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Combating Criminal Offenses Against Peace, Human Security and International Legal Order in the Conditions of Sustainable Development

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Abstract The scientific article is devoted to the study of criminal offenses against peace, human security and international order, committed under martial law. It was emphasized that such illegal acts, in particular genocide and ecocide, occupy the highest level among illegal acts for which international criminal responsibility is provided. It is noted that the increase in the number of crimes against peace, human security and international order in conditions of sustainable development can lead to negative consequences and a threat to the biological foundations of life on Earth. Arguments are given that counteraction to such criminal manifestations should have appropriate legal regulation, which would correspond to the degree of social danger of illegal actions and the degree of severity of consequences. A conclusion was made on the importance of developing a methodology for documenting and investigating crimes of this category and proper technical forensic and tactical provision of separate procedural procedures for the purpose of identifying, recording, removing and investigating traces of illegal actions. The importance of using the form of data collection through open sources and their processing - Open-Source Intelligence - is indicated.

Index Terms criminal offense, human security, martial law

I. Introduction

Disclosure of the issue of the place of criminal offenses against peace, human security and international order in the system of international offenses has not only theoretical, but also practical significance. It is the public danger of a certain category of international crimes, their object, that allows the national legislator to clearly define the place of such crimes in the criminal code system and establish responsibility for their commission in accordance with the requirements of international treaties that are part of national legislation.

The Institute of Crimes Against Peace, Human Security, and International Legal Order is a system of criminal law norms that are united by subject and form a subsystem of the Special Part of Criminal Law. The functional purpose of this institute is unique, because it is aimed at the protection of social relations to ensure peace, human security and international legal order.

The complexity of the researched issue lies in the fact that today science, primarily international law, does not establish uniform concepts relating to offenses that encroach on certain relations that are protected and regulated by the norms of international law. It is enough to mention only those names used

to designate crimes under international law - "conventional crimes", "criminal crimes of an international nature", "crimes that violate the international legal order", etc.

In addition, today is characterized by a violation and significant deterioration of environmental security at the international and national levels, an increase in the number of crimes against humanity and against the environment. Thus, since February 2022, more than 300 cases of ecocide have been recorded in Ukraine as a result of Russia's military actions: fields mutilated by shells and bombs, burned forests, dangerous air for people due to fires at oil depots, pollution of the Black and Azov seas, etc.

The transition to the strategy of sustainable development is characterized by the gradual provision of purposeful systemic self-organization of society in all the main spheres of its activity. Accordingly, sustainable development is characterized by at least three criteria: environmental safety, economic efficiency and social justice. Sustainable development is considered as a general concept regarding the need to establish a balance between meeting the current needs of humanity and protecting the interests of future generations, including their

need for a safe and healthy environment [1]. In the conditions of globalization, the sustainable development of Ukraine is characterized by a balanced and conflict-free provision of the rights and freedoms of every person and citizen and the legitimate interests of legal entities, society and the state at the national and international levels [1].

The issue of identifying the perpetrators, bringing them to justice and ensuring a fair investigation of these crimes is an extremely multifaceted task. The study of crimes against peace, human security, and the international legal order in Ukraine requires an in-depth analysis of events, determination of their causes and consequences, as well as consideration of possible ways to resolve the conflict and ensure justice for the victims of these illegal acts.

Carrying out a comprehensive study of international criminal responsibility for committing crimes against peace, human security and international order in conditions of sustainable development, researching their place in the system of international crimes is the purpose of this article. In addition, in the conditions of sustainable development, it is relevant to study the essence of ensuring the implementation of the norms of international criminal law regarding the prevention of the crimes of genocide and ecocide committed in Ukraine, the development of proposals for criminal prosecution and recording of information about the specified illegal acts.

The study of the specifics of the legal regulation of responsibility for crimes against peace, human security, and the international legal order was carried out by representatives of various areas of legal science, depending on the specific aspects of their scientific interest. Despite the intensity of research devoted to various aspects of international, criminal, and criminal procedural law regarding countering the specified illegal acts, many important issues have remained out of the attention of scientists and practitioners of law enforcement agencies, which determines the relevance and importance of the study of this problem.

II. General Characteristics of Criminal Offenses Against Peace, Human Security and International Legal Order

The category of international law crimes, or "crimes under international law" (crimes under international law), consists of actions criminalized by international law and potentially subject to international criminal jurisdiction. The illegality of international crimes of this category has an international legal character: there is an international legal prohibition against them. Other international offenses fall under the categories of international extradition and transnational crime. Therefore, it is obvious that most authors classify crimes against the peace and security of humanity as the most serious crimes under international law or international crimes.

