ENVIRONMENT PEOPLE LAW

The rule of law for the protection of the environment

# Court jurisprudence on disputes regarding compensation for environmental damage. Key aspects

**Court jurisprudence on disputes regarding compensation for environmental damage. Key aspects**

Analyzing court jurisprudence on cases of compensation for environmental damage, it is worth paying attention to several main aspects. This publication analyzes the following of them: who can act as a plaintiff and a defendant, which court to apply to, deadlines for applying to court, court fees, compensation for damage and the possibility of applying mechanisms of the European Court of Human Rights.

1. Who can act as a plaintiff in disputes regarding compensation for environmental damage?

The answer to this question, first of all, should be sought in procedural codes. So, for example, in accordance with Clause 8 Part 1 of Art. 4 of the Code of Administrative Proceedings of Ukraine, the plaintiff is a person whose rights, freedoms and interests are to be protected by a lawsuit in the administrative court, or the administrator of the issue of bonds who is filing a lawsuit to the administrative court for protection of rights, freedoms and interests of the bondholders in accordance with the provisions of the Law of Ukraine "On Capital Markets and Organized Commodity Markets", as well as an authority body, for the execution of whose authority powers a lawsuit has been filed with the administrative court. According to Part 2 of Art. 46 of the Civil Procedings Code of Ukraine, plaintiffs in an administrative case may be citizens of Ukraine, foreigners or stateless persons, enterprises, institutions, organizations (legal entities), authority bodies.

In accordance with Part 2 of Art. 4 of the Economic Proceedings Code of Ukraine, legal entities and natural persons - entrepreneurs, natural persons who are not entrepreneurs, state bodies, local self-government bodies have the right to apply to a commercial court for protection of their violated, unrecognized or disputed rights and legitimate interests in cases, assigned by law to the jurisdiction of the commercial court, as well as to take measures provided for by law aimed at preventing offenses.

According to Part 2 of Article 48 of the Civil Proceedings Code of Ukraine, the plaintiff and the defendant can be natural and legal persons, as well as the state.

It should be noted that a claim for compensation for environmental damage will probably fall under economic or civil jurisdiction, depending on the subject composition of the parties and the nature of legal relationship that arose and in the course of which damage to the environment was caused.

Also, it is worth referring to the provisions of the Law of Ukraine "On Environmental Protection". According to Article 9 of this Law, every citizen of Ukraine has the right to file lawsuits against state bodies, enterprises, institutions, organizations and citizens for compensation of damage caused to their health and property as a result of negative impact on the natural environment. In accordance with Article 10 of this Law, the environmental rights of citizens are ensured, in particular, by participation of non-government organizations and citizens in activities related to protection of the natural environment, compensation in accordance with the established procedure for damage caused to health and property of citizens as a result of a violation of legislation on environmental protection.

Provisions of Article 20 of the Law of Ukraine "On Environmental Protection" guarantee the right to file such lawsuits for the bodies of the State Environmental Inspectorate of Ukraine. Article 22 of this law guarantees civil society organizations the right to file lawsuits to court for compensation of the damage caused as a result of violation of legislation on protection of the natural environment as well as health of citizens and property of civil society organizations.

For better understanding who can act as a plaintiff in disputes regarding compensation for environmental damage, a number of important positions of the Supreme Court have been formulated, most of them relate to the interpretation of the right of civil society organizations to file such lawsuits.

Examples of several legal positions:

In the resolution dated 11.12.2018 in case No. 910/8122/17, the Grand Chamber of the Supreme Court came to the conclusion that the right to protect the violated constitutional right to a safe environment belongs to everyone and can be exercised both personally and through the participation of a representative of the public. At the same time, International charitable organization (ICO) "Environment-People-Law" is an environmental civil society organization that, in accordance with the provisions of the Aarhus Convention and the Laws of Ukraine "On Environmental Protection", "On Public Associations", "On Charitable Activities and Charitable Organization", as well as in accordance with its charter, has the right to represent in court environmental interests of society and its individual members for the purpose of protecting the violated environmental rights of a person and citizen or for the purpose of eliminating violations of requirements of environmental legislation. The court draws attention to the fact that lawsuits in the interests of unspecified persons (in the interests of society, the people) may be considered as an exception in cases expressly provided for by law. One of such cases can be protection of environmental interests of society in accordance with the Aarhus Convention and the Law of Ukraine "On Environmental Protection".

