility for crimes (offences), protection of environmental safety, we believe that some of the problematic issues of the specified topic have not been covered, especially in relation to crimes committed during the war state. Taking into account the above, we believe that the need for further scientific research on national environmental, criminal and other legislation, taking into account new approaches in the specified field, is necessary.

At the moment, we should note that Ukrainian legislation is changing extremely quickly, trying to respond to modern challenges. It is Ukrainian science and Ukrainian scientists and practitioners that should first of all respond to modern challenges by analyzing practice and proposing qualitative and effective changes to regulatory and legal acts.

**Unsolved aspects of the problem.** Carrying out scientific research on the mentioned topic, we must remember that martial law has been imposed on the territory of Ukraine, introduced in accordance with the Decree of the President of Ukraine No. 64/2022, which, in accordance with the current legislation, was approved by the Law of Ukraine No. 2102-IX. In fact, a special legal status has been introduced on the territory of our country, which affects the regulation of social relations.

At the same time, even in conditions of martial law, we must note that the task of regulating any social relations in this area, including those related to environmental crimes, is first of all to comply with the requirements of environmental legislation, to build a coherent system in which with the help of certain regulators (rules of law) relations between various subjects will be regulated [5].

At the present time, environmental changes, which are threatening to all mankind, are increasingly dangerous, crimes that cause significant damage to the environment, and especially crimes during the war period, destabilize the already

tense ecological situation. Our country has not experienced hostilities on its territory for many decades, and therefore, did not feel the need for the development of an appropriate legal framework and, of course, did not have the practice of formulating and applying norms.

Confirmation that both society and the state are aware of the reality of the relevant risks is the change in state policy in the field of ecology. The key directions and foundation of the corresponding policy, in turn, are approved in the Law of Ukraine “On the Basic Principles (Strategy) of the State Environmental Policy of Ukraine for the Period until 2030” [6].

The concept of ecological danger can be considered at different scales, such as local, regional, and global. However, environmental safety is limited in time and space, we mean that the changes that have occurred and will occur may become irreversible and go from local to global [7].

**Purpose.** To conduct a study on the problematic issues of prosecution of responsibility for individual offenses (crimes) related to environmental safety, to determine a number of common features that will allow one to single out crimes against environmental safety into a relatively independent group, to conduct a study on the criminalization of violations related to environmental safety in military conditions state, which has nationwide importance, and we also do not exclude global significance, the results of which are important for both law-making and law-enforcement activities. It, in turn, will be important for the scientific and practical activities of legislators, representatives of the authorities and local self-government, practicing lawyers and legal advisers, as well as law enforcement and judicial bodies.

**Objectives of the study:**

1. To analyze regulatory and legal measures to ensure environmental safety on the territory of Ukraine.

2. To carry out a comprehensive analysis of the effectiveness of the implementation of the prosecution mechanism for environmental crimes under martial law.

3. To carry out an analysis of the regulatory and legal framework that is used today when prosecuting environmental crimes.

4. On the basis of the conducted analysis, to draw a conclusion regarding possible effective changes to the already existing legislation, with the aim of improving the effectiveness of prosecuting persons for environmental crimes.

**Materials and Methods.** The methodological basis of the research is a system of general scientific methods and approaches that provide an objective analysis of the subject under the study. With the help of the study on issues of activity of the current regulatory framework of Ukraine in terms of criminal responsibility for crimes in the field of environmental safety, and with the help of the study of the authors’ scientific works in the relevant fields, the work extensively researched today’s problems related to environmental safety, as well as the features of environmental safety as an object of criminal law protection of the environment not only in Ukraine, but also in other countries of the world.

