

MILITARY AND POST-WAR ENVIRONMENTAL POLICY OF UKRAINE: REALITIES AND PROSPECTS

International Charitable Organization “Environment-People-Law”

This paper was created to provide a detailed analysis and characterization of environmental policy in the present-day setting, to assess further prospects for its development, and to formulate appropriate recommendations. This study contains an overview of the current situation, including the functioning of state environmental control, the effectiveness of the existing system of legal liability for violations of environmental legislation, the system of state environmental monitoring, aspects related to biodiversity, the implementation of European waste management mechanisms, and the fight against climate change. In accordance with the above data, the author formulates conclusions and recommendations for restructuring or enhancing the existing mechanisms through the prism of martial law and the postwar period.

SITUATION ASSESSMENT

1. [Global environmental impact of the war and prospects for green recovery.](#)

The war in Ukraine is an environmental disaster on a global scale. The environment has no borders, and the circulation of air, water and species migration spreads the impact of the war around the world. Hence, it is vital to ensure that the environmental consequences of the war are effectively addressed and that the recovery is truly green.

2. [Kakhovka Dam breach](#) and [impact on water](#) resources.

The death of people during war is the most horrific thing. Still, the breach of the Kakhovka Dam has clearly shown that serious environmental consequences are also deadly and kill people, even if they are not always immediately visible. The apocalyptic images of drifting houses, dead people and animals, and thousands of hectares of once fertile land flooded show only a part of the damage caused by the war. Waters poisoned by chemicals from missiles, agriculture, fuel and lubricants from damaged ships, and unexploded mines are flowing into the Black Sea and spreading their deadly effects around the world.

3. [Impact on soil.](#)

Ukraine contains $\frac{1}{4}$ of the world's fertile black soil reserves, and the fact that it is heavily contaminated with toxic substances and mines poses a huge global threat, as Ukraine is a breadbasket for the world. 30% of Ukrainian territory is contaminated with explosive ordnance and requires demining. This is 176 thousand sq. km. Restoration and demining will take decades, and some areas are so badly damaged that their reconstruction is unlikely.

4. [Impact on forests.](#)

Missile strikes and powerful bombardments have caused large-scale forest fires, which means not only thousands of hectares of burned forest, but also the destruction of entire ecosystems, the death of flora and fauna, including Red Data Book species. [According to the Accounting Chamber of Ukraine, as of the end of 2022, 3 million hectares of forests were destroyed](#), which is almost a third of all Ukrainian forests. This undoubtedly means a tremendous adverse impact on the global climate.

5. [Impact on biodiversity.](#)

The effects of the damage and toxic pollution caused by the fighting are particularly serious given that Ukraine is home to [35 percent of Europe's biodiversity](#) and hundreds of protected areas are or have been occupied, including up to 23 national parks, nature reserves, and biosphere reserves. The loss of biodiversity caused by the war is unprecedented. Scientists estimate that [at least 2 and a maximum of 6 species have gone extinct](#) forever because of the war. Since war is the destruction of migration routes for many bird species, fighting can cause a global decline in numbers at the level of Europe and even the world. This also applies to endangered species.

6. [Green recovery:](#) the need for enhanced environmental governance capacity

Prior to the war, Ukraine had major environmental problems, but the unprecedented environmental damage caused by the war makes environmental issues a matter of survival not only for Ukraine but for the entire world. The environmental governance system and the institutional capacity of the relevant authorities are too weak to cope with a problem of this devastating magnitude. Uncompleted key institutional and sectoral environmental reforms make the prospects for green recovery a fiction. The environment is life, and life cannot be compromised.

PROBLEMS AND THEIR SYMPTOMS. HORIZONTAL REFORMS

I. State environmental monitoring

Despite the adoption of the relevant [law](#) defining the basic principles of state environmental monitoring, the system still does not work properly. The reasons for this include, in

particular, the following problems:

no comprehensive approach to creating an environmental monitoring system in Ukraine;

- 1) lack of developed bylaws and regulations that would define in detail the procedure and conditions for state monitoring of the environment in a particular area;
- 2) absence of a separate institution that would synchronize and organize the work of various public authorities responsible for state environmental monitoring;
- 3) failure to establish a system of effective sanctions for non-compliance with or violation of legal requirements on environmental monitoring;
- 4) lack of appropriate technical equipment for systematic environmental monitoring;
- 5) postponement of implementation for new sources of emissions for five years from the date of lifting martial law, and no extension of the [procedure for introducing mandatory automated pollutant emission control systems to existing facilities](#).