In accordance with the resolution of the Grand Chamber of the Supreme Court of 15 June 2021 in case No. 904/6125/20, the founders (participants) of a public association with the status of a legal entity endow such association with certain powers (competence), which does not exclude the delegation of representative functions to it protection of their rights and interests in legal relations with third parties, including legal protection. According to the resolution of the Grand Chamber of the Supreme Court of June 15, 2021 in case No. 904/6125/20, an application by a civil society organization to court for execution of the tasks assigned to it by founders (members) regarding removal of violations of norms of environmental legislation and/or compensation for the damage caused as a result of such violations in favor of natural persons - founders (members) of the organization complies with the provisions of the Aarhus Convention. By ratifying the Convention, Ukraine undertook to provide such an entity with the right of access to court without discrimination on the basis of its actual location or actual center of activity.

An interesting position was taken by the Supreme Arbitration Court of Ukraine in its explanations dated 27.06.2001, indicating that "Clause "g" of Article 21 of the Law "On Protection of the Natural Environment" gives public environmental associations the right to appeal to the commercial court with claims for compensation of damage caused as a result of violation of the legislation on environmental protection, including health of citizens and property of public associations. According to Article 14 of the Law of Ukraine "On Associations of Citizens", the latter acquire the status of a legal entity only in the event of registration (official recognition). Therefore, commercial courts do not have jurisdiction over lawsuits filed by non-registered public associations.

2. The defendant in such cases.

In accordance with the provisions of the Civil Proceedings Code of Ukraine, the defendant is a subject of authority, and in cases defined by law, other persons to whom the plaintiff's claim is addressed.

According to Part 2 of Art. 48 of the Civil Proceedings Code of Ukraine, the plaintiff and the defendant can be individuals and legal entities, as well as the state.

According to Article 45 of the Code of Criminal Proceedings of Ukraine, the parties in the legal process - plaintiffs and defendants - can be the persons specified in Article 4 of this Code. According to Article 4 of the Civil Proceedings Code of Ukraine, legal entities and natural persons - entrepreneurs, natural persons who are not entrepreneurs, state bodies, local self-government bodies have the right to apply to the commercial court for protection of their violated, unrecognized or contested rights and legitimate interests in cases assigned by law to the jurisdiction of the commercial court, as well as to take measures provided for by law aimed at preventing offenses. The right to apply to the commercial court in cases assigned by law to its jurisdiction is also available to persons who are granted by law the right to apply to the court in the interests of other persons.

From the above, we can see that Ukrainian procedural legislation applies a rather broad approach to persons who can act as defendants in litigation cases. We are talking about natural persons and legal entities, as well as state authorities (including military leadership), local self-government bodies. However, in connection with military actions on the territory of Ukraine, the question of whether the Russian Federation, as a state, can act as a defendant in Ukrainian courts is important.

Opponents of such a possibility refer to the immunity of the state, which, in their opinion, is guaranteed by the Law of Ukraine "On International Private Law". We are talking about the provision where judicial immunity is established for a foreign state in the absence of the consent of the competent authorities of that state to involve it in participating in a case in the national court of another state, in particular as a defendant.

However, such an argument seems to be incorrect due to a number of reasons.

First, the judicial immunity of the Russian Federation does not apply due to customary international law codified in the UN Convention on Jurisdictional Immunities of States and Their Property.

According to Art. 12 of the UN Convention on Jurisdictional Immunities of States and Their Property, which reflects customary international law, a state does not have the right to invoke judicial immunity in cases related to causing damage to health, life and property, if such damage is fully or partially caused to 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.

Provisions of Part 1 of Art. 79 of the Law of Ukraine "On Private International Law" shall apply, unless otherwise provided by an international treaty of Ukraine or a law of Ukraine.

