

AGGRESSION OF THE RUSSIAN FEDERATION AGAINST UKRAINE

APPEAL TO THE WORLD COMMUNITY OF THE BOARD OF THE STATE NUCLEAR REGULATORY INSPECTORATE OF UKRAINE

On February 24, 2022, the Russian Federation waged an unprecedented brutal war against Ukraine. The military invasion began via the Chernobyl Exclusion Zone, which for 36 years served as a barrier that prevented the spread of the Chernobyl radioactive material and remained uninhabited because of contamination by dispersed fragments of spent nuclear fuel and other radioactive material.

The military attacks and seizing of the Chernobyl nuclear power plant and Zaporizhia nuclear power plant and detaining their civilian personnel for several weeks are acts of nuclear terrorism committed by the Russian Federation. In addition to military aggression, The Russian Federation ignored and violated the UN Charter, international laws for peaceful use of nuclear energy, UN conventions and seven basic principles of nuclear safety and security approved by the IAEA.

The Russian Federation attacked the following nuclear installations and facilities in Ukraine:

- The radioactively contaminated 30-km Chernobyl Exclusion Zone and nuclear facilities on its territory, such as the Chernobyl nuclear power plant, spent nuclear fuel storage facilities, Ukrainian enterprise for storage and disposal of radioactive waste, more than 700 temporal storage sites with Chernobyl radioactive material (from February 24, 2022);
- the radioactive waste storage facility of the Kharkiv Inter-regional Branch of the Radon enterprise (February 26, 2022);

- the radioactive waste disposal facility of the Kyiv branch of the Radon enterprise (February 27, 2022);
- the site of the Zaporizhia nuclear power plant with seven nuclear facilities on-site (March 3, 2022);
- numerous medical facilities, civilian industrial enterprises, and research institutions that used or manage radionuclide sources and radioactive material (systematic from February 24, 2022);
- the research nuclear installation “Neutron Source Based on a Subcritical Assembly Controlled by a Linear Electron Accelerator” with 37 loaded nuclear fuel cells in Kharkiv (systematic shelling from March 6, 2022);

Also military attacks of the Russian Federation on March 9, 2022, and afterwards resulted in blackouts at the Chernobyl nuclear power plant and other nuclear facilities in the Chernobyl Exclusion Zone.

Obstruction by the Russian military of normal work and variability of personnel creates conditions for violation of radiation safety, creating a radiation threat.

The Russian Federation brutally violates international laws and nuclear and radiation safety requirements by committing military attacks on nuclear installations and other nuclear facilities that use radioactive material and radionuclide sources. By attacking Ukrainian nuclear installations, the Russian Federation also hinders the fulfilment of Ukrainian commitments under the Convention on Nuclear Safety, the Joint Convention on the Safety of Spent Fuel Management and Radioactive Waste, and the Agreement between Ukraine and the IAEA on the application of guarantees within the Treaty on the Non-Proliferation of Nuclear Weapons. The acts of nuclear terrorism of the aggressor threaten the lives and health of the civilian population in Ukraine and globally. Specifically, the Russian Federation violates:

- Rule 42 of the **international humanitarian law** that stipulates *“In the event of an attack on installations and structures containing hazardous substances, in particular nuclear power plants, as well as other structures, special care should be taken to avoid the release of hazardous substances and subsequent severe losses among the civilian population. The parties to the conflict must always*

distinguish between civilian and military objects. Attacks can only be against military facilities. Attacks cannot be directed against civilians objects. Ukrainian NPPs, medical institutions, civilian industrial enterprises and research institutions of Ukraine that used radionuclide sources of ionizing radiation and radioactive materials or handled them are not military facilities.”;

- Article 51 of Protocol Additional to the **Geneva Conventions** of August 12, 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I), June 8 1977, specifically the prohibition of attacks that strike both military objectives and civilian objects indiscriminately, as are those whose primary purpose is to spread terror among the civilian population. Ukrainian NPPs, medical institutions, civilian industrial enterprises and research institutions of Ukraine that have used or handled radionuclide sources of ionizing radiation and radioactive materials are not military facilities;
- Article 56 of Protocol Additional to the **Geneva Conventions** of August 12, 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), June 8, 1977, that stipulates “*Works or installations containing dangerous forces, namely ... nuclear electrical generating stations, **shall not be made the object of attack**... if such attack may cause the release of dangerous forces and consequent severe losses among the civilian population”.*

The Russian Federation is violating the resolution of the IAEA General Conference banning military attacks on peaceful nuclear infrastructure. Namely, the IAEA resolutions define any armed attack and threat to nuclear facilities intended for peaceful purposes as **a violation of the principles of the United Nations Charter, international law, and the IAEA Charter** (GC(XXIX)/RES/444). The IAEA resolutions also indicate that an armed attack on a nuclear installation **may result in releases of radioactive material** with serious consequences inside and outside the attacking State (GC(XXXI)/RES/475). In addition, the IAEA resolutions stipulate that an armed attack or threat of an armed attack on a nuclear facility **creates a situation in which the United Nations Security Council must act immediately** per the provisions of the Charter of the United Nations (GC(XXXIV)/RES/533).

