

Draft

submitted by people's deputies of Ukraine

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LAW OF UKRAINE

On amendments to certain legislative acts of Ukraine concerning the implementation of international criminal and humanitarian law

The Verkhovna Rada of Ukraine **d e c i d e s**:

I. To amend the following legislative acts of Ukraine:

1. The Criminal Code of Ukraine (Information of Verkhovna Rada of Ukraine, 2001, No. 25-26, p.131):

1) Article 8 after the first part shall be supplemented with a new part of the following contents:

«2. Foreigners or stateless persons, who do not permanently reside in Ukraine, who have committed any of the crimes provided for in Articles 437-438⁵, 442 and 442¹ of this Code outside Ukraine, shall be liable in Ukraine under this Code, regardless of the situations (conditions) provided for in part one of this article, if such persons are on the territory of Ukraine and cannot be extradited (transferred) to a foreign state or international judicial institution for criminal prosecution or if their extradition (transfer) has been refused»

Therefore, part two should be considered as part three.

2) The general part should be supplemented with section VI¹ as follows:

“SECTION VI¹
PECULIARITIES OF CRIMINAL LIABILITY OF MILITARY
COMMANDERS, OTHER PERSONS ACTUALLY ACTING AS MILITARY
COMMANDERS AND OTHER SUPERIORS, FOR SPECIFIC CRIMES
COMMITTED BY THEIR SUBORDINATES”

«Article 31¹. Criminal liability of military commanders, other persons actually acting as military commanders and other superiors

1. A military commander or other person who actually acts as a military commander shall be subject to criminal liability for any crime provided for in Articles 437-438⁵, 442 and 442¹ of this Code, committed by a subordinate, who, at the time the crime was committed, was under his/her actual command and control or, depending on the circumstances, under his/her actual authority and control, and as a result of his/her failure to exercise proper control over such a person, if the military commander or another person actually acting as a military commander knew or knowingly assumed, or should and could have known that the said subordinate has committed or intended to commit such a crime, but has not taken the action that he/she should and could have taken within his/her powers to prevent or stop the commission of the crime or to report the crime to the competent authority.

2. A superior whose legal status is not provided for in part one of this Article shall be subject to criminal liability for any crime provided for in Articles 437-438⁵, 442 and 442¹ of this Code, if such a crime concerned the activities that fell under his/her actual responsibility and control and was committed by a subordinate who, at the time the crime was committed, was under his/her actual authority and control, and as a result of his/her failure to exercise proper control over such a person, if such a superior knew or knowingly assumed that the subordinate committed or intended to commit such a crime, however has not taken the measures which he/she should and could have taken within the limits of his/her powers to prevent or stop the commission of a crime or to report the crime to the competent authority.

3. A military commander or another person who actually acts as a military commander, another superior in the cases provided for in parts one and two of this article shall be subject to criminal liability under the relevant part of this

¹ No footnote present.

article and that article (part of the article) of the Special Part of this Code, which provides for liability for a crime committed by a subordinate.

Note. 1. A military commander in this article should be understood as a person who, on appropriate legal grounds, is authorised to exercise command and control over one, several, or many subordinates who take part in hostilities and belong to the armed forces of a state.

2. Another person who actually acts as a military commander in this article should be understood as a person under whose authority and control in connection with the conduct of hostilities are one, several, or many subordinates who take part in hostilities, and do not belong to the armed forces of a state.

