

CRIME IN THE FORESTRY SECTOR: CRIMINOLOGY PRINCIPLES

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Annotation. The scientific article is devoted to a comprehensive criminological study of illegal activities in the forestry sector, the scale of which is becoming critical in the context of the global ecological crisis. The relevance of the study is due to the processes of climate change, the disappearance of species diversity and the catastrophic consequences of the armed conflict in Ukraine for the natural environment. The authors emphasize the key role of forests in maintaining biospheric balance, and the illegal use of forest resources poses a danger to both the national interests of Ukraine and the survival of civilization. The impact of large-scale hostilities on the country's forest resources is considered. The concept of forestry as a complex institutional system of social relations, including the exploitation, regeneration, protection and management of forest territories is argued. The functioning of the «forest cartel» is confirmed - a well-coordinated criminal network with numerous corruption mechanisms, support from government structures and foreign channels for the sale of illegal timber. The international scale of forest offenses implemented through combined schemes, where illegal logging is disguised as legal export agreements, is established. The transformation of forestry activities into a profitable business, which contradicts the environmental protection mission defined by forest legislation, is proven. The study reveals the systemic nature of forest crimes as an interdisciplinary phenomenon that combines economic, environmental and organized crime components with elements of political corruption.

The critical need for strengthening transnational partnerships, transforming forest asset management mechanisms, eliminating corrupt practices and reorienting the forestry sector from commercial profit to environmental responsibility is emphasized. It is proposed to consider environmental challenges as a factor in the loss of sovereignty, which requires a global approach to solving the problem in the context of preserving the vital functions of the planetary ecosystem and protecting the rights of future generations to exist.

Key words: forestry crime, forest crime, environmental security, organized crime, illegal logging, cross-border crime, criminological analysis.

1. Introduction.

Modern processes of climate transformation, reduction of biotic diversity and degradation of ecosystem complexes due to anthropogenic impact constitute challenges of the planetary level. These problems go beyond national interests, since natural systems are not limited by state or political demarcation lines. Special attention deserves the destructive ecological effect of the armed aggression of the Russian Federation against Ukraine, the consequences of which extend to the global civilizational space. Military actions cause a destructive impact not only on the socio-demographic sphere and urbanized centers of national identity, but also on the natural capital of Ukraine, the ecological stability of the European region and the biosphere as a whole. Forest ecosystems suffer the most significant losses from the above-mentioned anthropogenic factors, despite the fact that they are the key reservoirs of biological diversity on the planet, a critical regulator of the gas composition of the atmosphere, the thermal regime and the support of the life-supporting functions of the biosphere.

A significant factor in the destruction of forest resources in Ukraine and on a global scale remains illegal activities in the forestry sector. Large-scale volumes of illegal logging, criminal supply chains, corrupt mechanisms for supporting illegal activities turn the phenomenon of forest criminality into a problem of global importance. Counteracting this phenomenon acquires a strategic political,

economic and existential dimension both for the national security of Ukraine and for the world community in a planetary perspective.

2. Analysis of the source base.

The theoretical basis of the study was the works of such scientists as V.V. Bazelyuk, O.M. Bandurka, O.M. Dzhuzha, O.L. Dubovyk, V.P. Yemelyanov, A.E. Zhalinsky, O.M. Lytvynov, V.K. Matviychuk, O.V. Melnyk, V.O. Navrotsky, A.M. Prytula, I.G. Travina, P.L. Fris, V.B. Kharchenko, I.O. Khar, A.M. Shulga and others. However, some studies are either unspecified in relation to crime in the forestry sector, or are quite narrow and do not fully cover the phenomenon of forest crime, being limited only to individual criminal practices that make up its content, which in turn emphasizes the theoretical and practical significance of this scientific investigation.

3. The purpose of the article is to characterize crime in the forestry sector as an object of criminological analysis and to develop recommendations on this basis for improving the current legislation and the practice of its application.

