



Верховний  
Суд

# Right to Safe Environment in Times of War in Ukraine

Dr. Vitalii Urkevych

Secretary of the Grand Chamber of the Supreme Court, Ukraine

EUFJE Annual conference 2024, Budapest



Supreme Court, Ukraine



Supreme Court, Ukraine



Supreme Court, Ukraine

# CHERNOBYL NPP OCCUPATION



- Chernobyl Nuclear Power Plant had been occupied for 39 days
- Radioactive dust in the Red Forest was raised into the air
- 20-fold increase in radiation level in the area

# WILDFIRES



- most wildfires in Ukraine occur on the demarcation line, in the combat zone (within 60 km of the zone)

# DESTRUCTION OF THE KAKHOVKA DAM (I)



Supreme Court, Ukraine

# DESTRUCTION OF THE KAKHOVKA DAM (II)

Environmental disaster and ecocide:

- devastation of water and coastal ecosystems
- de-salination of the northwestern part of the Black Sea
- the populations of more than 70 species of fish were affected, among which 18 are endangered



## DESTRUCTION OF THE KAKHOVKA DAM (III)



# SIGNIFICANT AIR AND WATER POLLUTION



Russia struck an oil and diesel storage base in the city of Kharkiv on February 9, 2024, which led to the leakage of about 3,000 tons of chemicals, which later entered the rivers. The area of the polluted water surface is 780 thousand square meters.

Supreme Court, Ukraine

On 25th of May, 2024 the building hypermarket in Kharkiv was shelled. The fire led to significant air pollution with unorganized emissions of pollutants due to the fact that construction mixtures, paint and materials began to burn. Black smoke bellowing high into the skies.



Everyone has the right to an environment that is safe for life and health, and to compensation for damages inflicted through the violation of this right (art. 50 of the Constitution of Ukraine)



# Law of Ukraine on environmental protection:

- determines the legal, economic and social grounds of the organization of environmental protection in the interests of current and future generations
- declare that one of the main principles of environmental protection is compensation for damage caused as a result of violation of environmental protection legislation



# ECOLOGICAL CONSEQUENCES OF THE WAR IN UKRAINE

- Total damage to the environment as a result of Russian aggression – above 55 billion euros
- Restoration of the environment will cost more than 30 billion euros
- Part of the damage is irreparable

## BRINNING RUSSIA TO LIABILITY (I)

- Ukraine is the first in the history of mankind to investigate crimes against the environment as war crimes
- Ukraine joined the 1st Additional Protocol to the Geneva Conventions, which prohibits methods of waging war that cause large-scale, long-term and serious damage to the environment
- The courts of Ukraine consider lawsuits against Russia regarding compensation for damages caused by aggression against Ukraine
- In such cases the Supreme Court is guided by the fact that any armed aggression of a foreign state in another country goes beyond sovereign rights of the aggressor state

## BRINNING RUSSIA TO LIABILITY (II)

Under the European Convention on State Immunity (1972) and the UN Convention on Jurisdictional Immunities of States and Their Property (2004):

a state does not have the right to invoke immunity in cases, related to causing damage to health or life,

- if such damage was caused in whole or in part in the territory of the state of the court
- and if the person who caused the damage was at that time in the territory of the state of the court

# THE LEGITIMATE PURPOSE OF JUDICIAL IMMUNITY

- The legitimate purpose of applying the judicial immunity is to maintain civility and good relations between countries, which on the other side, limits the plaintiff's right to a fair trial
- The Russian Federation has been committing armed aggression against Ukraine since 2014. This fact was established by the European Court of Human Rights in the judgment of June 25, 2024 in the case Ukraine v. Russia (RE Crimea)
- Russia's armed aggression and international law crimes committed by its armed forces in Ukraine violate fundamental principles and rules of the international law and prevent civility and good relations between the two countries
- The Russian Federation has defeated the legitimate purpose of judicial immunity



---

Верховний  
Суд

---

Thank you for attention!