3. A superior in this article should be understood as a person who is not specified in paragraphs 1 and 2 of the note to this article and who holds a position or is in a position conferring authority (power) and control over one, several or many subordinates.»;

3) Article 44 shall be supplemented with part three of the following content:

«3. Exemption from criminal liability shall not apply in cases of committing crimes against the peace, security of mankind and international legal order provided for in Articles 437-438⁵, 442 and 442¹ of this Code»;

4) part five of Article 49 shall be worded as follows:

«5. The statute of limitations shall not apply in the case of committing crimes against the foundations of national security of Ukraine provided for in Articles 109-114¹ and 439 of this Code»;

5) part four of Article 68 shall be worded as follows:

«4. Life imprisonment for preparing for a crime and attempt to commit a crime shall not apply, except in cases of crimes against the foundations of national security of Ukraine provided for in Articles 109-114¹ of this Code, against peace, security of mankind and international legal order provided for in Articles 437-438, 438²-438⁴, 439, 442, 442¹ and 443 of this Code»;

6) part one of Article 69 after the words “for a corruption crime” shall be supplemented with the words and numbers: “for a crime against peace, security of mankind and international legal order provided for in Articles 437-438⁵, 442, 442¹ of this Code”;

7) Article 74 shall be supplemented with part six of the following content:

«6. Exemption from liability and serving a sentence, except the release on the basis of parts two and three of Article 74, Articles 81 and 84 of this Code,

shall not apply in cases of crimes against peace, security of mankind and international legal order provided for in Articles 437-438⁵, 442, 442¹ of this Code»;

8) part six of Article 80 shall be worded as follows:

«6. The statute of limitations shall not apply in the case of conviction for crimes under Article 439 of this Code»;

9) Articles 432, 433 and 435 shall be removed;

10) Articles 434, 436, 437, 438 shall be worded as follows:

«Article 434. Careless performance of duties in relation to sick and wounded persons

Careless performance of duties in relation to the sick and wounded by persons entrusted with their treatment and care, missing the signs of a more serious crime -

shall be punishable by imprisonment for a term up to three years»;

«Article 436. Public calls for an act of aggression or armed conflict of a non-international character

Public appeals to an act of aggression or armed conflict of a non-international character, as well as the production of materials calling for such actions for the purpose of their distribution or dissemination of such materials -

shall be punishable by arrest for up to six months or imprisonment for up to three years.

Note. 1. An act of aggression in this Article and Article 437 of this Code should be understood as the use of force by a State against the sovereignty, territorial integrity and inviolability or political independence of another State or in any other way incompatible with the Charter of the United Nations, including any of the following acts, regardless of the declaration of war, is recognized as an act of aggression:

1) the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation of the territory of another State or part thereof by the use of force,

2) bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;

3) the blockade of the ports or coasts of a State by the armed forces of another State;

4) an attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State;

5) the use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence on such territory beyond the termination of the agreement;

6) the action of a State which allows its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State;

7) the sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed in subparagraphs 1 to 6 of paragraph 1 of this note, or its substantial involvement therein.

2. In Articles 436, 438-438⁵ of this Code, armed conflict of a non-international character should be understood as prolonged and reaching a minimum level of intensity armed clashes on the territory of a State between government forces (including the armed forces or other state military formations) and one or more armed formations (groups) that demonstrate a minimum level of organisation, or between such formations (groups).

Armed conflict of a non-international character does not include cases of violation of public order and situations of internal tension (mass riots, terrorist acts, isolated acts of violence, etc.)»;

«Article 437. The crime of aggression

1. The planning, preparation, initiation, or execution, by a person in a position to effectively exercise control over or direct the political or military action of a State, of an act of aggression, which by its character, gravity and scale constitutes a gross violation of the Charter of the United Nations, -

shall be punishable by imprisonment for a term of ten to fifteen years or life imprisonment.

Note. For the purposes of Articles 437-438⁵, 442 and 442¹ of this Code, the provisions of international treaties approved by the Verkhovna Rada of Ukraine and of customary international law in force at the time of commission of the relevant act shall be taken into account, as well as the practice of applying these provisions by international judicial institutions (tribunals)»;

«Article 438. War crimes against a person

1. Intentional commission in connection with an international armed conflict of:

1) the transfer, directly or indirectly, of part of the civilian population of the Occupying State into the occupied territory, as well as indirect transfer of all or part of the population of the occupied territory both within this territory and outside it;

2) compelling a prisoner of war or other person under the protection of international humanitarian law to serve in the armed forces of the opposite party to the conflict;

3) forcing the citizens of the opposite party to the conflict to take part in hostilities against their own country, even if they were in the service of the armed forces of such opposite side before the beginning of the armed conflict;

4) unreasonable delay in the repatriation of a prisoner of war or another person under the protection of international humanitarian law after the end of hostilities, -

shall be punishable by imprisonment for a term of six to twelve years.