II. State environmental control

The actual purpose of control measures by the [authorized bodies of the State Environmental Inspectorate](#) (hereinafter referred to as the SEI) is still to control the activities of a business entity, rather than to monitor compliance with environmental regulations and prevent environmental damage. The reasons for this are, in particular, the following:

- 1) state environmental control bodies still operate in a “punitive” paradigm rather than a preventive one, with no dialogue between control bodies, business entities, and the public;
- 2) lack of a well-established mechanism for implementing control measures promptly, without the approval of any authorities, abuse of the “[moratorium on control measures](#)”;
- 3) lack of proper sanctions for “[non-admission](#)” of authorized controlling persons to control procedures and lack of means for controlling persons to counteract such abuses by business entities;
- 4) high level of corruption in controlling bodies;
- 5) low level of training and motivation of personnel engaged in control measures;
- 6) low level of technical and laboratory capabilities of controlling authorities.

III. Legal liability for violations of environmental legislation

Unfortunately, the institution of environmental liability has not undergone any substantial changes since Soviet times. As such, it does not ensure compliance with the requirements of environmental legislation in the current conditions of a market economy and the achievement of its goal of preserving or restoring the environment and its individual components. This is due to the following problems:

- 1) lack of a sufficient level of environmental culture;
- 2) [critically low sanctions](#) for violations of environmental legislation;
- 3) complicated economic situation, profitability of illegal activities related to the use and sale of natural resources;
- 4) unpopularity of the position on the need to strengthen legal liability for violations of environmental legislation in political circles.

Tools for implementing “green” solutions

In connection with the imposition of martial law, certain changes were introduced into the [EIA](#) and [SEA](#) procedures at the legislative level, which caused serious concern among experts regarding their compliance with EU acts. The next aspects are the most problematic in this regard:

I. Environmental impact assessment (hereinafter—EIA).

- 1) restricted access to the EIA Register;
- 2) limited public participation in the EIA procedure;
- 3) introduction into the text of the Law of Ukraine “On Environmental Impact Assessment” of a number of value judgments that may facilitate evasion of the EIA procedure;

II. Strategic environmental assessment (hereinafter—SEA).

- 1) non-systematic and uncoordinated work of the Register on SEA;
- 2) restrictions on public access to information;
- 3) lack of dialog between participants of the SEA procedure;
- 4) failure to fully extend the SEA procedure to plans for comprehensive restoration of territories.

Selected sectoral reforms

Regarding biodiversity.

For years, Ukraine has been building a flawed concept of the state that positions itself primarily as an agricultural country without taking into account the state of natural resources. This has led to a number of problems:

- 1) absence of a proper system of protection, management and monitoring of natural areas, species and habitats;
- 2) lack of transition from an exclusively consumerist model of using forest, water and land resources to a balanced development;

- 3) de facto merger of economic and control functions in relation to forests within a single body;
- 4) contradictory legal documents regulating logging;
- 5) failure to exercise proper control over biodiversity conservation within protected areas;
- 6) problematic [administrative reform in the forestry sector](#);
- 7) destruction of biodiversity, including forests, during military operations.

On waste management.

The adoption of the [Law of Ukraine “On Waste Management”](#) in June 2022 was a major step towards the implementation of European standards in waste management. Problems that slow down the implementation of the reform are set out below:

- 1) lack of a systematic approach to waste management reform;
- 2) low level of waste management culture among the population;
- 3) absence of a specialized body authorized to implement and coordinate waste management policy;
- 4) no clear vision of how to address the issue of destruction waste;
- 5) low level of interest of local governments in implementing the provisions of this reform in practice.

Concerning climate change.

