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## LEGAL RESPONSIBILITY FOR THE USE OF UNMANNED AIRCRAFT SYSTEMS FOR MILITARY PURPOSES

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*The purpose of the article is to explore the current sense of uncertainty regarding applicable legal standards, the rapid development and proliferation of unmanned aerial vehicles and robotic technologies due to the perceived lack of transparency and accountability of current policies, which can polarize the international community, undermine the rule of law and ultimately destabilize the security of the international environment as a whole. **Research methods:** the study is based on scientific and specifically legal methods of knowledge, which were used to analyze doctrinal approaches to the development of ideas regarding the understanding of the concept and essence of unmanned aerial vehicles, their use for military purposes, and legal responsibility for violations of humanitarian law. One of the main methods used is the dialectical method of cognition, which made it possible to establish and distinguish the qualitative characteristics of the studied phenomenon. Thanks to a special legal method, the norms of humanitarian law were investigated with the aim of calling for the full, fair and effective use of the law enforcement mechanism in order to bring to legal responsibility all those involved in the use of unmanned systems in the military by a terrorist country on the territory of Ukraine. **Results:** Ukraine, as a part of Europe, is fighting for modern and future principles of the rule of law, the rule of law and the protection of human rights. At the same time, the terrorist country uses the latest technologies for an aggressive appeal to the principles of the past, which is based on the mutilation of humane principles, uses labor cases and the greatest manifestations of the Middle Ages and the rules of ancient nomadic tribes. Ukraine hopes that international humanitarian law and the law of war will be applied fairly, effectively and as quickly as possible to bring to justice all those involved in a terrorist country that uses the latest technologies to commit crimes against humanity. **Discussion:** Since the full-scale invasion of the northern neighbor on the territory of Ukraine, interest in all types of UAVs has grown in a special way. This war demonstrated the combat advantages of drones, which have become smaller, more lethal, easier to operate, and available to almost everyone. However, there are also gaps in the application of the legal responsibility of those involved in the use of drones to violate international humanitarian law rights.*

***Key words:** legal responsibility; criminal responsibility; war crimes; unmanned aerial vehicles (systems); drones; Geneva Convention; tribunal.*

**Problem statement and its relevance.** The use of drones and other unmanned robots in military operations and other violent situations has grown exponentially in recent years, and states continue to invest heavily in increasing the operational auton-

omy of such systems. This study provides an overview of the current and likely future use of such systems and considers the relevant legal implications under human rights law, international humanitarian law and the UN Charter. The study concludes

that the current sense of uncertainty about applicable legal standards, the rapid development and proliferation of unmanned aerial vehicles and robotic technologies, and the perceived lack of transparency and accountability of current policies have the potential to polarize the international community, undermining the rule of law and ultimately destabilizing the international environment. security in general.

**Analysis of research and publications** on the problem. The issue of criminal liability for war crimes was dealt with by V.A. Bazov, V.M. Borovenko, N.V. Dryomina, S.O. Zagorodniuk, A.V. Kartavtsev, M.P. Kutsevich, S.P. Kuchevska, Yu.K. Kucherenko, V.O. Myronova, V.O. Navrotsky, V.P. Pylypenko, V.P. Popovych, P.I. Repeshko.

**The purpose** of the article is to explore the current sense of uncertainty regarding applicable legal standards, the rapid development and proliferation of unmanned aerial vehicles and robotic technologies due to the perceived lack of transparency and accountability of current policies, which can polarize the international community, undermine the rule of law and ultimately destabilize the security of the international environment as a whole.

**Summary of the main research material.** Since the full-scale invasion of the territory of Ukraine by the northern neighbor, interest in all types of UAVs has grown in a special way.

Drones are unmanned aerial vehicles (UAVs) that are controlled remotely and in real time by human operators. They are called "drones" because of the constant buzzing that some of these vehicles emit during flight (from the English drone [drəʊn] hum, boom, thick, buzz (about an airplane), buzz (about a bug), hum) [1, p. 312].

There is a wide variety of models and types of UAVs in terms of size, weight, cost, range and capabilities: from tiny vehicles weighing up to two kilograms, similar to model airplanes, to fighters weighing several tons, capable of being equipped with heavy weapons and having a flight range of thousands of kilometers [2, p. 10]. Thus, on the part of the terrorist invaders, a large number of army drones are used in the sky over Ukraine: from massive "Orlan-10" to reconnaissance-strike "Forposts" and "Orions". On September 12, the "Shahed-136" UAV was shot down for the first time in the airspace of Ukraine, near Kupyansk, Kharkiv Oblast [3].