2. Intentional commission (infliction) in connection with an international armed conflict or an armed conflict of a non-international character in relation to a person under the protection of international humanitarian law:

1) deportation of the population, *i.e.*, forced and in the absence of grounds provided by international law, relocation (eviction) of one or more persons from the area in which they were legally located, to the territory of another state;

2) forcible transfer of population, *i.e.*, forced and in the absence of grounds provided by international law, relocation (eviction) of one or more persons from the area in which they were legally located, to another area within the same state;

3) the recruitment or involvement of a person under the age of fifteen in the armed forces or other state military formations, or other (except state) formations (groups) involved in an armed conflict, as well as the use of such a person for participation in hostilities;

4) deprivation of a person under the protection of international humanitarian law of the right to a fair and proper trial;

5) outrages upon personal dignity;

6) taking or holding a person hostage;

7) illegal imprisonment;

8) rape, sexual exploitation, enforced prostitution, forced pregnancy, forced-sterilisation or any other form of sexual violence;

9) torture or other inhuman treatment, or illegal conduct of any kind of experiment on a person, or application of illegal methods of treatment that are dangerous to life or health at the time of their conduct or application;

10) causing moderate or severe body injury;

11) injury to the person referred to in subparagraph 3 of note 2 to this article, -

shall be punishable by imprisonment for a term of seven to fifteen years.

3. Committing premeditated murder in connection with an international armed conflict or an armed conflict of a non-international character against a person under the protection of international humanitarian law, -

shall be punishable by imprisonment for a term of ten to fifteen years or life imprisonment.

Note. 1. In Articles 438-438⁵ of this Code, an international armed conflict should be understood as any clash between two or more states with the use of armed forces. International armed conflict also occurs in all cases of partial or complete occupation of the territory of a State, even if there is no armed resistance to this occupation.

2. In articles 438 and 438⁵ of this Code persons under the protection of international humanitarian law should be understood as:

1) in the context of an international armed conflict - any person protected under the Geneva Conventions for the Protection of Victims of War of 12 August 1949 and the Additional Protocol to the Geneva Conventions of 12 August 1949 Concerning the Protection of Victims of International Armed Conflicts (Protocol I), including the sick, wounded, shipwrecked, prisoners of war, medical and religious personnel and civilians;

2) in the context of armed conflict of a non-international character - any person protected under Article 3, common to the Geneva Conventions for the Protection of Victims of War of 12 August 1949, and the Additional Protocol to the Geneva Conventions of 12 August 1949, which concerns the Protection of Victims of Non-International Armed Conflicts (Protocol II), including the sick, wounded, shipwrecked, persons not directly participating in hostilities and are under the control of the party to the conflict, including persons who have previously participated in hostilities on the side of the opposite party to the conflict;

3) in the context of an international armed conflict or an armed conflict of a non-international character - representatives of the armed forces or persons directly participating in hostilities who have laid down their arms or otherwise have no more means of protection (*hors de combat*) and are not under the power of the opposite party to the conflict.

3. For the purposes of Articles 438-438⁵ of this Code, an act shall be deemed to have been committed in connection with an armed conflict in cases where the existence of an armed conflict significantly affected the person's ability to commit the act incriminated, or his/her decision to commit the act, or the manner in which the act was committed, or the purpose for which it was committed.

4. Direct transfer in this article should be understood as the resettlement of persons from among the civilian population of the occupying State to the occupied territory, regardless of their consent, which is organised, coordinated or

controlled by persons exercising power or administrative functions on behalf of the occupying State.