Among the features of crimes against peace, human security and international legal order, their particular severity is determined. The combination of such features as the nature of the act (cruelty, barbarism) and the scale of its consequences (massiveness) is characteristic of these crimes. The harmful consequences of committing international crimes go beyond

the borders of states and affect the interests of the world order. The damage from these crimes cannot be compared with the damage from ordinary offenses, which makes it legitimate to apply more severe forms of liability. International crimes and related criminal law consequences do not depend on the position of national legislation on this matter [2]. The International Law Commission recognized the general principle of autonomy of international law with respect to national law and the principle of direct application of international norms in principles I and II of the Principles of International Law, recognized by the Statute of the Nuremberg Tribunal and the judgment of the tribunal. The general rule underlying Principle I is that international law can, quite independently of domestic law, impose obligations on natural persons.

Crimes against the peace, security of mankind and international order are international crimes that have risen to the level of *jus cogens* and constitute irreducible (immutable) obligations *erga omnes* [3]. The obligations arising from the special status of such crimes include the obligation to prosecute or extradite, the non-application of any immunities, the non-application for defense of the argument of "obedience to a higher order", the universal application of such obligations both in peacetime and in military, their "non-reduction" in case of extreme necessity for states and universal jurisdiction over the perpetrators of such crimes. The practice of states is insignificant and insufficient to speak of a solid legal basis for the assertion that the obligations arising from *jus cogens* crimes are actually fulfilled. Despite this, the application of these norms of international criminal law is an integral element in the protection of human rights and the preservation of peace, and the inclusion of the relevant crimes in national legislation is one of the most important conditions for the effective cooperation of states in the fight against international crimes.

Enshrining in the Ukrainian criminal law crimes against peace, human security and the international legal order obligates to turn to the sources that for the first time formulate the criminality of these acts. In the fundamental international documents, it is clearly emphasized that there is a primary need to "maintain international peace and security", in this regard, there is a need to take a set of effective collective measures to prevent or eliminate a threat to international peace [4].

International criminal law is designed to solve the task of all kinds of repression of a person who has committed a crime, which cannot be achieved without fixing in the norms of international criminal law responsibility for committing the analyzed crimes. Increasing the effectiveness of international criminal legislation is possible by criminalizing these acts in national norms of criminal law. Therefore, the need to apply the relevant norms of the domestic criminal law taking into account and complying with the requirements of international criminal law is of primary importance. The provisions of the criminal legislation of Ukraine, which reflect crimes against peace, human security and international legal order (Articles 436 447 of the Criminal Code of Ukraine), were the result of

implementation of similar norms of international criminal law and have a blanket character.

Victims of crimes against peace, human security and international legal order are groups of people, and sometimes entire states. For now, crimes of genocide and other war crimes should be attributed to such crimes, first of all. The illegality of genocide historically has an international legal character. Genocide is the refusal to recognize the right to exist of entire human groups, just as genocide means the refusal to recognize the right to life of individual human beings.

Today, responsibility for genocide is stipulated by the UN Convention "Convention on the Prevention and Punishment of the Crime of Genocide" dated December 9, 1948 (hereinafter – the Convention), which entered into force on January 12, 1951, which Ukraine ratified on March 18, 1954. Genocide in the Convention means acts committed with the intent to destroy, in whole or in part, any national, ethnic, racial or religious group as such [5].

The composition of the crime and its forms are formulated in the provisions of the legal norms of the said Convention. Which does not refer to the responsibility of the states, but only indirectly indicates the fact of the state's responsibility for the crimes of genocide is self-evident, which is confirmed by the legal provisions of the norms of Art. IX of the Convention "Disputes between the contracting parties regarding the interpretation or application of the implementation of this Convention, including disputes regarding the responsibility of one or another state for committing genocide or one of the other acts listed in Article III (genocide; conspiracy to commit genocide; direct and public incitement before committing genocide; attempted genocide; complicity in genocide) are referred to the International Court of Justice at the request of each of the parties to the dispute".

It should be noted that according to Art. 4 Conventions that perpetrators of genocide are punishable, regardless of whether they are constitutionally responsible rulers, officials or private individuals [5].