4. Presentation of the research material.

The first half of the 21st century was marked by the persistence of negative, dangerous trends in the functioning of the biosphere of planet Earth. The patterns of climate change, established since the beginning of the first industrial revolution, intensified during the 20th century, and especially its second half, do not give optimistic forecasts for the preservation of life in the long term. The existing welcome trajectories are downward.

The Special Report of the Intergovernmental Panel on Climate Change (IPCC) emphasizes dangerous climate change, desertification, land degradation, sustainable land management, food security and greenhouse gas fluxes in terrestrial ecosystems. Since the pre-industrial period, the air temperature on the land surface has almost doubled. Climate change, including an increase in the frequency and intensity of emergencies and forest fires, has negatively affected food security and terrestrial ecosystems, and has contributed to desertification and land degradation in many regions (high confidence). It is emphasized that sustainable land management, including sustainable forest management and forest protection, can prevent and reduce land degradation, maintain its productivity, and reduce the negative impact of climate change (very high confidence). This can also contribute to climate mitigation and adaptation in general (high confidence) [1].

Thus, an adequate and innovative response to climate and environmental challenges and problems, including in particular in the field of forest conservation and restoration, is not only the task of an individual country, but a global agenda. Each state must make every effort to ensure the basic, fundamental conditions for preserving life and guaranteeing the right to life of future generations. Ecological obstructions are a factor of de-sovereignization, that is, a factor that is not understood and is not resolved within the framework of a separate state jurisdiction. The level of understanding of these problems is extremely old, which necessitates the use of the category of "all humanity".

In this aspect, we consider the reasoning of Y. V. Orlov, who develops the concept of "all-humanity" both in a general methodological format and in its application to criminological subject areas, to be correct and profound. The researcher, in particular, notes that climate change, depletion of natural resources, pollution and degradation of the environment, poverty, growing inequality within and between countries, unemployment, armed conflicts, extremism, terrorism are only individual fragments of a whole that remains beyond the horizon, beyond the spectrum of the visible. But it, this whole, affects the fragments. By affecting the fragments, it is impossible to radically change the whole, although the fragments, of course, affect the whole, complicating it [2, p.12].

Today's nature use, criminal and other socially dangerous (although this phrase here would be more appropriate to replace with another - naturally dangerous) exploitation of the environment

(including - pollution) is not consistent with the common, planetary, natural-human foundations of life [2, p.14].

Operating with the concept of universality involves all generations, both past and future at the same time. Each subsequent generation must take care of passing on the environment to the future in a better state than it received it. Such attitudes are possible exclusively within the identity axis «universal humanity - group - individual»; only in this connection does the subject arise - the predicate compound «Man - Nature», «Man Is Nature» (in the format of substantive logic, Western philosophical tradition) and «Man in Nature, Nature in Man» (in the format of process logic, Eastern philosophical tradition). This spike brings the discussion into the legal naturalistic plane (its active, most significant developer in modern Ukraine is Academician O. M. Kostenko, whose thoughts are concentratedly set out in his two widely known works of recent years [3]), in which all branches of law, including criminal law, find their resource [2, p.14].

Starting from March 2014 and up to the present day, part of the territories of Ukraine is temporarily occupied by the Russian Federation. It is difficult to estimate the area of forest areas under occupation, including taking into account the nature and unequal intensity of hostilities, especially after the full-scale aggression, from February 24, 2022. At the same time, it can be confidently stated that: a) actual access to forest areas of Ukraine in order to ensure their effective management and protection has decreased by no less than 15%; b) the mine contamination of forest areas in the territory controlled by the Government of Ukraine, in particular the Kyiv, Chernihiv, Sumy, and Kharkiv regions, is significant. This factor makes it impossible to actively and safely use forest areas and requires extensive humanitarian demining; c) large forest areas of the Northern, Eastern, and Southeastern Kharkiv regions, Dnipropetrovsk, and Zaporizhia regions are also characterized by a reduced intensity of use, maintenance, and environmental protection measures due to the proximity of the line of combat contact between the defenders of Ukraine and the occupation forces; d) finally, the destruction of forest areas during hostilities.