Military operations on the territory of Ukraine have a direct impact on the climate, and government policy does not improve the legal regulation of issues related to this aspect. The following problems can be identified:

- 1) declarative nature of the existing legislation;
- 2) lack of sanctions for violation of deadlines for the implementation of various climate plans and programs;
- 3) Ukraine has not yet established a system of greenhouse gas emissions trading;
- 4) timely implementation of the [National Emissions Reduction Plan for Large Combustion Plants](#) is under threat due to the effects of military operations;
- 5) work on the framework law on climate change has stopped.

PROSPECTS

If no immediate, comprehensive, systematic and effective measures are taken, the above institutions are likely to decline and fail to achieve their fundamental goals. It is not only about the lack of success in terms of European integration processes, but also about the failure of environmental policy as such. The most immediate consequences may be an

increase in corruption and “shadow” business relations over natural resources. In the medium term, the result will be Ukraine’s denial of EU membership and the inability to prove the extent of environmental damage caused by the war and to recover adequate compensation from Russia. In the long run, the lack of reforms and real, not just nominal, changes will result in Ukraine’s loss of natural resources, biodiversity, and sufficient [drinking water](#), which will have fatal consequences for the [standard of living and health of Ukrainians](#).

CONCLUSIONS

To summarize, we can say that the deep essence of all the analyzed problematic issues is the lack of a modern pro-European effective cross-cutting environmental policy. While before the full-scale invasion, most people did not realize the implications of such an attitude to environmental issues, today the situation is completely different. The war unleashed by the Russian Federation on the territory of Ukraine puts our country before a choice: either we change our military and post-war policy qualitatively, implement European standards, develop a high-quality legal framework, ensure the institutional capacity of the relevant authorities and potentially become a member of the EU, and have the opportunity to compensate for environmental damage caused during the war in national and international courts, or we fail to do so, and continue to move up the [rankings of corruption](#), access to [drinking water](#), and [mortality due to environmental pollution](#).

INTERNATIONAL LEGAL MECHANISMS FOR ENVIRONMENTAL PROTECTION: THE PARADIGM OF THE RUSSIAN-UKRAINIAN WAR

I. Crimes against the environment at the international level. Ecocide.

The only crime against the environment recognized and enshrined at the international level is a war crime, provided for in clause iv, part 2, article 8 of the Rome Statute of the International Criminal Court. The elements of this crime are as follows: intentionally committing an attack with the knowledge that such an attack will cause widespread, prolonged and severe damage to the environment that is manifestly excessive in relation to a specific and directly anticipated overall military advantage.

The investigation of such a crime falls within the competence of the Prosecutor of the International Criminal Court, and the decision on the merits of the case falls within the competence of the International Criminal Court.

The Russian military has repeatedly committed acts that may fall under the elements of this crime. In particular, we are talking about the explosion of the Kakhovka hydroelectric power station.

Steps to be taken: work on the initiative to investigate the commission of crimes by the Russians under Article 8(2)(iv) of the Rome Statute of the International Criminal Court by the ICC Prosecutor, and subsequently support the representation of Ukraine's interests in the course of consideration of such cases by the ICC. Constantly raise the issue of committing crimes under Article 8(2)(iv) of the Rome Statute of the International Criminal Court at the international level in order to prevent international partners from ignoring this issue.

The international crime provided for in Article 8(2)(iv) of the Rome Statute of the International Criminal Court is often identified with the crime of ecocide. However, there is no international criminalization of ecocide. The scope of the crime defined in Article 8(2)(iv) of the Rome Statute of the International Criminal Court is not identical to the understanding and content of ecocide.

If the crime of ecocide were criminalized at the international level, it would be possible to bring Russians to justice for this crime in a number of cases, in particular, in the case of the Kakhovka hydroelectric power plant explosion.

Steps to be taken: support and lobby for the criminalization of ecocide at the international level (inclusion of the crime of ecocide in the Rome Statute of the International Criminal Court).

For more information on the issues described, please see the following links: <http://surl.li/jnpxg>, <http://surl.li/hsaqw>, <http://surl.li/jnpxr>, <http://surl.li/jnpxx>, <http://surl.li/gvtbj>, <http://surl.li/jnpyy>, <http://surl.li/jnpze>, <http://surl.li/jnpzm>.