**Results.** With the beginning of the armed aggression on the territory of Ukraine, the relevant combat actions actually took place on the territory of several regions, strong industrial giants, critical infrastructure facilities (including water and energy), fuel and lubricant storage facilities, and oil depots directly. Among other things, we experienced the burning of forests, the mining of a large area of territory, the destruction of forest plantations, the pollution of water bodies, etc. Of course, all the actions listed above had immediate and will have even greater negative consequences. First of all, such actions lead to extraordinary material losses for individuals, legal entities and the state, but incomparably more significant is the damage caused to the surrounding natural environment, damage that cannot be fully established in the current period of time.

At the same time, the state, in the form of authorized persons, continues to record the relevant damage, create and improve existing legal mechanisms. Since March 1, 2022, as Oleh Bondarenko, the head of the committee on environmental

policy and nature management, has noted, an operational headquarters has been created and is working to form a single register of damages that we have suffered due to the armed aggression of the Russian Federation against Ukraine. The main tasks of the Headquarters include the recording, calculation and systematization of damages caused to the natural environment, maintaining a single register of such damages; this makes it possible to identify and analyze cases that may pose a potential danger to the environment and the population, which will help save the lives and health of people in the future.

It should also be noted that on the twenty-ninth of April 2022, the Cabinet of Ministers of Ukraine, as the central body of the executive power, approved changes to the Procedure for determining the damage caused to Ukraine due to the armed aggression of the Russian Federation, and expanded the directions by which the damage caused to the environment of Ukraine will be determined [8]. In this part, it is important for us to understand that with the help of the law, as a regulator of relevant social relations, sub-legal normative legal acts are in force. In this part, the quick and efficient work of the Cabinet of Ministers of Ukraine can provide us with really effective regulators.

Of course, the damage caused on the territory of Ukraine because of armed aggression is large-scale and multifaceted, both from the point of view of the ways it was caused and from the point of view of possible consequences. As the most critical for negative consequences in the future, such facts as fires, ignitions at enterprises of the chemical and oil refining industries, namely bases for the preservation of petroleum products, storages of nitrate and ammonia, damage to gas pipelines of various pressures, destruction of ships in the Black Sea area were recorded. This, in turn, caused damage to atmospheric air, fertile soils, and water bodies. It should also be noted that at least part of the damage caused is completely impossible to eliminate.

Within the framework of the research and to confirm the importance and relevance of the topic, we also cannot help but pay attention to the problem, which caused concern not only in Ukraine, but also in the world community. From the point of view of international law, the fact of the seizure of the Chornobyl nuclear power plant on the first day of the full-scale invasion of the Russian Federation against Ukraine – February 24, 2022 – was so blatant. The fact of the seizure of the Chornobyl nuclear power plant by the military of the Russian Federation has been established and confirmed. Control over the station took place for several weeks. The absurdity of the situation also lies in the fact that the military personnel of the aggressor country were for a long time in premises with an elevated radiation background, which many times exceeded the permissible standards. The fact that the materials from which the fortifications were built, including soil and sand, also had a radiation background that exceeded safe permissible standards has been scientifically proven. This was also confirmed by the deceased Minister of Internal Affairs of Ukraine, Denys Monastyrskyi, based on the results of his trip to the station March 4, 2022.

The South Ukrainian NPP was also under direct threat of shelling, which in turn also confirmed the violation of international agreements signed by the aggressor country itself. Moreover, the use of nuclear power plants for military purposes in general is an action that cannot be imagined in the modern civilized world, and which carries extremely high risks for both Ukrainians and other nations of the world.

The Zaporizhzhia NPP is still under the control of the occupiers, they left the territory of the Chornobyl zone on March 31, 2022. However, the consequences of their finding turned out to be catastrophic. As shown by an independent investigation conducted by the German Greenpeace, the military occupation of the Chornobyl zone led to an increase in the level of radiation in the occupied territories of the Polish-Lithuanian Commonwealth (and the matter may refer not only to Ukraine, but also to the Republic of Belarus) [9].