Secondly, in accordance with Part 1 of Art. 11 of the Convention of the Council of Europe on the Prevention of Terrorism, Ukraine takes such measures as may be necessary for effective, proportionate and dissuasive punishment for crimes of terrorism.

According to Art. 13 of this Convention, Ukraine is obliged to take necessary measures to protect and support victims of terrorism committed on the territory of Ukraine.

In accordance with Part 4 of Art. 8 of the International Convention for the Suppression of the Financing of Terrorism, Ukraine is obliged to create compensation mechanisms for victims of terrorist crimes. Absence of an appropriate mechanism cannot be a reason for refusing such protection of rights by general means as provided by law, including by applying to court.

Application of judicial immunity of the Russian Federation would mean a violation by Ukraine of its international legal obligations in accordance with the above-mentioned conventions on combating terrorism.

Thirdly, the application of immunity to the Russian Federation in this case would contradict the practice of the European Court of Human Rights. As stated in the decision of the ECtHR in the case "Oleynikov v. Russia", if national courts uphold the jurisdictional immunity of a state without any

analysis of the applicable principles of customary international law, such courts violate the applicant's right of access to court even in those cases when jurisdictional immunity is applicable.

Examples of the Supreme Court's legal positions on this issue:

According to the decision of the Supreme Court in case No. 760/17232/20-ц (proceedings No. 61-15925св21) dated May 18, 2022, maintaining the jurisdictional immunity of the Russian Federation will deprive the plaintiff of effective access to the court to protect his rights, which is incompatible with the provisions of p. 1 of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

This resolution of the Supreme Court contains the following conclusions: "According to the established practice of the ECtHR, the restriction of the right to a fair trial, in particular through the application of judicial immunity of the state, is such that corresponds to paragraph 1 of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter - the 1950 Convention ) only if such a restriction: 1) pursues a legitimate aim, 2) is proportionate to the aim pursued and 3) does not violate the very essence of the right of access to court (Ashingdane v the United Kingdom (app. no. 8225/78), judgment of 28 May 1985, § 57; Oleynikov v. Russia (application no. 36703/04), judgment of 14 March 2013, § 55; Fogarty v. the United Kingdom (application no. 37112/97), judgment of 21 November 2001, § 33; Cudak v. Lithuania (app. no. 15869/02), judgment of March 23, 2010, § 55)". Therefore, the plaintiff's appeal to the Ukrainian court is the only reasonably available means of protection of the right, the deprivation of which would mean the deprivation of such a right altogether, that is, it would deny the very essence of such a right."

On April 14, 2022, the Supreme Court in its ruling in case No. 308/9708/19 formed the position that Russia has no judicial immunity. The Supreme Court established that, starting in 2014, there is no need to send requests to the Russian Embassy in Ukraine regarding the consent of the Russian Federation to be a defendant in cases of compensation for damages because of the Russian Federation's armed aggression against Ukraine and its disregard of the sovereignty and territorial integrity of the Ukrainian state. From February 24, 2022, such sending is impossible, also in view of the severance of diplomatic relations between Ukraine and the Russian Federation.

Based on the above, the Russian Federation can act as a defendant in cases in national courts. It seems that in most cases at the national level about compensating by the Russian Federation of damage to the environment as a result of military actions, the Russian Federation will be the proper defendant.

3. Which court to address?

When establishing the substantive jurisdiction of courts, it is also worth referring to the procedural codes. For example, a claim to a state authority or local self-government bodies demanding them to compensate for damage to the environment caused by their decisions, actions or inaction may be submitted by individuals or legal entities to the administrative court on the basis of Clause 1, Part 1, Art. 19 of the Civil Code of Ukraine, where it is stated: the jurisdiction of administrative courts extends to cases in public legal disputes, in particular, to cases of natural or legal persons against authorities to appeal their decisions (normative legal acts or individual acts), actions or inaction, except cases when a different procedure for court proceedings is established by law for consideration of such disputes.