On the one hand, these factors, at the level of statistical patterns, should contribute to reducing the criminalization of the forestry sector. On the other hand, we must state that the inability of the Ukrainian state authorities to exercise proper control over forest use in the temporarily occupied territories frees the hands of both the occupation administration and ordinary criminals to unlawful, criminal use of forest resources. Therefore, the war factor is complex, ambiguously reflected in the phenomenon of crime in the forestry sector in Ukraine.

Making an interim summary of the analysis of the state of such a natural and social good as forests and the activities that unfold around their use, we can conclude that for the purposes of criminological research, forestry should be understood as an institutional metasystem of social practices that consist in the direct use of forest resources, forest restoration, the activity of specialized entities that protect forests, as well as the administration of the forest sector of nature management (organization of forestry, etc.).

Like any other sphere of activity related to the use of natural resources, forestry was first of all formed as an economic institution. Despite the nature protection functions and limited operational value of forests in Ukraine, in practice, emphasizes B. M. Golovkin, forestry activities are commercial in nature, oriented towards the export of timber and obtaining foreign exchange earnings.

More than 90% of forestry enterprises' income is made up of profits from the sale of business and fuel wood on the domestic and foreign markets. This state of affairs greatly stimulates intensive timber harvesting, including through illegal logging [4, p.6]. Despite the primacy of the ecological purpose of forests over the economic one, enshrined in the doctrine of the Forest Code of Ukraine, a commercial approach prevails in the activities of the State Forest Agency, regional departments of forestry and hunting, and specialized forestry enterprises subordinate to them. The high demand for timber in the conditions of underfinancing of the forestry sector by the state stimulates the priority development of self-sufficient and quickly profitable areas of forestry management. The existing semi-market, semi-planned state management mechanism, on the one hand, allows us to survive in objectively difficult conditions, and on the other hand, ensures the concealment of the real scale of timber turnover and funds from its sale. In the conditions of unregulated timber trade, this generates "shadow trade" and illegal operations with timber on the domestic and foreign markets [4, p.12].

Our analysis of the phenomenon, as well as the latency of crime in the forestry sector, as well as expert assessments collected both among workers in this industry and among representatives of law enforcement agencies, show that forest crime fully has the features and tendencies of reproducing economic crime in Ukraine. We can confidently state the existence of the so-called "forest mafia". Behind this conditional and somewhat allegorical name lies a very real structure, established practices of criminal exploitation of the forest through the use of numerous corruption schemes, means of political cover, which also uses the tools of lawmaking. Recognition of such broad boundaries of criminalization of forestry forces us to recognize the fact that representatives of the deputy corps, the Government, and law enforcement agencies are also involved in the chains of criminal practices.

So, recording these circumstances, we emphasize: crime in the field of forestry is an organized type of economic crime. At the same time, it is impossible to ignore the fact that the domestic sales markets for illegally obtained wood are very limited, both financially and institutionally, which actualizes the emergence of this crime outside of Ukraine, its acquisition of cross-border features. One way or another, but the movement of illegally cut wood involves its transfer across the state, customs border of Ukraine, the presence of a foreign actor that forms the demand for such wood, stimulating the corresponding criminal industries. The mechanisms of such interaction are hybrid, in addition to illegally extracted natural resources, they also include a number of legal (from a procedural point of view) economic transactions, including foreign economic ones, as well as cover-up and support operations, in particular corruption offenses.

The remarks of T.V. Melnychuk seem appropriate in this context, noting that organized criminal activity in the field of foreign economic activity is a certain social subsystem endowed with functionality, due to which the consolidation of criminal elements and the formation of their organization take place. The activities of organized criminal formations in the foreign economic sphere are aimed at obtaining profit from economic operations «production-consumption», which also include the supply of goods and services through international trade. The difference between organized criminal groups and other business structures in this case is that the supply is carried out illegally. Meanwhile, this does not reduce the steady demand for such goods and services, which partly provokes the development of organized criminal activity in the foreign economic sphere [5, p.9].