In the provisions of legal norms of Art. 6 Genocide of the Rome Statute of the International Criminal Court states that, for the purposes of this Statute, "genocide" means any of the following acts committed with intent to destroy, in whole or in part, any national, ethnic, racial or religious group as such: a) murder members of such a group; b) causing serious bodily harm or mental disorder to members of such a group; c) deliberate creation for such a group of living conditions calculated to bring it to its complete or partial physical destruction; d) implementation of measures aimed at preventing childbirth within such a group; e) forcible transfer of children of this group to another group.

In addition, in accordance with Art. III of the Convention on the Prevention of the Crime of Genocide and its Punishment dated December 9, 1948, "The following acts are punishable: a) genocide; b) conspiracy to commit genocide; c) direct and public incitement to commit genocide; d) attempted genocide; e) complicity in genocide [5]. Therefore, taking into account the above, today the Verkhovna Rada of Ukraine needs to

introduce changes and additions to the Criminal Code of Ukraine.

One of the most dangerous offenses is ecocide, which gives reasons to consider it as a crime against the safety of humanity in such a field as the environment. The international cooperation of states and international organizations is aimed at ensuring the comprehensive development and protection of the environment, as well as the international criminalization of ecocide and the adoption of a unified international regulatory act that will regulate and regulate the protection of all mankind from environmental disasters caused by anthropogenic and natural factors.

Ecocide (from Greek *oikos* – home, environment and Latin *caedere* – to kill, lit. extermination of a kind, tribe) – the destruction of the living space of the people with the help of the use of defoliants, herbicides, the destruction of dams and other structures, the destruction of flora and fauna, is an international a crime [6]. According to Art. 441 of the Criminal Code of Ukraine, ecocide is the mass destruction of flora and fauna, poisoning of the atmosphere or water resources, as well as the commission of other actions that can cause an ecological disaster [7]. Ecocide, in international law, is considered as illegal and intentional actions of one or more subjects of international law regarding the destruction of the environment and (or) its components, which have wide and long-term consequences and are associated with a serious violation of obligations to the international community and causing harm to the vital interests of current and future generations of people [8].

A particularly severe form of ecocide is military ecocide – disruption of human habitat ecosystems as a result of hostilities that have a military and political purpose. In Ukraine, the targeted shelling of the Avdiyiv Coke Plant in 2014–2015 can be qualified accordingly. The destruction of the infrastructure of this enterprise posed a huge threat of emissions of dangerous chemical compounds into the environment [9], as well as the bombing of oil depots and gas pipelines, thermal power plants, finding untrained persons in the territories of nuclear power plants of Ukraine, robbing them, etc.; the destruction of the Kinsburg spit and the environmental catastrophe of the long-suffering Mariupol [10].

In most countries of the world, ecocide is positioned as a kind of war crime, and the term "ecocide" itself is not used. Ecocide has the status of an independent crime in the criminal codes of only a few countries of the world (Colombia, Vietnam, Kazakhstan, Tajikistan) [8].

Work on the criminalization of ecocide at the international level continues. Thus, in December 2020, the aspiration of a group of lawyers led by the former judge of the International Criminal Court (hereinafter - ICC) S.F. Sandsom to formulate a legal definition of "ecocide" and classify it as international crimes against humanity, such as war crimes, genocide, etc. [11]. International society seeks to remove ecocide from the rank of a crime caused by military actions into a separate type of criminal action that can exist outside of military actions. This idea is supported by the government of Belgium, the

island states of the Pacific and Indian oceans. So, lawyer P. Higgins together with his colleagues developed a regulatory framework on ecocide. The main idea of this draft law is to take actions to prevent and prohibit both anthropogenic and natural ecocide. The draft law provides for an obligation at the international level to provide assistance to the governments of various states in order to prevent the risk of significant disruption of ecosystems and long-term ecological damage, as well as to prevent the death of all mankind. It is also proposed to provide assistance to states that are prone to environmental disaster in certain situations [11].

Thus, it can be argued that ecocide is: an international environmental crime, the purpose of which is to cause destruction or damage to the environment (or its individual components); can occur both during military operations and during peacetime; the consequences of illegal actions are significant and lasting; committed with the awareness of a significant probability of harm caused by such actions; concern both the threat to biocenoses and the entire natural complex, and the destruction of anthropogenic objects, which cause a deterioration in the safety of life; violate international obligations regarding the rules of compliance with environmental safety; ensure permanent deterioration and pollution of large areas; contribute to long-term environmental disturbances, the complication of the ecological situation, and the onset of an ecological disaster. It should be noted that the experience of holding Russia accountable for its war crimes already exists. Yes, we have a precedent of holding Russia accountable and demanding compensation for moral and material damage to the citizens of Ukraine due to the annexation of Crimea. Russia's military actions in Ukraine violate not only national, but also international law and international customs. First of all, this is a violation of the UN Charter, as well as a violation of the Additional Protocol to the Geneva Conventions of 1949, which in Art. 55 indicates the need to show concern for the protection of the natural environment from extensive, long-term and serious damage during military operations. Also, the actions of the aggressor party violate a number of international agreements in the field of environmental protection, nuclear safety, and other areas.

