



Supreme
Court

War and the Environment: How Ukraine Shapes Its Response to Ecocide

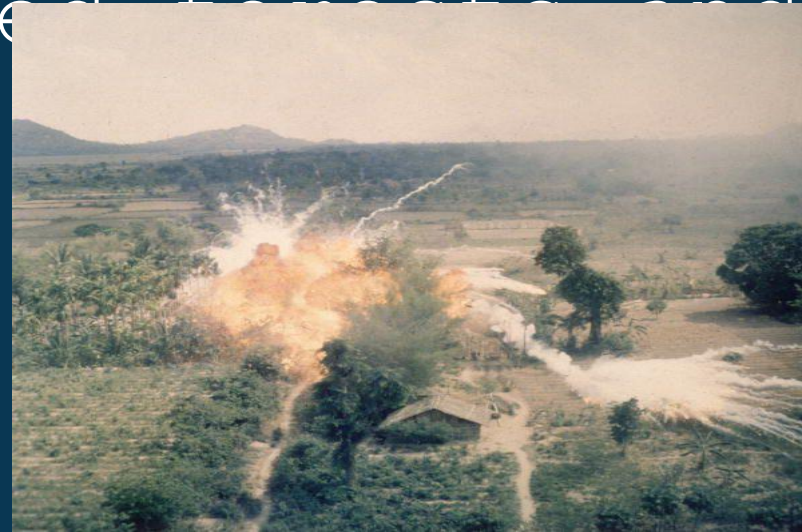
Hanna VRONSKA – Judge of the
Supreme Court



The Concept of Ecocide

Ecocide refers to large-scale destruction of the environment that causes severe and long-lasting harm to natural ecosystems, undermines the foundations of human life, and threatens the future of entire generations.

The term was first proposed in the 1970s in response to environmental crimes committed during the Vietnam War, when the use of chemicals mercilessly destroyed forests and water



In June 2021, an independent expert panel from the Stop Ecocide Foundation presented a draft legal definition of ecocide as “unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment.”



Legal Framework for Addressing Ecocide: International and National Dimensions

Article 35 of Additional Protocol I to the Geneva Conventions prohibits methods and means of warfare that are intended or may be expected to cause widespread, long-term, and severe damage to the natural environment. A similar provision is contained in Article 55 of the same protocol.

Legal Framework for Addressing Ecocide: International and National Dimensions

Article 8(2)(b)(iv) of the Rome Statute of the ICC classifies as a war crime “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, which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated.”

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Legal Framework for Addressing Ecocide: International and National Dimensions

Article 441 of the Criminal Code of Ukraine establishes criminal liability for ecocide—mass destruction of flora or fauna, pollution of the atmosphere or water resources, and other actions that may cause an environmental catastrophe.

Legal Framework for Addressing Ecocide: International and National Dimensions

Subordinate legislation plays a significant role in legal regulation, including numerous methodologies, instructions, and procedures approved by the Cabinet of Ministers of Ukraine and the Ministry of Environmental Protection. These define the algorithms for documenting, assessing, and calculating environmental damage, forming the evidential basis for future claims in national and international jurisdictions.

Types of Environmental Damage

War causes a wide range of environmental damage, from immediate physical destruction to delayed chemical or biological impacts. Damage is typically categorized as direct or indirect.

A separate category is cumulative damage—the combination of multiple individual impacts that together create a new level of threat to the environment. For example, simultaneous contamination of water and soil in a nature reserve, alongside deforestation, creates an “ecological vortex” from which nature cannot recover on its own.

Damage is also classified by duration: short-term (effects of a single event that dissipate within days), medium-term (effects persisting for weeks or months), and long-term (effects impacting ecosystems for years or decades). By scope, damage can be local, regional, or transboundary. The latter poses a serious threat to international environmental security and serves as a basis for international legal proceedings.