When studying the subject jurisdiction of commercial courts, it is worth paying attention to Article 20 of the Civil Proceedings Code of Ukraine, which states that commercial courts consider cases in disputes arising in connection with the implementation of economic activities. That is, if the damage to the environment took place in connection with the implementation of economic activity, the proper court for appeal will be the commercial court.

On the basis of Part 1 of Art. 19 of the Criminal Proceedings Code of Ukraine and within civil proceedings, courts of general jurisdiction consider cases arising from civil, land, labor, family, housing and other legal relations, except for cases which are considered in the order of other judicial proceedings. We remind you that according to the Civil Code of Ukraine, every person is guaranteed a personal non-property right to safe and healthy environment, as well as the right to compensation for damages caused by violation of property and personal non-property rights. That is, if the case of compensation for damage caused to the environment cannot be considered in a procedure other than civil procedure, the appropriate court for appeal will be a court of general jurisdiction, which will consider the claim according to the civil procedure.

When deciding which court to apply to (civil or commercial) in the case where the plaintiff is a legal entity or physical entity - entrepreneur, the following must be taken into account. The state is a specific subject of civil relations, which differs in status from physical entities or legal entities; claims for compensation for damage caused by armed aggression are non-contractual; civil courts hear all disputes, consideration of which is not directly provided for by other procedural codes, including economic codes; in accordance with the Code of Civil Proceedings of Ukraine, commercial courts consider cases related to implementation of economic activity and other cases, the list of which is defined by the Code of Civil Proceedings of Ukraine (this list does not include disputes about compensation for damage, if the parties to the conflict are not bound by contractual relations); civil jurisdiction courts consider disputes in which at least one of the parties to the dispute is a physical entity, and economic courts - those where the party is a business entity.

In view of the above, the conclusion is that according to the composition of the subject, disputes between a legal entity or physical entity-entrepreneur and the Russian Federation should be resolved within economic proceedings, and in terms of the nature of the legal relationship, such disputes should be resolved within civil proceedings.

<u>Examples of several legal positions of the courts with this regard:</u>

In its decision of December 11, 2018, in case No. 910/8122/17, the Grand Chamber of the Supreme Court determined that International charitable organization "Environment-People-Law" (EPL), as a non-governmental organization, has the right to apply to the court for the purpose of eliminating violations of the requirements of environmental legislation. At the same time, since by filing such a lawsuit, EPL actually replaces state authorities in the issue of monitoring compliance with environmental legislation, this dispute is of a public-law nature. Therefore, it must be resolved within administrative proceedings. This conclusion was made by the Supreme Court in view of the peculiarities of environmental protection legislation.

In the resolution of September 1, 2022, in case No. 520/16518/2020 with reference to the provisions of Articles 41, 50 and 66 of the Constitution of Ukraine, the provisions of the Aarhus Convention, ratified by Law No. 832-XIV of July 6, 1999, as well as the provisions of the Law of Ukraine " On Environmental Protection", the Supreme Court came to the conclusion that the plaintiff in this case has the right, in accordance with the procedure provided for by the second part of Article 264 of the Civil Proceedings Code of Ukraine, to apply to the administrative court with a claim for recognizing illegal and cancelling the resolution, since the contested legal act affects environmental rights and interests of the plaintiff, and legality of this act is under control of administrative courts. The court also emphasized that environmental interests of citizens can be protected in the order of administrative proceedings on the basis of part seven of Article 41 of the Constitution of Ukraine, according to which the use of property cannot harm the rights, freedoms and dignity of citizens, society interests, worsen the environmental situation and natural qualities of the land, Article 50 of the Constitution of Ukraine - everyone has the right to safe and healthy environment – and provisions of Article 66 of the Constitution of Ukraine, according to which no one should cause damage to the environment.

In the decision of the Solomyansky district court of the city of Kyiv dated June 13, 2022, in case N760/6691/22 on the claim of a Ukrainian legal entity against the Russian Federation in the case on recovery of damages, the court came to the conclusion that the dispute is not subject to consideration under the rules of civil procedure, as it contains signs of economic dispute. According to the court, in order to be a full-fledged participant in civil relations, the state needs to have a certain legal status of usual participants of these relations, that is, the status of a person. Taking into account national legal traditions, it can only be about the status of a legal entity under public law. Thus, the state, being a person under public law, participates in civil turnover, bears property responsibility as a treasury. Therefore, the court considers that in this case, a dispute arose between a legal entity under private law (Ukrainian LLC) and a foreign state - the aggressor as a special subject of civil law, the status of which can be equated to a legal entity under public law.