The specified actions will undoubtedly be the subject of consideration at the international level, and Ukraine must be ready to provide convincing evidence of the commission of the crime of ecocide by the Russian army, causing damage to elements of the environment, and the decisions of national courts in criminal, civil, economic cases against the aggressor will serve as evidence at the international level and may become a legal prerequisite for making claims for the payment of such damages through international mechanisms.

The international fight against manifestations of ecocide should have appropriate legal regulations that would correspond to the degree of social danger of illegal actions and the severity of consequences, as well as take into account the reasons and conditions for committing illegal actions. Consolidation of ecocide at the international level as crimes against the peace and security of mankind will allow influenc-

ing certain states so that their decisions, which can cause and determine significant damage or destruction of the environment, are already qualified as international crimes. Also, the criminalization of ecocide at the international level will make it possible to fill the gaps in the legislation on environmental protection, to promote the protection and development of the environment.

III. Peculiarities of Gathering Evidence of Criminal Offenses Against Peace, Human Security and International Legal Order

During the preliminary examination of the situation in Ukraine, the Prosecutor General's Office has already found reasonable grounds to believe that crimes subject to the jurisdiction of the ICC were committed in Ukraine. In 2022, public hearings of this case began [12]. Every witness who can report the facts of the killing of civilians by the Russian occupiers, barbaric rocket-bombing and artillery attacks on hospitals, schools, residential buildings and other civilian objects can do so directly to the Prosecutor of the International Criminal Court by e-mail. A special website has also been created to document war crimes [13].

Today, unfortunately, the employees of the pre-trial investigation bodies do not have practical experience of comprehensive and high-quality recording of traces of such criminal offenses, full establishment of circumstances that are subject to proof in the specified category of criminal proceedings. It must be stated that the level of scientific and educational-methodological support for detection and pre-trial investigation of criminal offenses against the environment is insufficient. In particular, criminology has neither developed a methodology for investigating criminal offenses against peace, human security, and international order, nor recommendations for technical-criminological and tactical support for the conduct of separate procedures for the purpose of identifying, recording, extracting, and investigating traces of such criminal offenses. Undoubtedly, such a situation does not contribute to the effective resolution of the tasks of criminal proceedings during the investigation and trial of criminal offenses against peace, human security and international order. On the contrary, it leads to the emergence of difficulties for pre-trial investigation workers, for example, related to the correct criminal-legal qualification of these acts; determining the scope and content of the circumstances to be ascertained; by choosing areas and programs of investigation; collecting and researching trace information, etc.

Speaking about the recording of cases of criminal offenses against peace, human security and international order and their pre-trial investigation under martial law, first of all the criminal-legal features inherent in the studied category of illegal acts should be clarified. This will make it possible to distinguish and distinguish socially dangerous acts against the environment from other military criminal offenses that encroach on other social relations.

Another problem of recording and investigating crimes against peace, human security and international order in the

conditions of martial law is the timely detection of traces of such illegal acts, their correct recording and removal. Often, the members of the investigative and operational teams who go to the scene of the incident, pay much more attention to the damage to individual objects and the corpses of people. At the same time, actions are not carried out to search for traces of environmental pollution (soil, water resources, atmosphere, etc.), the scale of the death of representatives of the animal world, damage to the plant life, etc. is not detected and recorded. Moreover, it is quite often that ecologists are not included as specialists in the investigative and operational teams, who, using certified equipment, would search for traces of illegal actions against the environment, take samples and/or samples, determine the coordinates, area and volume of damage to ecosystem components [14]. As a result, this leads to the incomplete establishment of all the circumstances of the commission of a criminal offense against the environment, which means to the incompleteness of the investigation of these criminal offenses.

The main task of law enforcement agencies is to collect evidence and any information about crimes. Of course, such information about crimes does not always reach the Internet. In the territories that are under occupation, such information is sufficiently hidden. However, documentation in any case will not be effective enough if there are no testimonies from the victims.