The scientific assessment made by the “Conflict Observatory”, which notes that in fact, the negative consequences for



the environment began to occur even before the date of the invasion, namely by February 24, 2022, cannot be overlooked. Accumulation of a significant number of military personnel, heavy equipment, along with consumption of resources necessary for their presence in a certain territory, inevitably affects the surrounding natural environment. This is a significant consumption of food, petroleum products and, accordingly, a significant production of vital products, including CO<sub>2</sub>. Can such activity not cause damage to nature? The answer is obvious, no.

The ecosystem of Ukraine plays an extremely important role for Europe. It covers 35 percent of Europe's biodiversity, it is home to more than 70,000 biological species, 29 % of the territory of Ukraine consists of natural vegetation, as well as cultivated natural vegetation (for example, well-kept pastures and hedges). Forests make up 16 % of the territory of Ukraine. Almost 63,000 rivers flow through Ukraine. Also, 11 % of the Carpathian mountain massif is located in the territory of Ukraine, where a third of all plant species in Europe grow [10]. All this is the property not only of the Ukrainian people, but also part of the world.

It should be noted that rivers, as water bodies, also suffer during Russian aggression. Any water resource, in conditions of lack of water and drinking water directly on the planet, is very important. Dnipro, for example, is, in a certain sense, a strategic water body in Europe, one of the five largest. In March 2022, after another aerial bombardment, significant volumes of untreated water resources from the city of Zaporizhzhia entered the Dnipro [11].

However, such consequences on the environment are not the greatest. Forest facilities suffered separate damage due to burning and the Black Sea water area, where a significant number of dolphins died. Some scientists believe that the death of Black Sea otters is a consequence of the increase in shipping in the water area and the negative impact of noise. Although, there are organizations that collect relevant information, record the facts of the damage caused, which in turn will be used to qualify and bring the culprits to justice. For example, this activity is carried out by the national natural park of the Tuzlovsky estuary of Ukraine [12]. The specified consequences for the natural environment may be irreparable, and the lost resources, including the part of the population of certain animals and mammals, may turn out to be non-renewable.

The authors can define Liability for violations of environmental legislation as a set of legal remedies established by legislation (administrative, criminal, civil, labor, financial, etc.), which are used in cases of violations of the requirements of environmental protection and ecological safety of the population, conditions, and regime of use of natural resources, causing damage to the surrounding natural environment [13].

We should note that when working on the topic of responsibility for any crimes (criminal offenses), including environmental ones, we can classically talk about four types of responsibility. It is, respectively, criminal, as the most severe, material, or civil-legal, administrative and, accordingly, disciplinary. All of them are specified in Article 68 of the Law of Ukraine "On Environmental Protection" [14]. Of course, each of the types of responsibility can and should be considered separately both in the theoretical or scientific, and in the practical plane.

The most effective mechanism for the regulation of relevant relations, the mechanism that allows bringing the guilty to justice and carries out certain preventive activities, is criminal liability for environmental crimes. This type of responsibility is enshrined in Chapter VIII of the Criminal Code of Ukraine and, under certain articles, provides up to 10, 12 years of imprisonment [3]. We have already explained the position of choosing the topic of scientific research. Although, each of the types of responsibility for the specified crimes can be discussed separately within the limits of scientific research, we consider criminal responsibility to be the most effective in terms of the level of threats and the depth of social danger of environmental crimes.

As a specific example, we can indicate such a composition of a criminal offense (crime) as the intentional destruction or

damage of territories under the protection of the state and objects of the nature reserve fund, carried out by arson or in a way that is generally dangerous, if this caused death or other serious consequences. For such a crime, the current criminal law provides for criminal responsibility in the form of a criminal penalty. Such a punishment can be imposed on persons found guilty of committing a corresponding criminal offense that has a significant level of ecological risk and is extremely dangerous for nature (the surrounding natural environment), health, life of individuals, as well as in cases where damage to the surrounding natural environment is caused in a particularly large size.

