Description of COP 28 Side Event and the ZNPP, Kakhovka Dam investigations

COP 28 Side Event
"War on Environment: Protecting Dams and Nuclear Power Plants"

Date of the side event: 10 December 2023, 14:30 – 15:30, Ukraine Pavillion, COP28.

Organizers of the Side Event: Truth Hounds (TH)[1], Project Expedite Justice[2], Ecoaction[3], Greenpeace, and Ukrainian Climate Network[4].

Event description:

The event focuses on the global impacts of armed conflicts through the prism of lessons from the Russian war against Ukraine. The full-scale invasion of Ukraine has created a plethora of crucial challenges related to the protection of the environment and has had a direct effect on climate change. One such problem is the issue of protection of installations containing dangerous forces, such as dams and nuclear power plants. The law of armed conflicts (international humanitarian law) regarding special protection of such objects is clear (Articles 56, 85(3)(c) of Additional Protocol I to the Geneva Conventions of 1949; Customary rule 42). However, the practical application of these provisions during the course of the Russian war against Ukraine has demonstrated numerous deficiencies in the current system of the law of armed conflicts.

Russian occupation of Zaporizhzhia Nuclear Power Plant (ZNPP) and the destruction of the dam of the Kakhovka hydroelectric power plant have demonstrated that an armed conflict, perceived by some as "local", may have truly international consequences for the climate and the environment.

aided and abetted the Russian occupying forces in committing war crimes and crimes against humanity directed at the nuclear power plant's personnel, thereby undermining the nuclear security of the station in violation of international nuclear treaties, as well as business and human rights obligations. Moreover, Russians may have planned to conduct a "controlled leak of radiation" and frame Ukraine for it.

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[1] Truth Hounds is a Ukrainian non-profit organisation dedicated to documenting and investigating international crimes and other serious human rights violations committed during the armed conflicts in Ukraine and other regions of Eastern Europe, the Caucasus, and Central Asia.

[2] Project Expedite Justice is the USA non-profit that works internationally to seek justice for individuals who are inadequately protected under the law, who cannot access legal resources, and who are exploited by governments, corporations, or others.

[3] Centre for Environmental Initiatives Ecoaction is a civil society organisation that unites efforts of experts and activists in a joint struggle to protect the environment. They advocate for energy efficiency, renewable energy, countering climate change, clean air for all and sustainable development of transport and agriculture in Ukraine.

[4] Ukrainian Climate Network is a network of civil society organizations from various regions of Ukraine that deal with climate issues: energy sector, transport and environmental education with a mission to influence the policy and the practice of climate change through consolidation of efforts of Ukrainian NGOs.

The destruction of the Kakhovka dam has led to widespread, long-term and severe damage to the environment, the true scale and consequences of which we are only beginning to understand.

Experience from Ukraine raises questions of global importance – how well is critical nuclear and hydroelectric infrastructure actually protected in times of armed conflicts and what can be done right now to minimise the risks of catastrophes like Kakhovka?

Audience

The target audience for this side event includes COP28 delegates, business leaders, legal and advocacy experts, and civil society representatives.

Objectives

1. To highlight the global challenges arising from insufficient protection of nuclear and hydroelectric power plants from the effects of armed conflicts.
2. To discuss potential solutions aimed at the prevention of destruction or abuse of installations containing dangerous forces.
3. To develop practical tools for ensuring accountability of persons, organisations, and businesses responsible for threatening or damaging the environment.

Speakers:

Ruslan Strilets, Minister of Environmental Protection and Natural Resources of Ukraine

Iordanca-Rodica Iordanov, Minister of Environment of Moldova

Martin Kaiser, Head of International Climate Politics, Greenpeace

Artem Kolesnyk, Energy Policy Specialist, Centre for Environmental Initiatives "Ecoaction"

Dmytro Koval, Legal Director, Truth Hounds; Consultant, Project Expedite Justice

Nick Yurlov, Senior Legal Counsel, Truth Hounds

Moderator:

Diana Popfaluschi, Ukrainian Climate Network

Truth Hounds' Investigation of Rosatom's atrocities at ZNPP

On 19 September 2023, TH published a report[5] detailing the preliminary results of our investigation into widespread and systematic torture and cruel, inhuman, and degrading treatment of Ukrainians at the ZNPP by the Russian occupying forces with Rosatom's direct participation. The report also explores how these tortures of ZNPP personnel constitute a violation of international nuclear law and safety regulations.

Based on the research, TH and the Centre for Civil Liberties (CCL) have developed recommendations for the international community on responding to international crimes at the ZNPP:

- to introduce comprehensive sanctions against Rosatom to isolate it from international cooperation and block access to any import of its technologies, services, and fuel.
- to apply personal sanctions against Rosatom managers responsible for aiding and abetting mass torture and inhumane treatment at the ZNPP.
- to close Rosatom's offices abroad and to expel Rosatom from the UN Global Compact.
- to initiate national criminal proceedings and civil litigations against Rosatom and its managers for aiding and abetting torture
- to use all available means to discourage and disincentivize businesses operating within their jurisdictions from having any interactions with Rosatom
- (for companies involved in any contracts or cooperation agreements with Rosatom) to terminate these arrangements as they otherwise bear a direct link to Rosatom's conduct and apparent criminal acts at ZNPP.

Truth Hounds' and PEJ investigation of the war crime of Kakhovka Dam destruction

In parallel, PEJ and TH are drafting a factual-legal report on the destruction of the Kakhovka Dam. The report aims to recreate the sequence of events, describe the consequences for people, environment, economy, and culture, and analyse the tragedy from the perspective of international humanitarian and international criminal law.

The central section of the report relates to the possible war crime of excessive environmental damage under Article 8(2)(b)(iv) of the Rome Statute. We highlight the complexities surrounding this provision to consider the challenges associated with the definition of 'attack', the proportionality principle, and the cumulative nature of the widespread, long-term, and severe damage.

In addition to working on the legal part, we also analyse witness statements and evidence collected by our documenters from field missions to the areas most affected following the Kakhovka dam explosion. This in-depth processing is necessary, among other things, to substantiate the widespread, long-term, and severe environmental damage that has been caused, as well as to demonstrate the human suffering caused by this tragedy.

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5 https://truth-hounds.org/en/cases/how-rosatom-turned-europes-biggest-nuclear-power-plant-into-a-torture-chamber-and-how-the-world-can-stop-this/