Indirect transfer in this article should be understood as the creation by persons exercising power or administrative functions on behalf of the occupying State of such living conditions, which encouraged or forced persons from among the civilian population of the occupying state to move to the occupied territory or persons from the population of the occupied territory to move both within this territory and outside it.

5. The deprivation of the right to a fair and proper trial in this article should be understood as a violation of the legal (procedural) guarantees provided for in Articles 84, 86, 87, 99, 103-106 of the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949, Articles 33, 67, 71-74, 117 of the Convention for the Protection of Civilian Persons in Time of War of 12 August 1949, Article 3, paragraph 1, subparagraph 1, point (d), common to the Geneva Conventions for the Protection of Victims of War of 12 August 1949, Article 75 of the Additional Protocol to the Geneva Conventions of 12 August 1949, concerning the Protection of Victims of International Armed Conflicts (Protocol I), Article 6 of the Additional Protocol to the Geneva Conventions of 12 August 1949, concerning the Protection of Victims of Non-International Armed Conflicts (Protocol II), Article 23, paragraph (h), of Annex to the IV Convention on the Laws and Customs of War on Land and the Annex thereto: Regulation on the Laws and Customs of Land Warfare of 18 October 1907.

6. In Articles 438 and 442¹ of this Code, compulsory pregnancy means the unlawful confinement of a woman forcibly made pregnant, with the intent of changing the ethnic composition of any population or carrying out other grave violations of international law that have the character of a war crime or crime against humanity.

7. Torture in this article should be understood as the acts provided for in Article 127 of this Code.

8. Other inhuman treatment in this article should be understood as acts that caused severe physical pain or physical or moral suffering, in the absence of signs of torture.

9. An outrage upon personal dignity in this article should be understood as an insult, humiliation or other act against a person (including committed against a deceased person), which, taking into account the cultural affiliation of such person, harmed his/her personal dignity, but did not cause severe physical pain or physical or mental suffering»;

11) to supplement with Articles 438¹-438⁵ of the following content:

«Article 438¹. War crimes against property

1. Intentional commission in connection with an international armed conflict or an armed conflict of a non-international character of the seizure or damage or destruction of property, if it is not justified by military necessity, - shall be punishable by imprisonment for a term of six to twelve years.

2. The same actions, if they are large-scale, - shall be punishable by imprisonment for a term of ten to fifteen years.

Note. Seizure of property in this article and article 438⁵ should be understood as any restriction or deprivation of the owner of such property (state, natural or legal person) of the opportunity to exercise the powers that form the right of ownership over the relevant property.

Article 438². War crimes involving the use of prohibited methods of warfare

1. Intentional commission (execution) in connection with an international armed conflict or an armed conflict of a non-international character:

1) the use of the presence of civilians or a person under the protection of international humanitarian law to protect a particular point, area or armed forces from hostilities;

2) a statement that there will be no mercy, *i.e.*, addressed to persons participating in hostilities on the side of the opposite party to the conflict, a statement that in the event of cessation of participation in hostilities, these persons will not be able to use the guarantees contained in the provisions of international humanitarian law, and will be deprived of life or left in a life-threatening condition, -

shall be punishable by imprisonment for a term of six to eight years.

2. Intentional commission (execution) in connection with an international armed conflict or an armed conflict of a non-international character:

1) attacks on unprotected and non-military targets, settlements or buildings;

2) an attack that is known to pose a risk of death or injury of civilians, damage to civilian objects or extensive, long-term and serious damage to the environment, which is clearly disproportionate to the specific and directly expected overall military advantage;

3) attacks on installations or structures that contain dangerous forces, which can knowingly kill or injury an excessive number of persons belonging to the civilian population, or cause excessive damage to civilian objects;

4) an attack on a building intended for religious, educational, artistic, scientific or charitable purposes, a historical monument, a hospital or a place of concentration of the sick and wounded, if such objects are not a military target;

5) attack on a civilian object that is not a military target;

6) attacks on the civilian population or individual civilians who are not directly participating in hostilities;

7) acts aimed at creating famine for the civilian population as a method of waging war by depriving it of the necessities of survival, including by creating obstacles to the provision of assistance under the Geneva Conventions for the Protection of Victims of War of 12 August 1949;

8) wounding of a person participating in hostilities by the use of perfidy, - shall be punishable by imprisonment for a term of seven to fifteen years.