The Kyiv-Svyatoshinsky District Court of Kyiv Region, in its decision dated October 25, 2022, in case No. 369/3112/22, satisfied the claims of “Ametrin FC” LLC and recovered from the Russian Federation property damage caused as a result of the hostilities. The following arguments regarding this case have been provided: "Compensation of damages is one of the forms or measures of civil liability, which is considered general or universal precisely by virtue of the rules of Article 22 of the Civil Code of Ukraine, since the first part defines that the person who suffered damages as a result of violation of his/her civil rights, has the right to their compensation. That is, violation of civil law, which entailed property damage to a person, is in itself the main reason for their compensation."

From the foregoing, we can see that there is some clarity regarding claims of a public legal nature (considered in the order of administrative proceedings) and claims of a physical entity for compensation of damage caused by the Russian Federation (considered in the order of civil proceedings). However, in terms of claims of legal entities against the Russian Federation regarding compensation for damage, including to the environment, caused by military actions - there is still no established unity of court jurisprudence and unified approaches among judges.

4. Terms of appeal to court.

In accordance with Part 2 of Article 122 of the Civil Proceedings Code of Ukraine, a six-month period is established for applying to an administrative court for protection of rights, freedoms and interests of a person, which, unless otherwise established, is calculated from the day when the person learned or should have learned about the violation of his/her rights, freedoms or interests. For an authority to apply to the administrative court, a three-month period is established, which, unless otherwise established, is calculated from the day of the occurrence of the grounds that give the authority the right to present the requirements defined by law.

In civil law, the general statute of limitations is applied to relations for compensation of environmental damage. In accordance with Article 257 of the Civil Proceedings Code of Ukraine, the general statute of limitations is set at three years. In accordance with Article 260 of the Code of Civil Proceedings of Ukraine, the statute of limitations is calculated according to the general rules for determining time limits established by Articles 253-255 of this Code. The procedure of calculating the statute of limitations cannot be changed by agreement of the parties.

According to Art. 261 of the Civil Code of Ukraine, the statute of limitations begins from the day when a person learned or could have learned about the violation of his/her right or about the person who violated it. That is, the 3-year term will be calculated from the time when the relevant person found out about the damage to the environment. In case of a continuing offense, the statute of limitations does not apply.

Although the introduction of martial law on the territory of Ukraine did not stop the course of procedural terms in court cases, the Supreme Court indicated in its reports that the introduction of martial law on the territory of Ukraine is a valid reason for the renewal of procedural terms. However,

it should be taken into account that the mere reference to the fact of the introduction of martial law on the territory of Ukraine is not an unconditional basis for renewing the procedural term.

Examples of legal positions of the Supreme Court with this regard:

As stated in the decision of the Grand Chamber of the Supreme Court dated 20.11.2018 in case No. 907/50/16, both in the case of filing a lawsuit by a person whose right has been violated, and in the case of filing a lawsuit in the interests of this person by another person authorized to do so, the statute of limitations begins to be calculated from the moment when the person learned or could have learned about the violation of his/her right or about the person who violated it. The provision of the law on the beginning of the statute of limitations also applies to the prosecutor's appeal to the court with a statement on protection of state interests or interests of a territorial community. The same resolution states that the possibility of knowing about the violation of one's rights stems from the general principles of protection of civil rights and interests (Articles 15, 16, 20 of the Civil Code of Ukraine), according to which a person, having the right to protection, excercises it on his/her own discretion in the manner prescribed by law, which creates this opportunity for her/him to know about infringement of the rights.

A similar legal position is set forth in the decision of the Grand Chamber of the Supreme Court dated May 30, 2018 in case No. 359/2012/15-ц (proceedings No. 14-101цс18).