II. Compensation mechanisms.

In terms of compensation for environmental damage caused during military operations, we can talk about compensation within the framework of proceedings before the International Court of Justice, a separately established compensation commission or a special tribunal. Still, we cannot dismiss the importance of the functioning of databases on the damage caused (preferably in the form of a register).

A. International Court of Justice.

The key to successful consideration of the case in the International Court of Justice is a strong and high-quality evidence base, decisions of national courts in favor of the Ukrainian side, which will be made in accordance with all legal standards, including the rule of law. Moreover, an essential role in this process is played by the clarity of the state's position at the national level and international support, recognition by other states of the facts of damage: various resolutions, statements, memoranda that demonstrate the recognition by the international community of the fact that the aggressor state has caused damage, in particular

to the environment of the affected state.

Steps to be taken: create a high-quality evidence base, disseminate and promote it in the international community, develop a pool of resolutions, statements, and memoranda that demonstrate recognition of the fact that the aggressor state has caused damage to the environment of Ukraine.

For more information see: <http://surl.li/jnqkx>, <http://surl.li/jnqlc>, <http://surl.li/jnqlk>.

B. A separate compensation commission.

The experience of a separate compensation commission in cases of compensation for environmental damage in the course of military operations can be studied on the UN Compensation Commission, which functioned in the Iraq-Kuwait case.

In February 1991, a coalition of states led by the United States, under the sanction of the United Nations, launched an operation to oust Iraqi troops from the territory of Kuwait (Operation Desert Storm) and liberated Kuwait from Iraqi troops, restoring its independence.

To compensate for environmental damage and other losses, the UN created a separate body—the United Nations Compensation Commission (UNCC). This body registered, assessed and awarded compensation for the cleanup and restoration of damage to soil, water, coastal ecosystems and other losses. The UN Security Council condemned Iraq's actions as a violation of international peace and security, as required by the UN Charter, and held Iraq responsible for any damage, loss or injury.

The United Nations Compensation Commission was established by Security Council Resolution 692 (1991) to pay compensation to successful claimants. The Commission received a percentage of the proceeds from the export sales of Iraqi oil and oil products. This percentage was initially set at 30 percent by the Security Council under Resolution 705 (1991) and was further fixed in Security Council Resolution 986 (1995), as well as in a number of subsequent resolutions. The level of funding was changed to 25 percent in December 2000 in accordance with Security Council Resolution 1330 (2000). The level of revenues from all export sales of Iraqi oil, oil products and natural gas, which were paid to the Compensation Commission, was changed to 5 percent in accordance with paragraph 21 of Security Council Resolution No. 1483 (2003), adopted on May 22, 2003.

Steps to be taken: lobbying the UN to establish a special compensation commission at the UN to address the issue of compensation for damage to the Ukrainian environment caused by the war unleashed by the Russian Federation, signing international agreements on the support of other states for the establishment of such a commission at the UN.

For more information see: <http://surl.li/jnqyyp>, <http://surl.li/jnqze>.

C. Special tribunal.

The Parliamentary Assembly of the Council of Europe adopted a resolution “Legal and human rights aspects of the Russian Federation’s aggression against Ukraine,” unanimously approved by 100 deputies, with one abstention. The resolution recognizes the role of Belarus in facilitating Russia’s aggression against Ukraine and calls on the international community to condemn the actions of both countries. In particular, the PACE calls on the member and observer states of the Council of Europe to establish a special international criminal tribunal for the crime of aggression against Ukraine, and this tribunal should have jurisdiction over the aggression launched by the Russian Federation in February 2014 and include the role of the leaders of Belarus in this aggression. The tribunal should have a definition of the crime of aggression in accordance with international law and not apply personal and functional immunity to the accused. The tribunal should be located in The Hague, and sufficient human and financial resources should be provided for its effective work.

The heads of the foreign policy committees of 21 parliaments signed a statement on the creation of a special international tribunal against Putin. These steps have an impact on bringing the perpetrators to justice and compensating for the damage caused.