3. Committing (execution) in connection with an international armed conflict or an armed conflict of a non-international character the act provided for in part one or two of this Article, if it caused serious bodily injury or death of a person participating in hostilities on the side of the opposite party to the conflict or civilians, as well as the killing of a person participating in hostilities by the use of perfidy, -

shall be punishable by imprisonment for a term of ten to fifteen years or life imprisonment.

Note. 1. Perfidy in this article should be understood as actions aimed at instilling confidence in a person participating in hostilities and belonging to the opposite party to the conflict and forcing him/her to believe that he/she has the right to protection or is obliged to provide such protection in accordance with the provisions of international humanitarian law, in order to deceive such trust in the future.

2. Installations and structures containing dangerous forces in this article should be understood as dams, levees (dikes), chemical and oil refineries, nuclear power plants, even if they are military facilities.

Article 438³. War crimes involving the use of prohibited means of warfare

1. The use in connection with an international armed conflict or an armed conflict of a non-international character of means of warfare prohibited by international humanitarian law, including weapons, ammunition and equipment, which cause excessive damage or suffering or are indiscriminate in nature, -

shall be punishable by imprisonment for a term of six to ten years.

2. The same act, if it has caused grievous bodily harm to a person belonging to the opposite party to the conflict or to a person from the civilian population, - shall be punishable by imprisonment for a term of seven to twelve years.

3. The act provided for in part one of this article, if it caused the death of a person belonging to the opposite party to the conflict or a person from the civilian population, -

shall be punishable by imprisonment for a term of ten to fifteen years or life imprisonment.

Note. For the purposes of this article, the means of warfare prohibited by international humanitarian law must include the application of:

1) poison or poisoned weapons;

- 2) suffocating, poisonous or other similar gases and any similar liquids, materials or means;
- 3) bullets that are easily torn or flattened in the human body, such as shell bullets, the hard shell of which does not cover the entire core or has incisions;
- 4) chemical weapons;
- 5) weapons, the main action of which is to cause damage by fragments that are not detected in the human body by X-rays;
- 6) laser weapons specially designed for use in hostilities solely or including in order to cause permanent blindness of unprotected organs of human vision;
- 7) weapons that use microbiological or other biological agents or toxins, regardless of their origin or method of production.

Article 438⁴. War crimes against humanitarian operations and use of symbols

1. Intentional commission of striking in connection with an international armed conflict or an armed conflict of a non-international character on:

1) personnel, facilities, materials, equipment, units or vehicles involved in humanitarian assistance or peacekeeping missions in accordance with the Charter of the United Nations, as long as they have the right to protection enjoyed by civilians or civilian objects in accordance with the provisions of international law;

2) buildings, materials, equipment, medical facilities, or vehicles duly marked with a distinctive emblem or identification mark established by international humanitarian law, or personnel authorised to use such emblems or signs, -

shall be punishable by imprisonment for a term of seven to twelve years by imprisonment.

2. The same act, if it caused the death of the victim or caused grievous bodily harm, -

shall be punishable by imprisonment for a term of ten to fifteen years or life imprisonment.

3. The unlawful use during an international armed conflict or a non-international armed conflict of a distinctive emblem or insignia established by international humanitarian law, the parliamentary flag or a flag, military insignia or the form of an enemy or the United Nations, if it has caused grievous bodily harm or the death of the victim, -

shall be punishable by imprisonment for a term of seven to fifteen years or life imprisonment.

Note. In this article, the emblem and sign established by international humanitarian law should be understood as the emblems and signs defined in the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949, the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members

of Armed Forces at Sea of 12 August 1949, the Additional Protocol to the Geneva Conventions of 12 August 1949 concerning the adoption of an additional distinctive emblem (Protocol III) and the Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 April 1954.