Considering the diversity, UAVs are used for strategic and military purposes in three different ways:

- firstly, when ground troops attack or are attacked, UAVs are deployed to use bombs and missiles, just like any other military aircraft;

- secondly, there are drones that patrol the sky over certain countries around the clock, observing life;

- thirdly, drones are used in missions planned to "neutralize" terrorism suspects in the context of the "war on terror" [4].

From a technical point of view, drones and UAVs have differences in scope, purposes of application, and other characteristics. A UAV can be called a drone, but not every drone is a UAV. However, the topic of this study is the basics of legal regulation of the use of UAVs, in particular, in relation to the first of the above methods of use. It raises several questions from the point of view of international law. In addition to those arising from the use of any other weapon, whether airborne or manned, the use of UAVs calls for even greater vigilance to ensure that the weapon is used in accordance with the requirements of international humanitarian law.

If armed drones are used in the context of a military conflict, it is clear that their operators must respect the principle of distinction and other rules of jus in bello or the right to wage war (from Latin, the right to wage war) – the right of a state to wage war. No more, no less: in this regard, a combat drone is not a weapon of an "indiscriminate nature" or a weapon that necessarily causes "excessive harm or unnecessary suffering" [5, Article 36], and therefore it is difficult to argue that, apart from possible specific international norms, it can be an inherently illegal weapon under international humanitarian law.

Drones are not specifically mentioned in arms treaties or other legal instruments of international humanitarian law. However, the use of any weapon system, including armed drones, in situations of armed conflict is clearly subject to international humanitarian law. Among other things, this means that when using drones, parties to a conflict must always distinguish between combatants and civilians, and between military targets and civilian objects. They must take all possible precautions to spare the civilian population and infrastructure, and

they must suspend or cancel the attack if the expected casualty or damage to civilians or civilian objects would be excessive in relation to the concrete and expected direct military advantage. Similarly, drones may not be used to carry prohibited weapons, such as chemical or biological agents, under any circumstances. On the other hand, from the point of view of international humanitarian law, any weapon that enables more precise attacks and helps to avoid or minimize accidental loss of civilian life, injury to civilians or damage to civilian objects should be preferred over weapons, which does not do this [6]. Whether the use of armed drones will actually provide these benefits will depend on the specific circumstances. This issue is the subject of ongoing debate due, among other things, to the lack of information on the consequences of most drone strikes.

The use of UAVs on the territory of a sovereign and independent state [7, p. 2], which is Ukraine, theoretically and taking into account the statistical data of the dead and injured among the civilian population by a foreign country with a terrorist regime, does not comply with the norms of international humanitarian law and entails prosecution by the relevant authorized international bodies as soon as possible.

The surge in the use of attack drones occurred in September - in one month, the northern terrorists launched more than 500 units. In total, during the full-scale war, the terrorist country used more than 3.4 thousand "shaheds" against Ukraine.

From January to December 20, during 2023, terrorist country launched more than 2,800 "shaheds", 2,400 of which were destroyed [8].

In October 2012, Hezbollah claimed responsibility for launching an Iranian-made Shahed-129 reconnaissance and combat drone that was shot down by Israel after it flew 25 miles into its territory [9].

The use of unmanned aerial vehicles as a means of warfare dates back to World War II and beyond, becoming increasingly important in the second half of the 20<sup>th</sup> century [10] Although the initial generations of military unmanned aerial vehicles were primarily used for aerial surveillance, their functions gradually extends to areas such as search and rescue, relaying communications systems, suppressing enemy air defenses, and direct attacks on selected targets [11, p. 11]. Over the past decade, the use of armed drones has grown exponentially

since the Second Intifada in the Israeli-occupied Territories (since 2000), continuing during the Second Persian Gulf War (2003-2011) and reaching its current peak during the United States' confrontation with al-Qaeda and its affiliates in Afghanistan, Pakistan, Yemen, and Somalia (since 2001). What is new today is the systematic use of armed drones for the purposeful killing of pre-selected individuals on the territory of other states. Also unprecedented is the relative importance that this *modus operandi* has acquired in certain contexts compared to other, alternative means and methods of warfare.

International law establishes not only personal responsibility for war crimes, but also team responsibility. Responsibility for war crimes is borne by the participants in hostilities, as well as the persons who give them orders. Combatants are persons who are members of the armed forces of a belligerent country and equivalent formations and take direct part in hostilities. The persons who give them orders are the supreme commander (usually the president), as well as other military and civilian figures (usually civil servants) who can give direct orders to the combatants.

