

References:

1. Міняйло Н.С. Зарубіжний досвід запобігання організованій злочинності. Науковий вісник Чернівецького університету. 2013. Вип. 660. С. 146–147.

2. Колодяжний М.Г. Сучасний зарубіжний досвід громадського впливу на злочинність : монографія; за ред. В.В.Голіни. Харків : Право, 2017. 252 с.

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PECULIARITIES OF TORT LIABILITIES IN WARTIME

During armed conflicts, civilians often sustain significant losses to life, body, and property. Yet, their ability to obtain a remedy for their injuries is limited. Under international law, states are not obligated to compensate private individuals for inflictions of losses during war, and they enjoy a special immunity from domestic tort liability, known as the ‘combatant activities exception’. This exception means that no matter what kind of a wrong states might inflict on civilians while engaging in warfare, no tort liability can be imposed on them by their own courts [1].

The issue of the existence of tort liabilities and civil liability for damages between the parties is in the realm of civil legal relations between the victim and the state, which are not regulated by the provisions of the Criminal Procedure Code of Ukraine, and the commercial court independently determines the presence or absence of a civil offense that became the basis for recovery of damages by evaluating the evidence provided by the parties [1].

Tort liabilities in wartime can be complex and are often influenced by various legal, ethical, and practical considerations. Here are some peculiarities and challenges associated with tort liabilities in wartime [2]. Combatants engaged in military operations are generally granted immunity

from civil liability for tortious acts committed in the course of armed conflict. This immunity is grounded in the idea that soldiers should not be held personally responsible for actions taken in the line of duty.

States often enjoy sovereign immunity, which protects them from being sued in foreign courts. This immunity extends to actions taken by the military during wartime. However, there are exceptions, and certain acts may be considered beyond the scope of sovereign immunity [2]. Civilians, including contractors and non-combatants, may be held liable for torts committed during wartime. This liability is generally determined by standard legal principles, but the unique circumstances of armed conflict can complicate the assessment of fault and damages. Acts that constitute war crimes, such as intentional targeting of civilians or the use of prohibited weapons, may result in both criminal and civil liability. Individuals, including military personnel, can be held accountable for these actions in international and domestic courts. The defense of contributory negligence and assumption of risk may be more challenging to establish during wartime due to the chaotic and unpredictable nature of armed conflicts. Courts may consider the unique circumstances when determining the extent of a party's responsibility [3].

Wartime conditions can make it difficult to gather evidence, locate witnesses, and establish a clear chain of events. This can complicate the process of determining liability and calculating damages. International humanitarian law, including the Geneva Conventions, regulates the conduct of parties in armed conflict. Violations of these laws may lead to both criminal and civil liability. The application of these laws in civil proceedings may pose challenges due to the differing legal standards [4].

Tort claims arising from wartime actions may have significant political implications. Governments may be hesitant to acknowledge liability, and the resolution of such claims may be influenced by diplomatic considerations.

It's important to note that the interpretation and application of tort liabilities in wartime can vary based on national laws, international agreements, and the specific circumstances of each case. Legal experts and international tribunals play crucial roles in navigating these complexities and seeking justice for victims of wartime torts [4]. This study yields three important insights. It demonstrates that for public actors, tort law is not just about financial considerations and implications. Instead, actors might also, or even primarily, be mindful of other issues that they associate with an imposition of liability that are not strictly about costs. These considerations could be, for instance, about the political implications of tort liability, the internal coherence of tort law when applied to the battlefield, efficient administration of justice, or even just feeling over-burdened with work [5].

In conclusion, tort liabilities in wartime present a unique and complex set of challenges that stem from the extraordinary circumstances surrounding armed conflicts. While combatant immunity shields military personnel from personal liability during the course of duty, exceptions exist for actions that may constitute war crimes. Civilian liability, including that of contractors and non-combatants, is subject to standard legal principles but is complicated by the unpredictability and chaos of wartime conditions [6].

Sovereign immunity protects states from certain lawsuits, but exceptions may apply, and the distinction between military and civilian actions can blur. The difficulty in gathering evidence, the application of international humanitarian law, and the potential political ramifications further complicate the resolution of wartime tort claims [7]. Recently, society is increasingly aware of the importance of ensuring the protection and restoration of some categories of citizens during conflicts. The implementation of the principles of justice and humanitarian values is an important stage in ensuring a decent future for an example may be as minors deprived of the opportunity of a proper childhood due to military actions [8].

Ultimately, the peculiarities of tort liabilities in wartime underscore the need for a nuanced and multidimensional approach to justice. Striking a balance between holding individuals accountable for wrongful acts and recognizing the unique challenges posed by armed conflicts is a delicate task. Legal experts, international tribunals, and diplomatic channels play crucial roles in navigating these complexities and ensuring that victims have avenues for seeking redress and accountability, even in the tumultuous context of wartime.

References:

1. International Committee of the Red Cross. Customary International Humanitarian Law Database. URL.: <https://ihl-databases.icrc.org/customary-ihl/eng/docs/home>
2. Giladi, N. (2004). Torture, War, and the Limits of Law. *Columbia Journal of Transnational Law*, 42(3), 52–582.
3. Tort Liability, Combatant Activities, and the Question of Over-Deterrence. URL.: <https://www.cambridge.org/core/journals/law-and-social-inquiry/article/>.
4. Benvenisti, E., & Downs, G. W. (2007). National Courts, Domestic Democracy, and the Evolution of International Law. *European Journal of International Law*, 18 (4), 519–541.
5. Social Insurance and the Principles of Tort Liability. URL.: <https://www.jstor.org/stable/1336560>.

6. Tort Liability in War. URL.: <https://www.essex.ac.uk/research-projects/tort-liability-in-war>

7. Tort Liability for Belligerent Wrongs. URL.: <https://academic.oup.com/ojls/article-abstract>

8. Скриник М. В. Відшкодування шкоди, пов'язаної із втратою або зменшенням працездатності малолітньої, неповнолітньої особи, завданої каліцтвом або іншим ушкодженням здоров'я. Аналітично-порівняльне правознавство 6 (2023). С. 282-285 DOI <https://doi.org/10.24144/2788-6018.2023.06.47>

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ACTIVITIES OF LAW ENFORCEMENT AGENCIES AND FORENSIC UNITS, FOREIGN EXPERIENCE

Maintaining public safety and ensuring justice are fundamental pillars of any society. Law enforcement agencies and forensic units play a critical role in achieving these goals. By investigating crimes, collecting evidence, and bringing perpetrators to justice, they create a safer environment for all. However, the methods and approaches employed by these institutions vary significantly across the globe. Examining foreign experience in these fields can offer valuable insights for enhancing their capabilities and fostering international collaboration in the fight against crime.

Forensic science has become an indispensable tool in modern law enforcement. Techniques like fingerprint analysis, DNA profiling, and digital forensics provide irrefutable evidence, strengthening cases and securing convictions. Countries like the United States and Germany are at the forefront of forensic innovation, developing cutting-edge technologies that can analyze minute traces of evidence and reconstruct crime scenes with unparalleled accuracy. Adopting these advancements can significantly improve the efficiency and accuracy of investigations in Ukraine.