The Grand Chamber of the Supreme Court, in its ruling dated September 11, 2019, in case No. 487/10132/14-ц, noted that a comparative analysis of the terms "learned" and "could learn" used in Article 261 of the Civil Code of Ukraine gives grounds for a conclusion about the presumption of possibility and a person's duty to know about the state of his/her property rights. Therefore, proving the fact that the plaintiff did not know about the violation of his/her civil right and for this very reason did not apply for protection to court is not enough. The plaintiff must also prove that he/she could not know about the violation of his/her civil right.

The decision of the Civil Court of Cassation as part of the Supreme Court dated July 21, 2022 in case No. 127/2897/13-ц contains a legal position, according to which, the issue of renewing a missed filing deadline for reasons related to introduction of martial law in Ukraine, is decided in each specific case, taking into account the arguments given in the application for renewal of such a deadline.

By itself, the fact of the introduction of martial law in Ukraine cannot be a reason for renewing the procedural term. Such a reason can be the circumstances that arose as a result of the introduction of martial law and made it impossible for a participant in the court process to perform procedural actions within the time limit established by law.

5. ***Regarding the payment of the court fee.***

In accordance with clause 22, part 1, article 5 of the Law "On Court Fees", the plaintiffs are exempted from payment of court fees during consideration of cases in all courts in cases of claims against the aggressor state of the Russian Federation demanding compensation of property and/or moral damage in connection with the temporary occupation of the territory of Ukraine, armed aggression, armed conflict that led to forced resettlement from temporarily occupied territories of Ukraine, death, injury, captivity, illegal deprivation of liberty or kidnapping, as well as violation of the right to ownership of movable and /or real estate.

That is, exemption from payment of the court fee is possible in the event of filing a claim for compensation of damage to the environment exclusively as much as it is expressed as property damage and led to one of the consequences listed above. Despite the fact that the Supreme Court's jurisprudence with this regard is not sufficiently developed, it appears from the legislation that in other cases the court fee will be paid in a general manner.

6. **Regarding compensation for damage.**

The most debatable issue with this regard is who will be the receiver of funds in the event of a positive court decision on recovery from the Russian Federation of compensation for the damage caused.

It is clear that in cases where the subject of appeal is a natural person and the case concerns compensation for damage caused by actions of the Russian Federation to this person, such a natural person is the subject of receiving compensation. According to the same logic, the subject of receiving compensation for property damage will be the legal entity-plaintiff.

According to a certain analogy with the existing practice in cases of recovery of damages, in connection with violation of environmental legislation, in cases of lawsuits by the State Environmental Inspectorate against the Russian Federation for compensation of environmental damage, the funds will be directed to the account of the state (Treasury of Ukraine).

However, in the event of a legitimate appeal, let's say, of a civil society organization with a claim to the Russian Federation for compensation of environmental damage, both of the options mentioned above seem quite incorrect. However, there is still no developed practice or certain explanations from official bodies and officials. It seems reasonable that a special environmental recovery fund should be created for such and other purposes, the accounts of which could be used to accumulate funds received in the course of meeting claims against the Russian Federation for compensation of environmental damage.

Importantly, the damage caused as a result of the armed aggression of the Russian Federation should be subject to compensation by the Russian Federation, regardless of whether it was directly caused during the military operations of the aggressor or during the exercise of the right of self-defense by the Ukrainian side.

7. **Regarding the jurisprudence of the ECtHR.**

In addition to national mechanisms, attention should also be paid to the jurisprudence of the European Court of Human Rights. Over the past few decades, the European Court of Human Rights managed to develop a detailed and extended system of case law, which, although not directly, guarantees the right to a healthy environment. The Court developed this body of jurisprudence primarily on the basis of the right to life and respect for private and family life. The scope of such protection has a wide range, starting from protection against noise, various forms of industrial pollution, nuclear activity, waste management, to natural disasters and floods. The scope of protection also concerns the risk of causing harm, and not only the application of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the Convention) regarding harm that has already been caused. The starting point for any discussion of human rights and the environment is that the failure of the state to regulate or control environmental problems or to protect the environment may amount to interference with our individual rights. Such cases as “Guerra et al v. Italy", "Lopez Ostra v. Spain", "Fadeyeva v. Russia" and "Dubetska and Others v. Ukraine" show how the right to private and family life or the right to life can be used in cases with the aim of obtaining protection of the individual's right to clean and safe environment, receiving compensation for its violation.

