application of legislation based on best practices and international standards can strengthen Ukraine's position in the European integration process and contribute to the construction of a reliable information security system.

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DOCTRINE OF COUNTER-MEASURES IN THE INTERNATIONAL LAW

This study focuses on the doctrine of retaliation against armed aggression in international law. One of the prerequisites for the early cessation of the armed aggression of the Russian Federation is the creation of effective self-defence of Ukraine and third states against this gross violation of international law, which necessitates the introduction of the provisions of the doctrine of retaliation against armed aggression into international law. This study will characterise the doctrine of counter-measures against armed aggression in international law. This study focuses on the development of the guiding principle of counter-measures against armed aggression.

Compensation for damage caused by armed aggression is the result of the exercise, in response to armed aggression, of the right to self-defense enshrined in Article 51 of the UN Charter, according to which a UN Member has the inherent right to individual or collective self-defense in the event of an armed attack.

In this context, the idea of the right of the injured person, including the state and injured individuals and legal entities of the state, to countermeasures as a means of self-defense and a universal basis for property liability for damage caused by armed aggression is worthy of attention. By their legal nature, these retaliatory measures by private legal entities and individuals are a measure of property liability based on tort principles and the tort exception to the rule of state immunity for claims and recoveries on sovereign property for damage caused by armed aggression.

The argument about the inadmissibility of direct claims of injured individuals and legal entities against the aggressor state for the recovery of damages and confiscation of the aggressor state's property for the purposes of compensation for

damage caused by armed aggression, despite the fact that that the State has sovereign immunity from claims by private parties for damages and for the recovery of sovereign property, is no longer sufficiently convincing if the aggressor State has committed an act of armed aggression or if the sovereign property is immobilized by the seizure of the property. In addition, the sovereign property of the aggressor state cannot be protected as private property, as it is not.

Sovereign immunity does not apply to the private property of individuals and legal entities that contribute to armed aggression, since such property is not the property of the state, or such property is under the effective control of the state and is used to commit armed aggression. The private property of individuals and legal entities controlled by the aggressor state that contribute to the armed aggression cannot be protected as private property, as it is not, it is an extension of the personality of that state. In turn, private property that is not under the effective control of the aggressor state is subject to protection under the general rules of reparations and tort liability for damage caused by armed aggression in complicity with the aggressor state.

The inadmissibility of confiscation of the aggressor state's property for the purposes of compensation for damage caused by armed aggression is usually argued by the fact that "it is sovereign property.

Philip Zelikov notes «Since these assets have already been immobilized as a result of the seizure, however, that argument is no longer persuasive. Moreover, they cannot be protected as private property because they are not»[1].

Another objection is that the Russian assets are sanctioned, and the idea of sanctions is to compel the sanctioned party to change behavior after which the sanctions will cease, and the assets will be returned.

Philip Zelikov denied this: "It's time to move from sanctions to state retaliation"[2].

The key function of the doctrine countermeasures is intended to serve: the self-help of states.

The purpose of counter-measures is to compensate the state that applies the retaliatory measure to the offending state's behavior. Damage exists only if the offending state's behavior is truly wrongful.

Currently, counter-measures may be applied to the extent that they are proportionate to the offense committed and do not violate individual human rights or the rights of protected persons under international humanitarian law.

As James Crowford notes, "Unilateral breach of an international obligation in response to the breach of another international obligation. This is especially so when (a) the breach need not relate directly to the initial wrong; (b) the principle of proportionality will necessarily apply in a rather approximate way"[3].