The fact that the crime was committed by a person on the orders of the government or superior (military or civilian) does not exempt that person from criminal responsibility.

The commander of a certain military unit is responsible for violations of the norms of international humanitarian law by his subordinates in the event that he had information about the possibility of committing offenses by them but did not make efforts to prevent or stop them in accordance with Article 86 of the Protocol I to the Geneva Conventions of 1949 [5].

The statute of limitations does not apply to war crimes and crimes against humanity, which is enshrined in the UN Convention "On the Non-Application of the Statute of Limitations to War Crimes [12] and Crimes against Humanity" of 1968 and the Convention of the Council of Europe Member States on the Non-Applicability of Statutory Limitation to Crimes against Humanity and War Crimes [13].

The International Criminal Court (ICC), which is located in Hague, is the international judicial body that hears cases related to the prosecution of persons for committing war crimes. Northern terrorist country has not ratified the Rome Statute, so

it may not cooperate with the ICC. However, this increases the likelihood of creating a special tribunal to investigate crimes of the terrorist country against Ukraine. Thus, history knows examples of the creation of tribunals: Nuremberg, Tokyo, as well as against the former Yugoslavia and Rwanda [14]. Considering the support of the UN Resolution on the condemnation of terrorist country's war against Ukraine by 141 countries of the world, the chances of bringing the perpetrators to justice are high.

**Conclusions.** Ukraine, as a part of Europe, is fighting for modern and future principles of the rule of law, the rule of law and the protection of human rights. While the terrorist country uses the latest technologies to aggressively appeal to the principles of the past, which is based on the mutilation of humane principles, the use of labor slavery and the worst manifestations of the Middle Ages and the rules of ancient nomadic tribes. Ukraine hopes that international humanitarian law and the law of war will be applied fairly, effectively and as soon as possible to bring to justice all those involved in a terrorist country that uses the latest technologies to commit crimes against humanity.

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## ЮРИДИЧНА ВІДПОВІДАЛЬНІСТЬ ЗА ВИКОРИСТАННЯ БЕЗПІЛОТНИХ АВІАЦІЙНИХ СИСТЕМ У ВІЙСЬКОВИХ ЦІЛЯХ

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*Мета статті* полягає в дослідженні поточного відчуття невизначеності щодо застосовних правових стандартів, швидкого розвитку та поширення безпілотних літальних апаратів і роботизованих технологій через сприйманий брак прозорості та підзвітності поточної політики, що може поляризувати міжнародне співтовариство, підриваючи верховенство права та зрештою дестабілізуючи безпеку міжнародного середовища в цілому. **Методи дослідження** склали загальнонаукові та спеціально юридичні методи пізнання, за допомогою яких проаналізовано доктринальні підходи до вироблення уявлень щодо розуміння поняття та сутності безпілотних авіаційних засобів, їх використання у військових цілях та юридичної відповідальності за порушення норм гуманітарного права. Одним із основних використаних методів є діалектичний метод пізнання, який дозволив встановити та виокремити якісні характеристики досліджуваного феномену. Завдяки спеціально юридичному методу досліджено норми гуманітарного права з метою заклику до повного, справедливого та ефективного використання правозастосовного механізму з метою притягнення до юридичної відповідальності всіх причетних у застосуванні безпілотних систем у військових країною терористом на території України. **Результати:** Україна, як частина Європи, бореться за сучасні та майбутні принципи верховенства права, верховенства права та захисту прав людини. При цьому країна-терорист використовує новітні технології для агресивної апеляції до засад минулого, яка базується на каліченні гуманних принципів, використанні трудового рабства та найгірших проявах Середньовіччя та правил стародавніх кочових племен. Україна сподівається, що міжнародне гуманітарне право та право війни будуть застосовані справедливо, ефективно та якомога швидше для притягнення до відповідальності всіх причетних до терористичної країни, яка використовує новітні технології для скоєння злочинів проти людства. **Обговорення:** з моменту повномасштабного вторгнення північного сусіда на територію України інтерес до всіх видів БПЛА зріс по-особливому. Ця війна продемонструвала бойові переваги безпілотників, які стали меншими, смертоноснішими, простішими в експлуатації та доступними майже кожному. Проте також виникли прогалини в застосуванні юридичної відповідальності причетних осіб у застосуванні дронів для порушення прав міжнародного гуманітарного права.

**Ключові слова:** юридична відповідальність; кримінальна відповідальність; воєнні злочини; безпілотні літальні апарати (системи); дрони; Женевська конвенція; трибунал.

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