However, the current human rights protection mechanism can be used to protect the environment only by victims of violations of the Convention. If health, privacy, property or other civil rights of a person applying to the Court have not been sufficiently affected by environmental damage, then the ECtHR has no reason to continue the proceedings. Provisions of the Convention do not create a legal possibility for the existence of actio popularis. Even those who are victims of harm cannot turn to the ECtHR for a decision in favor of environmental protection just because they believe that the public interest will be best served in this way. They can only ask the court to weigh their rights against the public interest in another category of value, such as trade or industrial development. By doing so,

individuals can achieve some environmental victories, but most likely these will be side effects of protecting private rights of the person.

**Conclusions**

Current procedural legislation and jurisprudence of the Supreme Court create sufficient legal grounds for individuals, legal entities, and civil society organizations to apply to court for compensation of environmental damage. In most cases of Russia's compensating for environmental damage as a result of military actions, the Russian Federation will act as the proper defendant. In terms of the subject matter jurisdiction of claims of legal entities to the Russian Federation for compensation for damage, including damage to the environment caused by military actions, there is still no established consensus and unified approaches. The deadlines for filing relevant lawsuits are determined by legislation, however, in the course of their determination, specifics of disputed legal relations and conditions of martial law must be taken into account. In vast majority of cases, payment of the court fee in the studied category of cases will be carried out in the general manner. The state should make a decision regarding resolving the issue of launching a special environmental recovery fund. The existing jurisprudence of the ECtHR can be used to compensate for damage to the environment only indirectly, because the court makes decisions in cases regarding violation of human rights provided for by the Convention.

References:

1. Constitution of Ukraine // Bulletin of the Verkhovna Rada of Ukraine (VVR), 1996, No. 30, Art. 141.

2. Economic Procedure Code of Ukraine // Bulletin of the Verkhovna Rada of Ukraine (VVR), 1992, No. 6, Article 56.

3. Civil Proceedings Code of Ukraine // Bulletin of the Verkhovna Rada of Ukraine (VVR), 2003, No. 40-44, Article 356.

4. Administrative Judicial Code of Ukraine // Bulletin of the Verkhovna Rada of Ukraine (VVR), 2005, No. 35-36, No. 37, Article 446.

5. Convention for the Protection of Human Rights and Fundamental Freedoms (with Protocols) (European Convention on Human Rights), ratified by Law No. 475/97-VR dated 17.07.97/[Electronic resource]. – https://zakon.rada.gov.ua/laws/show/995_004#Text

6. United Nations Convention on Jurisdictional Immunities of States and Their Property dated December 2, 2004 /[Electronic resource]. – Access mode: https:// regulation.gov.ua/documents/id111373

7. Council of Europe Convention on the Prevention of Terrorism dated June 1, 2007 / [Electronic resource]. – Access mode: https://zakon.rada.gov.ua/laws/show/994_712#Text

8. International Convention for the Suppression of the Financing of Terrorism dated September 12, 2002 /[Electronic resource].- Access mode: https://zakon.rada.gov.ua/laws/show/995_518#Text

9. Civil Code of Ukraine // Bulletin of the Verkhovna Rada of Ukraine (VVR), 2003, No. 40-44, Article 356.

10. The Law of Ukraine "On International Private Law" // Bulletin of the Verkhovna Rada of Ukraine (VVR), 2005, No. 32, Article 422.