[1] Why and How the West Should Seize Russia's Sovereign Assets to Help Rebuild Ukraine. Working Group Paper #15. The International Working Group on Russian Sanctions September 4, 2023. Access: https://fsi.stanford.edu/working-group-sanctions

[2] Lawrence H. Summers, Philip Zelikow, and Robert B. Zoellick, The Other Counteroffensive to Save Ukraine. A New European Recovery Program. June 15, 2023. Access: https://www.foreignaffairs.com/ukraine/other-counteroffensive-save-ukraine

[3] Crowford J., Counter-measures as Interim Measures. 5 EJ/L (1994) 65-76. P. 66. Electronic Resource. – Regime of Access: chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.international-arbitration-

A state seeking to apply counter-measures must first determine whether the impact of the potential measures would not be excessive in the context of the harm to which the measures relate[1].

Counter-measures may be applied only in response to a genuine violation of a right, and only by or on behalf of the state that suffered the violation.

Armed aggression is a particularly dangerous violation for international law in general, which determines the specifics of counter-measures against the aggressor-state and the subjective composition of the victims, authorised to take counter-measures, including claims for damages.

The legal memorandum of leading international lawyers dated 20 November 2023 states that ‘‘Third States, that is, States that have not been directly injured by the offending State’s conduct, are permitted by international law to take collective countermeasures against the offending State, in this case Russia, for grave breaches of its obligations under peremptory norms of international law that have an erga omnes character, as here’’[2].

Thus, armed aggression is a violation of international law erga omnes – obligations to the international community as a whole, and therefore all states are victims and can take countermeasures to force the aggressor state to comply with international law.

Damage caused by the state, or on its behalf or in its interests by individuals or legal entities, in the exercise by the state of the right to self-defense against armed aggression, including in a state of necessary defense or emergency, if their limits have not been exceeded, shall not be compensated.

Counter-measures used by the state in the exercise of its right to self-defense may be applied to the extent that they are proportionate to the damage caused by the armed aggression and do not violate human rights or the rights of protected persons under international humanitarian law.

The establishment of the proportionality of counter-measures to the damage caused by the armed aggression can generally be based on the test formulated by the ECHR practice, which provides for three criteria to be assessed when analyzing the compatibility of interference with the right to peaceful enjoyment of property with the guarantees of Art. 1 of Protocol No. 1 to the Convention for the Protection of Human Rights, namely: (1) whether the interference can be considered lawful; (2) whether it pursues a "public" or "public" interest; (3) whether such a measure (interference with the right to peaceful enjoyment of possessions) is proportionate to the aims pursued.

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[2] Legal memorandum from 20 November 2023. URL: ttps://drive.google.com/file/d/1kx-sEuJAQeD6wELgczSolQKYMrZhntB1/view

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МІЖНАРОДНІ ДОГОВОРИ ЯК ДЖЕРЕЛА МІЖНАРОДНОГО ПРАВА СЕРЕДНЬОВІЧНОЇ ЄВРОПИ

В структурі наукових знань, які складають основу сучасного міжнародного права, є чимало компонентів, без яких уявити його практично неможливо. Разом з тим, можна знайти і такі його складові, які продовжують оспорюватись представниками інших галузей науки. Прикладом може служити історія міжнародного права, яку або відносили до загальної історії, або вимагали її розгляду в межах загальноправової проблематики. Навіть у випадку визнання її незалежного характеру серед інших юридичних наук, обмежувались часові рамки, в межах яких історія міжнародного права повинна була б локалізуватись. Так, наприклад, ряд авторів веде мову про те, що вона веде відлік від моменту «появи сучасної суверенної держави» [1, p. 103]. При використанні подібного підходу за межами розгляду опиняться цілі часові епохи, за яких, на нашу думку, міжнародне право вже сформувалось як об’єктивна реальність у складі юриспруденції. Одним із таких історичних періодів є Середньовіччя, на якому зосереджена увага даного дослідження.

До числа головних причин, через які ряд науковців відмовляють середньовічній Європі у існуванні повноцінного міжнародного права, а отже і його окремої історії, є те, що поняття суверенного суб’єкта міжнародних відносин достатньо сильно відрізнялось від його сучасного тлумачення і розуміння. Так, важливий принцип державного суверенітету того часу, відомий