



## **The Environmental Dimension of Russian Aggression: Violations of the Laws and Customs of War concerning the Environment**

### **Introduction**

Russian aggression against Ukraine has been accompanied by a large number of violations of international humanitarian law (IHL) in the field of environmental protection. Damage caused by attacks on facilities and installations containing dangerous forces can be transboundary in nature and, in some cases (as, for example, due to potential destruction at the Chornobyl nuclear power plant), lead to global consequences. This brief concerns such attacks and other violations of IHL concerning the environment.

### **IHL Environmental Violations**

On 24 February, military forces of the Russian Federation entered Ukraine via the territory of the Republic of Belarus, seized and established control over the Chornobyl Nuclear Power Plant (hereinafter "ChNPP"), and stationed personnel there. The Armed Forces of the Russian Federation also seized two spent fuel storage facilities (CFSF-1 and CFSF-2), as well as the "Vektor" complex which ensures storage and disposal of nuclear waste.<sup>1</sup> During the seizure of the exclusion zone, the Russian military issued an ultimatum to surrender the ChNPP, threatening to mine and blow up certain infrastructure. Russian aircraft performed manoeuvres in the no-fly zone over the ChNPP and fired from this position, hovering over power plant structures. Such behavior contradicts a statement made by Russian Defence Ministry spokesman, Igor Konashenkov, that Russia's armed forces took control of the ChNPP to avoid a nuclear provocation.<sup>2</sup>

In addition, the area surrounding Chornobyl is being used by Russian armed forces to move troops and equipment south of the plant. The movement of Russian heavy equipment through the radionuclide-contaminated area of the Chornobyl Exclusion Zone has caused an increase in background radiation.

In southern Ukraine, the Russian Armed Forces aimed multiple-launch rocket systems at the Zaporizhzhya Nuclear Power Plant, threatening to open fire. Fortunately, this did not happen.

On 26 February, the Russian Air Force launched a missile attack on the Kyiv Hydroelectric Power Plant, threatening to flood Kyiv and large areas around it.

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<sup>1</sup> Occupiers seized the Chernobyl plant, available at: <https://mind.ua/news/20236591-onovleno-okupanti-zahopili-chornobilsku-stanciyu>

<sup>2</sup> Why Russian troops seized the Chernobyl NPP, available at: <https://www.bbc.com/ukrainian/features-60524741>; Speech by a representative of the Russian Ministry of Defense, available at: <https://www.youtube.com/watch?v=hY2YBaihKI8>

Evidently, the impact from damage to the hydroelectric power plant (HPP) would have been catastrophic, both for Kyiv and its inhabitants and for the inhabitants of the cities and towns south of the Ukrainian capital.

Acting deliberately, the Russian Armed Forces have caused significant environmental damage to oil-related facilities, listed in Additional Protocol I (AP I) as among the installations and facilities containing dangerous forces. A missile attack by the Russian Air Force on an oil depot in Vasylkiv, near Kyiv, resulted in a large fire due to the ignition of oil products. An oil depot in Okhtyrka, Sumy Oblast, was attacked – presumably using vacuum bombs – by Russian forces on 28 February, resulting in a significant fire and widespread environmental damage.

IHL obliges parties to an armed conflict to give regard to the environment, extending also to the prohibition of using methods and means of warfare which may be expected to cause such damage to the natural environment that would thereby prejudice the health or survival of the population (Article 55 of Additional Protocol I). Article 56 of AP I also prohibits direct attacks on works and installations containing dangerous forces, including nuclear power plants. In other words, AP I instructs states that both direct attacks on the aforementioned works and installations and making use of them to provide cover to military operations, such as firing from the territory of such objects and so on, are prohibited.

The Convention on the Prohibition of Military or any other Hostile Use of Environmental Modification Techniques (ENMOD Convention) also prohibits any military use of environmental modification techniques. This may include radioactive pollution and the destruction of dams.

The Rome Statute of the International Criminal Court defines relevant war crimes solely as any disproportionate attack carried out in the knowledge that such attack will cause widespread, long-lasting, and severe damage to the environment. An attack, however, may be understood broadly and need not necessarily encompass the use of weapons against a particular object. The movement of equipment through an object, as well as its capture, may, under certain conditions, be regarded as an attack. Moreover, even the threat of attack may be qualified as an attempt to commit a war crime in the form of an attack that might result in widespread, long-lasting, and severe damage to the environment.

### **In lieu of conclusions**

The widespread military action since 24 February 2022, which has stemmed from Russian aggression against Ukraine, is causing widespread, long-term, and severe damage to the natural environment, which constitutes a violation of international humanitarian law and can be considered as a war crime. The described instances of IHL violations are provoking an environmental crisis in the region, may incur global consequences, and should be duly evaluated by the global community.