Steps to be taken: continue lobbying for the establishment of a special tribunal, in accordance with the standards set forth in this resolution, among foreign states. The tribunal is needed to resolve the issue of bringing perpetrators to justice more quickly than through existing instruments.

For more information see: <http://surl.li/jnrir>, <http://surl.li/jnriy>.

D. Register of damages.

The establishment of the Register of Damages Caused by the Russian Federation against Ukraine (hereinafter referred to as the Register) is a fundamental element of the functioning of the compensation mechanism for Ukraine.

The international Register of Damage Caused by the Aggression of the Russian Federation Against Ukraine was established by the Committee of Ministers of the Council of Europe. This Register serves to document claims for compensation for damages and losses caused by the aggression. The categorization of claims and evidence is currently under development. The main goal of its functioning is to compensate all victims. The rules for submitting claims and eligibility criteria are now being finalized. The concept of creating a compensation mechanism requires decisions of foreign partner states, which may block the necessary funds for compensation payments.

It is planned that the environmental damage caused by the Russian Federation as a result of its armed aggression against Ukraine will be included in the categories of damage to be

compensated through the established compensation mechanism.

Steps to be taken: ensure that the Register is actually launched, facilitate decisions of foreign partner states that may block the necessary funds for compensation payments, ensure implementation of the plan to separately allocate the category of environmental damage and losses in the Register.

For more information see: <http://surl.li/jnsar>, <http://surl.li/ioyys>.

III. Prospects for the use of international environmental agreements.

Since the beginning of the full-scale invasion, the team of the Environment. People. Law. organization has analyzed numerous international environmental and related agreements and arrangements. For a detailed overview of international environmental legislation, please see the publication available at <http://surl.li/jnshn>.

Among the entire pool of reviewed instruments, the most feasible and effective is the mechanisms offered in the following documents:

1986 Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency

The Convention does not contain any reservations regarding its effect during martial law or in case of armed conflict, so one can conclude that its effect extends to the time of military operations in Ukraine. The Convention is mainly aimed at joint actions of the IAEA and its member states in the event of a nuclear accident or other radiation emergency. Ukraine may use the provisions of this Convention in such a situation and seek assistance from the IAEA and other parties to the Convention to protect life, property and the environment from the effects of radioactive contamination.

1994 Convention on Nuclear Safety

The Convention does not contain any reservations regarding its effect during martial law or in case of armed conflict, so it can be concluded that its effect extends to the time of military operations in Ukraine. The Convention is mainly aimed at ensuring nuclear safety of a nuclear facility operated in peacetime.

Due to the Russian invasion of Ukraine and the seizure of the Zaporizhzhia Nuclear Power Plant (ZNPP), Ukraine cannot fulfill its obligations under this Convention and cannot ensure nuclear safety of the ZNPP. In addition, the constant flights of the missiles of the aggressors over other Ukrainian nuclear power plants endanger their safety as well. Therefore, Ukraine should indicate such risks to nuclear safety in its report and ask the Review Meeting to consider this issue and warn the Russian Federation of its violation of nuclear safety of ZNPP operation due to its occupation and constant shelling, to appeal to the Russian Federation to stop such illegal actions and to take measures until such actions

are effectively stopped.

1997 Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management

The Convention does not contain any reservations regarding its operation during martial law or in case of armed conflict, so we can conclude that its operation extends to the time of military operations in Ukraine. The Convention is mainly aimed at ensuring the safety of radioactive waste and spent fuel management.

Due to the invasion of Ukraine by the Russian Federation and the seizure of ZNPP, Ukraine cannot fulfill its obligations under this Convention and cannot ensure the safety of spent fuel storage facilities at ZNPP and other nuclear power plants, therefore it cannot guarantee adequate protection of individuals, society as a whole and the environment from radiological risks at all stages of spent fuel management during military operations and occupation of nuclear power plants.