The economic condition of the Ukrainian forestry industry and the ecological condition of Ukrainian forests are unsatisfactory. The material base of forestry requires significant renewal. In many regions of Ukraine, the share of weakened and drying forests has increased, in particular, the derivative spruce forests of the Carpathians. An urgent solution to the issue of increasing the adaptive capacity of forest ecosystems to climate change and anthropogenic impact is required. Therefore, forests require increased care and implementation of measures in them on the basis of environmentally oriented and close-to-nature forestry [5, p.9].

Environmental crime is capable not only of self-determination, adaptation, relaying information about criminal and institutional practices to future agents of the shadow economy, but also of systematically resisting attempts to obstruct its structures and mechanisms. The last remark seems to be especially important, because it incorporates environmental crime (including crime in the field of subsoil use, forestry, etc.) into the composition not just of organized crime in its narrow, criminal-legal aspect, but in its broad criminological understanding as, first of all, a system of organized economic, political criminal practices that cause harm to the environment [6, p.67]. Its most significant features, as organized crime in the ecological and economic sphere, M. G. Maksimentsev rightly considers systematicity, integration with power structures, stability, the presence of developed mechanisms of self-reproduction (which, among other things, include corruption schemes), relaying criminal experience, including within the public administration apparatus, influence on the formation and implementation of state and local economic, environmental, partly foreign, legal and security policies, significant damage to the environment [6, p.67-68].

One can fully agree with the signs listed by M. G. Maksimentsev. Academician A. P. Zakaliuk also emphasized that the pinnacle of organizing the activities of criminal associations is their "coming into power" and seizing ultimate power [7, p.294]. And if the seizure of power by representatives of the conditional «forest mafia» is not a question, if only because political power is not a goal for them, but a means, then the presence of established mechanisms of criminal cooperation in the higher and central bodies of state power, as well as local self-government bodies, and levers of influence on the adoption of politically significant decisions for the forestry sector, is worth talking about, worth

investigating. But for now, let's state this as a given, as an immanent criminological feature of forest crime. And the use of a public, administrative resource only emphasizes the conditionally «suicidal», clearly self-destructive nature of forest crime as a crime, primarily (and we insist on this from ethical, axiological positions) environmental.

It is worth supporting the position of Yu. A. Turlova, who defines environmental crime as a social phenomenon that is dangerous to society, objectively functional, socially constructive in nature and manifests itself in behavior that is prohibited by criminal law and encroaches on the natural environment or its individual objects, environmental safety and natural resources, creating a danger to the biological foundations of the existence of humanity [8, p. 3]. Indeed, it should be about the danger to the biological foundations of existence on Earth. So what else should be the epistemological priority, what else, if not ecologically dominant, should be the optics of criminological or any other study of environmental crime in general and crime in the field of forestry, in particular.

5. Conclusions.

In conclusion, we think we have grounds to offer two definitions of the type of crime under study: narrow and broad. In a narrow sense, crime in the field of forestry (forest crime) appears as a historically variable, massive socio-legal phenomenon, which is expressed in the commission of criminal offenses against the forest as an element of the environment and which are provided for in Articles 245 and 246 of the Criminal Code of Ukraine. Such an understanding is operational, can be used with limited cognitive and practically transformative potential, but at the same time it provides sufficient focus on the problem of direct illegal logging of the forest, its transportation, storage, sale, as well as the destruction or damage to forest areas. In this case, forest crime as a «forestry crime» is actually reduced to its subject-centering element - criminal-industrial logging of the forest, i.e. «timber crime» (or expanded in the discourse of Interpol - «illegal logging and illicit timber trafficking») and the related careless damage to the forest.

In a broad sense, forest crime can be defined as a sustainable type of economic and ecological organized crime, expressed in institutional, prohibited by the law on criminal liability, mass, super-summary social practices in the field of management, use, reproduction and protection of forests, which encroach on ecological safety, the natural foundations of biological life and sociality, and threaten the biological and civilizational foundations of the existence of humanity. This approach reflects the institutional nature of forest crime, which is cross-systemic, reproduced as both economic and ecological and organized crime with elements of political criminal practices.

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