Article 438⁵. War crimes against cultural property protected by international humanitarian law

1. Intentional commission in connection with an international armed conflict or an armed conflict of a non-international character, in violation of international humanitarian law regarding cultural property protected by international humanitarian law, of an attack, seizure or an act of vandalism, -

shall be punishable by imprisonment for a term of seven to thirteen years.

2. The acts provided for in part one of this Article that are large-scale or have been committed in relation to a cultural property under enhanced protection, unique cultural property or a World Heritage Site,-

shall be punishable by imprisonment for a term of seven to fifteen years.

3. Intentional use in connection with an international armed conflict or an armed conflict of a non-international character, in violation of international humanitarian law, of a cultural property under enhanced protection or places adjacent to it, to support armed hostilities, -

shall be punishable by imprisonment for a term of eight to twelve years.

4. The act provided for in part three of this Article which has a large-scale character, -

shall be punishable by imprisonment for a term of ten to fifteen years.

Note. 1. In this Article and Article 445¹ of this Code cultural property should be understood as movable and immovable property, buildings and centres provided for in Article 1 of the Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954, which are under general, special or enhanced protection under international humanitarian law. The list of cultural property under special protection is contained in the International Register of Cultural Property under Special Protection.

2. In this Article cultural property under enhanced protection should be understood as a cultural property included in the International List of Cultural Property under enhanced protection»;

3. In this Article unique cultural property should be understood as a cultural property that belongs to the objects of national cultural heritage, cultural heritage sites of national importance, included in the State Register of Immovable Landmarks of Ukraine, unique landmarks of the Museum Fund of Ukraine, unique documents of the National Archival Fund, especially valuable, rare documents and collections. This definition applies only to acts aimed at the cultural values of Ukraine.

4. The act of vandalism in this Article should be understood as intentional destruction, demolition or damage to cultural property ";

12) Article 442 shall be worded as follows:

«Article 442. Genocide

1. Genocide, *i.e.*, an act intentionally committed for the purpose of the total or partial destruction of any national, ethnic, racial or religious group as such by:

1) deprivation of life of members of this group;
2) causing them serious bodily injury or mental disorder;
3) creation of living conditions for the group, aimed at its complete or partial physical destruction;

4) taking measures designed to prevent childbirth in such a group;

5) forcible transfer of children from one group to another, -
shall be punishable by imprisonment for a term of ten to fifteen years or life imprisonment.

2. Public appeals to commit the acts provided for in part one of this article made with the aim of total or partial destruction of any national, ethnic, racial or religious group as such, as well as the production of materials with calls to commit such acts for their dissemination or distribution of such materials, -

shall be punishable by imprisonment for a term of three to seven years.

13) to supplement Article 442¹ with the following content:

«Article 442¹. Crimes against humanity

1. Intentional commission (infliction) within the framework of a deliberate widespread or systematic attack on a civilian population of:

1) persecution, *i.e.*, restriction of fundamental human rights on the basis of political, racial, national, ethnic, cultural, religious, sexual or other discriminatory grounds determined by international law;

2) deportation of the population, *i.e.*, forced and in the absence of grounds provided by international law, relocation (eviction) of one or more persons from the area in which they were legally located, to the territory of another state;

3) forcible transfer of population, *i.e.*, forced and in the absence of grounds provided by international law, relocation (eviction) of one or more persons from the area in which they were legally located, to another area within the same state;

4) rape, sexual exploitation, enforced prostitution, forced pregnancy, forced sterilisation or any other form of sexual violence;

5) conversion to slavery or human trafficking;

6) enforced disappearance;

7) illegal imprisonment;

8) torture;

9) moderate or severe bodily injury, -

shall be punishable by imprisonment for a term of seven to fifteen years.