The most basic method of information gathering, which is a form of data collection through open sources (Internet, broadcasting, papers, etc.) and their processing is OSINT (hereinafter - Open-Source Intelligence) [15]. It is one of the tools for collecting information, the OSINT methods are the collection of information from open sources, communication with victims, video recording of testimonies and interviews of victims (for example, the activities of the Euromaidan SOS public organization)" [16].

The OSINT method is really effective in collecting information about crimes against peace, human security and international order in Ukraine, primarily in the context of detecting and documenting crimes, because it opens access to a large number of open sources of information, such as media, social networks, public reports, documents and reports of international organizations, which allows to collect diverse and reliable information. OSINT allows receiving information in near real time, which is important for detecting and responding to emergency events and crimes of this category. The collection of information using OSINT can be conducted anonymously, which is important for the safety of those investigating these crimes. An important advantage of OSINT is that the information is usually publicly available and can be used in international trials and crime documentation.

The development of a new methodology for investigating crimes against peace, human security and international order in Ukraine is important. Such illegal acts are usually complex and large-scale events that require deep understanding and analysis. The development of new research methods will help improve the efficiency and accuracy of the investigation of

these crimes. They will provide a structured approach to data collection and analysis, helping to make investigations more systematic and comprehensive. The development of new research methods will allow us to adapt to these changes and use modern tools to detect and document crimes.

Investigating such crimes is a key element in raising awareness of the seriousness of these events and the importance of stopping them. They also promote international accountability and can lead to the prosecution of perpetrators before international tribunals. Investigating crimes against humanity is a key element of justice and reconciliation in post-conflict situations. They help to restore law and order, recognize the rights of victims, and ensure that the perpetrators are held accountable for their actions.

Crimes against peace, human security and international order that have occurred in Ukraine in the last 10 years require a wider and deeper investigation, which will be an important prerequisite for ensuring justice and punishing the guilty persons, will help identify the factors that led to these crimes, and develop strategies to prevent them in the future. Crimes against peace, human security and international order have an international dimension, and their investigation is important for establishing accountability before international courts and organizations. The development of new methodologies for recording and collecting evidence during the investigation of the specified crimes in Ukraine is important for ensuring justice, protecting human rights and preventing such crimes in the future, especially in the conditions of a full-scale war in Ukraine.

IV. Conclusions

Despite the variety of concepts related to international crimes, crimes against peace, human security and international order occupy the highest level among illegal acts for which international criminal responsibility is provided. The specified criminal offenses encroach on fundamental human rights, the prohibition of violation of which in international law constitutes a norm of jus cogens, and the obligation of states to protect them is an obligation erga omnes.

In the system of criminal offenses against peace, human security and international order, genocide is the most serious international crime, the commission of which is the basis for the international legal responsibility of states and the criminal responsibility of individuals. In the conditions of sustainable development, ecocide is a criminal offense not only against the environment, it is a crime against the ecological safety of mankind, which determines its placement in the appropriate section of the Special Part of the Criminal Code of Ukraine.

The increase in the number of crimes against peace, human security and international order, in particular genocide and ecocide, can lead to negative consequences and a threat to the biological foundations of life on Earth. The counteraction to such criminal manifestations should have appropriate legal regulation, which would correspond to the degree of social danger of illegal actions and the degree of severity of the consequences. International cooperation in the fight against

genocide, ecocide and other war crimes of this category is important for the implementation and maintenance of international peace and security, and therefore the protection of all humanity. Consolidation of ecocide at the international level as a criminal offense against peace, human security and international order will allow to influence certain states so that their decisions, which can cause and determine significant damage to the environment and the death of people, qualify as international crimes.

The development of a methodology for documenting and investigating crimes against peace, human security, and international order is important for ensuring justice, protecting humanity, and preventing such illegal acts in the context of hostilities, both in Ukraine and in other countries where armed conflicts continue. The most relevant issues are: the criminal-legal qualification of these acts; determination of the scope and content of the circumstances to be ascertained; high-quality and timely collection and investigation of traces of the commission of a crime. The resolution of these issues depends on the technical forensic and tactical provision of separate procedural procedures aimed at identifying, recording, extracting and investigating the traces of such criminal offenses. In the absence of witness testimony, the most effective method of gathering information is Open-Source Intelligence - a form of data collection through open sources (Internet, broadcasting, papers, etc.) and their processing.

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