Principles of Environmental Damage

~~Compensation~~ "polluter pays" principle

- The principle of prevention
- The principle of restoration
- The principle of intergenerational equity
- The principle of scientific accuracy and substantiation

The “Polluter Pays” Principle

~~This principle~~ holds that the individual or state responsible for environmental damage must bear the cost of its remediation and compensation. In the international context, this implies the obligation of the aggressor state to fully compensate for the damage caused to the natural environment of another state.

The Principle of Prevention

 This principle requires not only addressing environmental damage but also preventing it by all possible means. In the context of the law of war, it translates into an obligation for parties to the conflict to refrain from using methods of warfare that have or may have a detrimental impact on ecosystems.

The Principle of Restoration

This principle entails that compensation must include not only financial reparations but also the rehabilitation of the environment—restoring rivers, forests, animal populations, decontaminating soils, and more.

The Principle of Intergenerational Equity

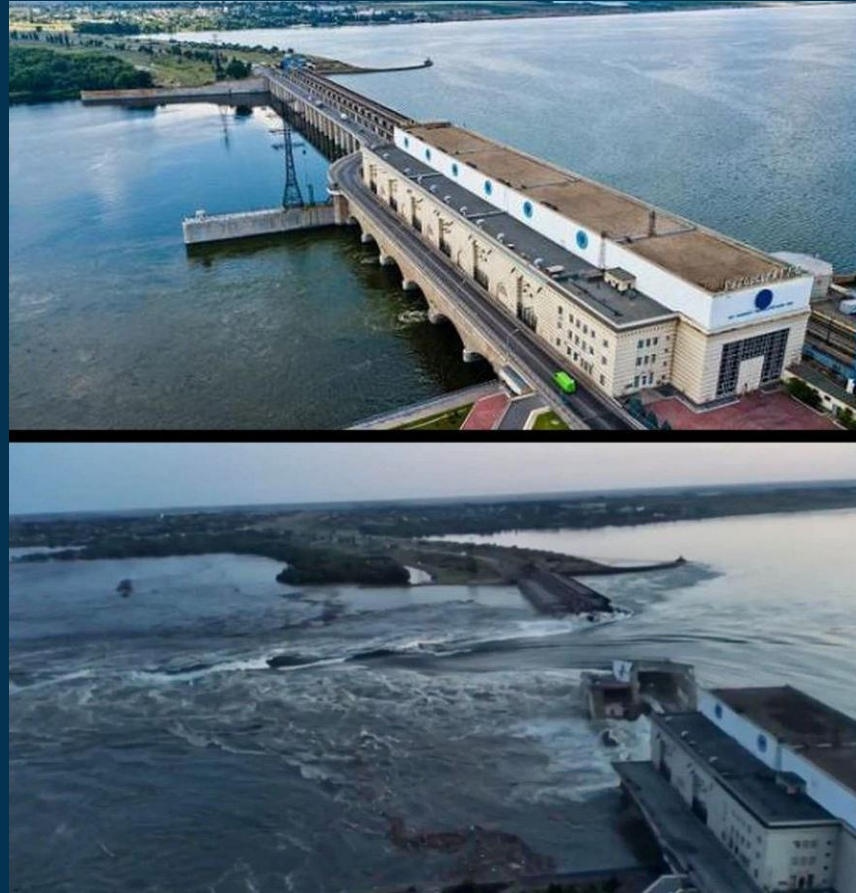
This principle emphasizes preserving the environment in a state suitable for future generations. It holds particular importance during wartime, when the consequences of damage may persist for decades.

The Principle of Scientific Accuracy and Substantiation

This principle requires that all damage assessments be based on reliable data, up-to-date methodologies, independent expertise, and evidence that meets the requirements of national and international procedural law.

Conclusions

Compensating for damages caused by ecocide is not only a legal tool but also a moral imperative that demands a principled, systematic, and long-term response from the state, society, and the legal community.



Kahovska Hydra Power Station

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Thank you for your
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Ukraine!