Furthermore, constant flights of enemy missiles over other Ukrainian operating nuclear power plants and destruction of power lines to nuclear fuel storage facilities threaten the safety of radioactive waste and spent fuel management at Ukrainian facilities. Therefore, Ukraine should indicate such safety risks in its national report and ask the Meeting of the Parties to consider this issue and warn the Russian Federation of its violation of the requirements of this Convention through the occupation of ZNPP and constant shelling, and to appeal to the Russian Federation to put an end to such illegal actions.

1982 United Nations Convention on the Law of the Sea

The United Nations Convention on the Law of the Sea does not contain any reservations regarding its application during martial law or in the event of armed conflict, therefore it may be assumed that it applies to the time of hostilities in Ukraine.

The Russian Federation's violation of sovereignty and territorial integrity of Ukraine and illegal actions in the Black and Azov Seas, which cause severe damage to the marine ecosystem, indicate that the Russian Federation does not comply with the basic principles and provisions of the UN Convention on the Law of the Sea, namely the maintenance of peace and security between states, peaceful passage, peaceful uses of the seas, immunity of warships, protection and preservation of the marine environment, and others.

First of all, Ukraine, represented by the competent authorities, should address the Assembly and report on Russia's non-compliance with the provisions of the Convention, which have consequences in the form of marine pollution, and request that measures such as the suspension of the rights and privileges of its members represented in the International Seabed Authority be taken against it, so that in the future it is deprived of the opportunity to influence the decisions of the Authority in any way.

In view of the heavy damage to the marine environment of the Black and Azov Seas caused by Russia as a result of its armed aggression, Ukraine should, together with other participating states, develop an action plan to protect and preserve the marine environment and restore the ecosystem of the affected seas.

Along with this, it is essential that Ukraine ensure the investigation and complete collection of evidence of environmental crimes committed by the Russian Federation in the Black and Azov Seas at the highest level, including regular measurement, assessment and analysis of the effects of marine pollution.

Based on the results of the study, the competent authorities will be able to determine the amount of damage caused by marine pollution due to Russia's armed aggression, which will subsequently form the basis of a claim for recovery of this damage from the Russian Federation.

In accordance with the procedure established by Annex VII of the UN Convention on the Law of the Sea, Ukraine should prepare and file an international lawsuit against the Russian Federation for the latter's failure to observe the provisions of the UN Convention on the Law of the Sea, which cause serious damage to the marine ecosystem. On the basis of this, an Arbitration Tribunal will be established, which will have jurisdiction to consider the relevant claims between Ukraine and the Russian Federation.

1992 Convention on the Protection of the Black Sea against Pollution

The Convention on the Protection of the Black Sea against Pollution does not impose restrictions on the application of its provisions during martial law or in the event of armed conflict, and therefore one can state that the Convention applies in the event of Russia's armed aggression against Ukraine.

The violation of Ukraine's sovereignty and territorial integrity by the Russian Federation and the commission of illegal acts in the Black Sea, which cause significant damage to the marine environment by polluting it, indicates that the latter is not adhering to the core provisions of the Convention in terms of protecting and preserving the marine environment and preventing harm to life at sea and living resources.

Russia's armed aggression against Ukraine, which has resulted in the pollution of the Black Sea marine environment, is an emergency situation that necessitates the convening of an extraordinary Meeting of the Contracting Parties. Such a Meeting shall be convened at the request of Ukraine.

The Meeting of the Contracting Parties should urgently take measures to prevent further violations of the provisions of this Convention by Russia and to stop such actions, develop an action plan to reduce the harmful effects on the marine environment from the military actions carried out there, as well as to eliminate the consequences of pollution. It is also important to develop an action plan to bring Russia to international responsibility for

breaching its international obligations to protect and preserve the Black Sea marine environment.

It is also advisable to appeal to the Commission on the Protection of the Black Sea Against Pollution with a request to terminate any form of cooperation, financial and other support from the state authorities, institutions and organizations of the Russian Federation, as well as to demand the termination of the rights and privileges of Russian representatives in the Commission.

1995 Agreement on the Conservation of African-Eurasian Migratory Waterbirds

The occupation by Russian troops of a large territory in the south and south-east of Ukraine, which includes wetlands containing migration systems of African-Eurasian waterbirds, and active hostilities in these areas have a negative impact on the conservation of these species. Therefore, it is advisable to take measures for their conservation provided for in this Agreement.