11. The Law of Ukraine "On Court Fees" // Bulletin of the Verkhovna Rada of Ukraine (VVR), 2012, No. 14, Article 87.

12. Resolution of the Supreme Court dated 11.12.2018 in case No. 910/8122/17// Unified State Register of Court Decisions of Ukraine / [Electronic resource]. – Access mode: https://verdictum.ligazakon.net/document/78977479

13. Resolution of the Supreme Court of June 15, 2021 in case No. 904/6125/20// Unified State Register of Court Decisions of Ukraine / [Electronic resource]. – Access mode: https://reyestr.court.gov.ua/Review/98235823

14. Resolution of the Supreme Court dated February 17, 2022 in case No. 120/2553/19-a // Unified State Register of Court Decisions of Ukraine / [Electronic resource]. – Access mode: https://reyestr.court.gov.ua/Review/103423223

15. Resolution of the Supreme Court of September 1, 2022 in case No. 520/16518/2020 // Unified State Register of Court Decisions of Ukraine / [Electronic resource]. – Access mode: https://reyestr.court.gov.ua/Review/106017551

16. Resolution of the Supreme Court dated November 20, 2018 in case No. 907/50/16 // Unified State Register of Court Decisions of Ukraine / [Electronic resource]. – Access mode: https://reyestr.court.gov.ua/Review/106017551

17. Resolution of the Supreme Court dated May 30, 2018 in case No. 359/2012/15-ц // Unified State Register of Court Decisions of Ukraine / [Electronic resource]. – Access mode: https://reyestr.court.gov.ua/Review/75287090

18. Resolution of the Supreme Court of September 11, 2019 in case No. 487/10132/14- ц // Unified State Register of Court Decisions of Ukraine / [Electronic resource]. – Access mode: https://reyestr.court.gov.ua/Review/90591138

19. Resolution of the Supreme Court in case No. 760/17232/20-ц dated May 18, 2022// Unified State Register of Court Decisions of Ukraine/[Electronic resource]. – Access mode: https://reyestr.court.gov.ua/Review/104635313

20. Resolution of the Supreme Court in case No. 308/9708/19 of April 14, 2022 // Unified State Register of Court Decisions of Ukraine / [Electronic resource]. – Access mode: https://reyestr.court.gov.ua/Review/104086064

21. Resolution of the Civil Court of Cassation as part of the Supreme Court of July 21, 2022 in case No. 127/2897/13-ц of the year // Unified State Register of Court Decisions of Ukraine / [Electronic resource]. – Access mode: https:// verdictum.ligazakon.net/document/105372019

22. Decision of the Solomyа̀nsky district court of the city of Kyiv dated June 13, 2022 in case N 760/6691/22 // Unified State Register of Court Decisions of Ukraine / [Electronic resource]. – Access mode: https://verdictum.ligazakon.net/document/104736597

23. Decision of the Kyiv-Svyatoshinsky District Court of Kyiv Region in case No. 369/3112/22 of October 25, 2022 // Unified State Register of Court Decisions of Ukraine/[Electronic resource].– Access mode: https://reyestr.court.gov.ua/Review/107002218

24. Decision of the ECtHR in the case "Guerra et al. v. Italy" / [Electronic resource]. – Access mode: https://europeancourt.ru/resheniya-evropejskogo-suda-narusskomyazyke/gerra-i-drugie-protiv-italii-postanovlenie-evropejskogo-suda/

25. Decision of the ECtHR in the case "Lopez Ostra v. Spain" / [Electronic resource]. – Access mode: https://zakon.rada.gov.ua/laws/show/980_348#Text

26. Decision of the ECtHR in the case "Fadeyeva v. Russia" / [Electronic resource]. – Access mode: https://ips.ligazakon.net/document/SO3400

27. Decision of the ECtHR in the case "Dubetska et al. v. Ukraine" / [Electronic resource]. – Access mode: https://zakon.rada.gov.ua/laws/show/974_689#Text

28. Decision of the ECtHR in the case "Oleynikov v. Russia" (Oleynikov v. Russia) / [Electronic resource].– Access mode: https://hudoc.echr.coe.int/rus#{%22itemid%22:[%22001-117124%22]}

29. Judiciary during the war: how martial law affected the consideration of court cases: Article. GOLAW/[Electronic resource]. – Access mode: https://golaw.ua/ua/insights/publication/sudochinstvo-pid-chas-vijni-yak-voyennijstan-vplinuv-narozglyad-sudovih-sprav/