2. Intentional commission within the framework of a deliberate widespread or systematic attack(s) on a civilian population of apartheid, extermination, murder,

shall be punishable by imprisonment for a term of ten to fifteen years or life imprisonment.

Note. 1. An attack on civilians in this article should be understood as the commission of any of the acts referred to in this article against the civilian population in pursuance of or in support of a policy of a State or organisation aimed at committing such an attack.

2. Enforced disappearance in this article should be understood as the arrest, detention, abduction, or imprisonment of a person in any other form with the subsequent refusal to recognize the fact of such arrest, detention, abduction or imprisonment in any other form or with concealment of the fate of such a person or his/her whereabouts, as well as a refusal to recognize the fact of arrest, detention, abduction or imprisonment of a person in any other form or concealment of information about the fate of such a person or his/her whereabouts.

3. The term “apartheid” is used in this Code as defined by the Convention on the Suppression and Punishment of the Crime of Apartheid of 30 November 1973.

3. Extermination in this article should be understood as the deprivation of life of one or more persons by means of deliberately created living conditions aimed at the destruction of part of the population, including by deprivation of access to food or medicine.

4. Torture in this article should be understood as intentionally causing severe physical pain or physical or moral suffering to a person»;

14) in the first paragraph of Article 445, the words “except in cases provided for by this Code” shall be deleted;

15) to supplement Article 445¹ with the following content:

«Article 445¹. Illegal actions with cultural property in connection with the armed conflict

1. Carrying out archaeological explorations, excavations in violation of international humanitarian law in the occupied territory, modification or change of the type of use of cultural property in the occupied territory, aimed at concealing or destroying evidence of cultural, historical or scientific nature, or other use of cultural property in connection with an armed conflict in violation of international humanitarian law, in the absence of signs of a crime under Article 438⁵ of this Code,

shall be punishable by imprisonment for a term of five to ten years.

2. Illegal transfer of cultural property outside the occupied territory or illegal transfer of ownership of cultural property located in the occupied territory, committed in connection with an armed conflict in violation of international humanitarian law,

shall be punishable by imprisonment for a term of seven to twelve years ";

16)The final and transitional provisions shall be supplemented with Section III with the following content:

«Section III

1. If the acts provided for in Articles 437-438⁵, 442, 442¹ of this Code at the time of their commission were not recognised as a crime under the legislation of Ukraine on criminal liability, but were recognised as a crime of genocide, a crime of aggression, a crime against humanity or a war crime under international law, it is considered that such acts at the time of their commission were recognised as a crime in accordance with the legislation of Ukraine on criminal liability.

2. Part two of Article 8 of this Code shall enter into force upon the amendment of the Criminal Procedure Code of Ukraine and the laws of Ukraine on the specifics of criminal proceedings against persons provided for in this part»;

2. In the Criminal Procedure Code of Ukraine (Information of Verkhovna Rada of Ukraine, 2013, No. 9-13, p.88):

1) in paragraph one of part two of Article 216, the numbers “439, 440, 441, 442” shall be replaced by the numbers “438¹, 438², 438³, 438⁴, 438⁵, 439, 440, 441, 442, 442¹”;

2) in paragraph one of part two of Article 279¹, the numbers “439, 440, 441, 442” shall be replaced by the numbers “438¹, 438², 438³, 438⁴, 438⁵, 439, 440, 441, 442, 442¹”;

II. Final provisions

1. This Law shall enter into force on the day following the day of its publication.

2. Part two of Article 4 of the Law of Ukraine “On the Application of Amnesty in Ukraine” (Information of Verkhovna Rada of Ukraine, 2011, No. 51, Art. 580; 2013, No. 21, Art. 208; 2014, No. 10, Art. 119, No. 14, Art. 257) shall be supplemented with the following words and numbers: «for crimes against peace, security of mankind and international legal order, provided for in Articles 437-438⁵, 442 and 442¹ of the Criminal Code of Ukraine.»

Head
The Verkhovna Rada of Ukraine

D. Razumkov

Kyiv
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