In addition, in Ukraine, the use of natural resources of the natural environment is regulated by relevant legal acts. Among such legal acts, it is appropriate to single out the codified Water Code of Ukraine, Land Code of Ukraine, Forest Code of Ukraine, Forest Code of Ukraine, as well as laws of Ukraine "On Animal World", "On Plant World", "On Protection of Atmospheric Air", "On nature reserve fund". Separately, it is worth noting that laws have been adopted that regulate the prevention and elimination of negative factors affecting the environment and human life and health. These are the Laws of Ukraine: "On Environmental Expertise", "On Waste", "On Pesticides and Agrochemicals", "On the Zone of Emergency Environmental Situation", "On Management of Radioactive Waste".

And what is no less important, there are a number of regulatory and legal documents that regulate environmental relations and responsibility for violations of environmental legislation [15].

Regarding international law, it is worth noting that it, like national legislation, is not perfect. For example, all the treaties of the Geneva Conventions (and there are only four of them), which are to be applied in the period of armed aggression or military conflicts, do not use the term "environment", which in turn does not give us additional mechanisms for the protection and restoration of the violated right.

However, we should note that the Additional Protocol (Protocol I) to the Geneva Conventions for the Protection of Victims of International Armed Conflicts of August 12, 1949, which was adopted in 1997, on June 8, states that it is not permissible to use methods and mechanisms of war, military actions, the purpose of which is to cause significant or long-term, essential damage to nature, the surrounding natural environment.

Moreover, Protocol I, namely Article 55, states that in the event of hostilities, it is necessary to show concern for the surrounding natural environment, protecting it from significant and long-term damage. Such protection aims not only to protect the surrounding natural environment, but also to protect the health of citizens or the survival of the population. Damage to the natural environment as retaliation is prohibited [15].

A similar position is indicated in the Rio de Janeiro Declaration on the Environment and Development of 1992, which establishes the key principles of environmental law. In the relevant twenty-four principles of this declaration, it is stated that war inevitably has a destructive effect on the process of sustainable development, therefore, states must respect international law that ensures the protection of the environment during armed conflicts and must cooperate, if necessary, in its further development [16].

Moreover, in the additional protocol to the Geneva Convention dated August 12, 1949, namely Articles 35, 55–56, it is expressly forbidden to use methods or principles of carrying out military operations, with the purpose of the task or assuming the task of significant, powerful and long-term damage to the surrounding natural environment. The specified articles state that buildings, equipment, critical infrastructure objects such as dams and power plants should not become military targets. Such a ban is related to the goal of protecting the world from negative consequences and protecting the lives of the civilian population [13].

However, neither the Convention itself nor the additional protocol provide us with clear and unambiguous mechanisms

for filling in and implementing the specified concepts and mechanisms, respectively. They are not found in other interstate international or interstate acts.

If we pay attention to the confirmed official information, we can state that in October 2022, law enforcement officers in Ukraine filed more than 70 proceedings regarding the commission of criminal offenses committed in the field of environmental protection, which are directly related, the top is the consequences military aggression of the Russian Federation against Ukraine. At least ten cases of ecocide, the responsibility for which is provided for by Article 441 of the Criminal Code of Ukraine, have been registered. The number of proceedings initiated with the qualification of violation of the laws and customs of war, the responsibility for which is provided for by Article 438 of the Criminal Code of Ukraine, which has been entered into the unified register of pre-trial investigation is more than 60 [17].

Also highlighting the issue of conducting a pre-trial investigation for the specified crimes, we should note that direct procedural management is carried out by prosecutors of the specialized environmental prosecutor's office. The history of its reform is also quite interesting in the legal history of Ukraine.

We should also note that the duties of the relevant nature protection prosecutors include not only procedural management of the actions of investigators, in individual criminal proceedings, coordination of individual procedural actions, etc., but also communication with public and human rights organizations. International organizations at the appropriate level and quasi-judicial bodies, including the International Criminal Court.