The relevant Agreement does not contain restrictions on its application during military operations, so the provisions of the Agreement can be applicable in the context of Russia's armed aggression against Ukraine. Under these conditions, the Secretariat of the Agreement should urgently convene an emergency meeting of the Parties to hold a Meeting and take immediate measures to prevent the deterioration of the conservation status of migratory waterbird species and the reduction of habitats in those areas of Ukraine where there is a potential danger. The signatories to this Agreement should jointly monitor all facts that may have a negative impact on the conservation status of migratory waterbird species and their habitats.

However, the Russian Federation is not a Party to the Agreement, and therefore, it cannot be held accountable for non-fulfillment of the provisions of this Agreement or subject to any sanctions. Still, the Parties to the Agreement can convene an emergency session of the Meeting of the Parties to discuss the situation and measures to be taken, create a working group and assess the impact of military operations on the conservation of African-Asian migratory wetland bird species, and appeal to the international conservation community. The Environment. People. Law., international charity organization, addressed the Agreement's Secretariat with proposals to establish such a working group.

1996 Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and contiguous Atlantic Area

The relevant Agreement does not contain any restrictions on its use in the event of an emergency related to military operations, wars or other military aggression, so in the context of Russia's war against Ukraine, the application of the Agreement is possible and appropriate.

As the Russian Federation is not a party to the Agreement, it cannot be held liable for failure to observe the provisions of this Agreement, including the imposition of any sanctions. Nevertheless, in accordance with the provisions of the Agreement, the Parties to the Agreement should convene an external meeting of the Meeting of the Parties, urgently respond to the relevant emergency situation and immediately develop and implement a set of special measures to conserve cetaceans that are vulnerable to such negative phenomena that are currently occurring in the Black Sea. Taking into account the threat to the existence of cetaceans and other species in certain waters of the Black Sea, the Parties to the Agreement should develop an action plan to reduce the negative impact on cetacean habitats, monitor and calculate the damage caused to cetaceans and their habitats, and call on other participating states and other specialized organizations to cooperate in the conservation of the Black Sea cetaceans, which are now in danger due to ongoing military operations.

The Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes

As a result of the armed aggression of the Russian Federation, Ukraine's water supply and sanitation systems have been severely damaged. The situation is particularly difficult in the occupied territories, where Ukrainian citizens have been experiencing a shortage of drinking water for more than six months, and where, especially in the summer months, the risk of water-related disease outbreaks has increased significantly.

According to international law, by seizing control of the territory of another state, the Occupying Power assumes responsibilities and obligations towards persons in that territory in accordance with international humanitarian law and human rights law. According to international humanitarian law (Hague Regulations of 1907, Fourth Geneva Convention of 1949), the occupying power must ensure, to the fullest extent of its means, sufficient standards of hygiene and health care, as well as food and medical care for the population under occupation.

In line with the position of the International Court of Justice, an occupying power remains bound by the human rights treaties it has ratified in all areas under its jurisdiction, including outside its territory. The UN Human Rights Council also notes that the Occupying Power remains responsible for the fulfillment of its obligations under human rights treaties in the territories it occupies to the extent that it continues to exercise jurisdiction in those territories.

Thus, since the Russian Federation is a Party to the treaty, it is obliged to perform its obligations under the Protocol, including in the occupied territories of Ukraine. Given the existence of a modern and open compliance mechanism, bringing the Russian Federation to justice for violations of the Protocol's requirements on drinking water supply, sanitation, and the prevention and control of water-related diseases in the occupied territories of

Ukraine appears viable.

1976 Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques

The Convention prohibits “geophysical warfare” (a term that refers to the deliberate control of natural processes that can cause hurricanes, tsunamis, earthquakes, or precipitation in the form of rain or snow, etc.) With regard to the explosion of Ukrainian hydroelectric power plants or other similar facilities, the question of the aggressor country’s violation of the Convention may be raised. Yet, given that Russia is a permanent member of the UN Security Council with a veto power, it is not possible for the Security Council to adopt a decision against Russia without depriving it of its permanent membership status.

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