In order to achieve maximum efficiency in the investigation, there is constant communication and cooperation with foreign specialists regarding the subject of proof and the scope of the required evidence base. Such an approach to the work of law enforcement officers will make it possible to record the negative consequences of armed aggression as much as possible and to obtain an evidence base of a cause-and-effect relationship between the actions of the military of the aggressor country and the described consequences.

As an example, it is appropriate to note that the prosecutors of the relevant specialized environmental prosecutor's office held a working meeting with the director of the office of the international organization for the law development, from the city of the Hague (IDLO), Mr. Fabrizio Gariglia, who in the past worked as the director of the prosecutor's department of the prosecutor's office of the international criminal court [18].

We also cannot fail to note that an even more important process is the improvement of national legislation. We are extremely short of effective methods for determining the damage caused to the environment as a result of armed aggression, as well as specialists with appropriate education. Which, in turn, indicates the need to improve the higher education system and train specialists in the appropriate direction.

Precisely for the purpose of comprehensively solving the problems outlined above, in accordance with the Order No. 73, dated March 1, 2022, a representative of the State Environmental Inspection of Ukraine was introduced to the members of the operational staff for recording and systematizing information regarding the damage caused, in order to fill in the information of the damage register [18].

Prosecutors of the specialized environmental prosecutor's office are also involved in the activities of the Ministry of Environmental Protection and Natural Resources of Ukraine, take part in relevant round tables and meetings on the preparation of drafts of changes to normative and legal acts, regarding the development of methods outlined in the order of determining damages and environmental damage caused to Ukraine due to armed conflict aggression of the Russian Federation, as well as determining the extent of ecocide and its consequences for the environment [18].

We should also note that in certain regions of Ukraine, the detection of illegal use of Ukraine's subsoil and other natural resources predictably increased. In part, this can be explained

by a decrease in the attention and intensity of the work of law enforcement officers, and extremely low, and in some cases, no preventive work in this field. It is quite logical that a large part of the law enforcement officers resist the aggressor and there is a lack of specialists to carry out the tasks of investigation and prevention of crimes.

Taking into account all the presented facts and as confirmation of the relevance of the problem, it is worth noting that only during 2022, the issue of increasing the number of the specified crimes was discussed at the meeting of the Prosecutor General of Ukraine at least three times, and the protection of the environment, namely minerals, forest resources, water resources entities, was defined as one of the priorities in the activities of law enforcement officers, including prosecutors of the specialized prosecutor's office.

In the authors' opinion, we are obliged to pay particular attention to issues directly related to ensuring proper state legal control over the implementation of environmental laws and subordinate regulatory legal acts.

In accordance with the resolution of the Cabinet of Ministers of Ukraine No. 303, dated March 13, 2022, "On the suspension of measures of state supervision (control) and state market supervision in conditions of martial law", scheduled and unscheduled inspections (including as a supervisory measure, a control measure) have been stopped) for the period of martial law [19].

At the same time, according to paragraph two of the specified resolution, during the period of martial law, it is allowed to carry out unscheduled inspections (surveillance, state control measures) in certain areas, in the event of a real threat that has a significant negative impact on the protection of the natural environment and the provision of protection, security of the state's interests, but only on the basis of the decision of the central executive body, which ensures the formation of state policy in the relevant field.

In addition, in accordance with subparagraph four, paragraph 1c of the Resolution of the Cabinet of Ministers of Ukraine No. 263 of 12.03.2022 on "Some issues of ensuring the functioning of information and communication systems, public electronic registers under martial law", in order to prevent the occurrence of a threat to national security, access is restricted to separate registers and databases, which contain information on the circulation of natural resources, special permits for the use of the last one, etc. [20].

The relevant measures effectively deprived public organizations of environmental protection direction from monitoring illegal actions and influencing the protection of relevant state interests. In the authors' opinion, it is extremely important to return the powers actually taken from public organizations. It is possible to allow access to the relevant registers on the condition that the user is identified by means of an electronic digital signature.

**Conclusions.** After the declaration of martial law in the country by the relevant decree of the president, the military, law enforcement officers of various levels, conscientious citizens, human rights defenders, and members of public organizations of an ecological orientation focused exclusively on the struggle for the right to the existence of our country. Separate services, due to the conduct of hostilities and damage to critical infrastructure, worked in the vast majority to restore the energy efficiency of the country. In fact, almost everyone has consciously shifted priorities in their professional and everyday life.

At the same time, for the existence of any country, especially if we claim that the country is democratic and legal, other institutions of state power and local self-government must function properly.

Law enforcement agencies must ensure law and order, investigate crimes (criminal offenses), and courts must administer justice. Control bodies should professionally perform the main functions in accordance with special laws. Accordingly, the business must fulfill its tax and social obligations, comply with the norms of environmental, tax, and labor law in its ac-

tivities. With the balanced functioning of the mentioned institutes, public organizations will also play an important monitoring and preventive role in preventing and detecting environmental crimes, and citizens will obey the law and help to achieve the victory of Ukraine as soon as possible.

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## Проблемні питання притягнення до відповідальності за злочини проти екологічної безпеки в умовах воєнного стану

Н. А. Макаренко<sup>1</sup>, О. Ю. Макаренко\*<sup>1</sup>,  
Ю. О. Краснова<sup>2</sup>, О. В. Назимко<sup>1</sup>, Д. Д. Іваненко<sup>3</sup>

1 – Донецький державний університет внутрішніх справ, м. Кривий Ріг, Україна

2 – Державна Установа «Інститут економіко-правових досліджень імені В. К. Макутова Національної академії наук України», м. Київ, Україна

3 – Донецький державний університет внутрішніх справ, м. Кропивницький, Україна

\* Автор-кореспондент e-mail: [a.y.makarenko@gmail.com](mailto:a.y.makarenko@gmail.com)

**Мета.** Здійснити дослідження проблемних питань притягнення до відповідальності за окремі правопорушення (злочини) відносно екологічної безпеки, дослідження криміналізації посягань, пов'язаних з екологічною безпекою в умовах воєнного стану. Розробити пропозиції щодо вдосконалення норм чинного законодавства у цій сфері.

**Методика.** Методологічну основу дослідження становить система загальнонаукових методів і підходів, що забезпечили об'єктивний аналіз досліджуваного предмета.

**Результати.** Ураховуючи необхідність належної фіксації спричинених збитків і отримання доказової бази як для національних судів, так і міжнародних судових інстанцій, є доцільним терміново розробка «Методики встановлення збитків, спричинених навколишньому природному середовищу унаслідок збройної агресії», що має бути затверджена постановою Кабінету міністрів України. Це дозволить максимально швидко отримати дієвий підзаконний нормативно-правовий акт. Також, на наш погляд, доцільно здійснити розробку Закону України «Про встановлення збитків, спричинених унаслідок збройної агресії проти України», в якому вже в більш широкому об'ємі передбачити як відповідну методику фіксації збитків, так і коло вповноважених осіб, що такі збитки можуть фіксувати. Додатково необхідно передбачити обов'язок органів місцевого самоврядування здійснювати екологічний аудит на територіях, де не ведуться бойові дії, або відразу після їх закінчення, з метою найшвидшої фіксації екологічних збитків та кола осіб, що їх спричинили.

**Наукова новизна.** Проаналізовані нові аспекти проблематики притягнення до відповідальності за злочини проти екологічної безпеки в умовах воєнного стану. Обґрунтовані пропозиції, метою яких є вдосконалення норм чинного законодавства.

**Практична значимість.** Результати дослідження мають важливість для юрисконсультів, юристів і адвокатів, викладачів і науковців. Значимість для законотворців та органів виконавчої влади в тому, що вони можуть безпосередньо покращити нормативно-правову базу.

**Ключові слова:** відповідальність, екологічна безпека, правопорушення, злочин, збиток, спричинена шкода, військовий стан

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