The Russian Federation and its troops also committed offences within the meaning of the following international conventions:

- International Convention for the Suppression of Acts of Nuclear Terrorism (Article 2, item (2b)): by demanding unlawfully and intentionally radioactive material, a device or a nuclear facility by threat, under circumstances which indicate the credibility of the threat, or by use of force;
- Convention on the Physical Protection of Nuclear Material and Nuclear Installations, requirements of the Amendment to the Convention on the Physical Protection of Nuclear Material and Nuclear Installations (Article 7, paragraph 1e): by deliberately taking actions against civilian nuclear installations, including unlawful interference with the operation of nuclear installations. The Russian Federation is aware that such actions can cause deaths among civilians, severe injury to civilians, and significant damage to property or the environment due to radiation and releases of radioactive substances;
- International Convention for the Suppression of the Taking of Hostages (Articles 1 and 2) – a crime of taking hostage – by capturing and holding hostage civilian personnel of the Chornobyl nuclear power plant and Zaporizhia nuclear power plant.

The attacks on and seizing of the Ukrainian nuclear power plants and other nuclear facilities with radioactive materials and radionuclide sources are war crimes in the meaning of **the Rome Statute of the International Criminal Court**, namely the crime under Article 8, paragraph 2 (b) (iv) of the Rome Statute of the International Criminal Court, as such an attack could have caused global and long-term damage to the environment that is disproportionate to the expected military advantage.

The aggressor, by seizing the Chornobyl Nuclear Power Plant, where the spent nuclear fuel and other radioactive materials are managed, and by damaging the infrastructure of the Chornobyl Exclusion Zone, where the radioactive waste management is performed, violates provisions of items (i) and (vi) of paragraph 2 of Article 4 of the Joint

Convention on the Safety of Spent Fuel Management and the Safety of Radioactive Waste Management. The Board requests the IAEA Secretariate to inform the IAEA Member States and notify the Contracting Parties of the Joint Contention about the indicated above violations committed by the Russian Federation.

The Board believes that military attacks on Ukrainian nuclear facilities provoked or already caused nuclear and radiation emergencies. Per Article 2 of the Convention on Early Notification of a Nuclear Accident, Contracting Parties shall notify the IAEA of any accident at an installation under their jurisdiction or control, which results in, or may result in the release of radioactive substances. The acts of nuclear terrorism committed by the Russian Federation at the Chernobyl and Zaporizhzhia Nuclear Power Plants could lead to a nuclear accident or a radiation emergency with transboundary consequences, the release of radioactive substances into the environment, and severe radiation injuries to the civilian population. Ukraine continues to fulfil its obligations under the Convention and notifies the IAEA about the listed in this document events that caused or may cause the release of radioactive substances to the environment. The Board informs the IAEA that with the partial loss of regulatory control over the attacked, seized or destroyed nuclear facilities, it would be impossible to promptly notify the IAEA, provide a timely emergency response and effectively mitigate the consequences of a nuclear or radiological emergency caused by the acts of nuclear terrorism committed by the Russian Federation.

Per Article 2 of the Convention on Assistance in the Case of a Nuclear Accident or Radiation Emergency, which provides that, where necessary, assistance to a State Party in the event of a nuclear accident or radiation emergency occurs, a State Party may request such assistance from any other State Party, directly or through the IAEA, and from the IAEA or, as appropriate, from other international intergovernmental organizations. The Board requests the IAEA and its Member States to provide such assistance, particularly to assess the potential consequences of acts of nuclear terrorism committed by the Russian Federation and provide technical assistance in the identification and mitigation of consequences of such acts.

According to the Agreement between Ukraine and the International Atomic Energy Agency on the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons, the IAEA applies safeguards in such a way as to be able to check the data of Ukraine's nuclear material accounting and control system to ensure that the material has not been diverted in any way from peaceful use to the production of nuclear weapons or other nuclear explosive devices. Since February 24, 2022, the war waged by the Russian Federation has heavily affected the possibility of Ukraine implementing the provisions of the Agreement.

The Board states that the war waged by the Russian Federation against Ukraine and the civilized world has unprecedented consequences. We are on the verge of a nuclear catastrophe. The attacks of the Russian Federation on Ukrainian nuclear installations and facilities destroyed the international regime of nuclear and physical security and non-proliferation. We consider it necessary to recognize the actions of the Russian Federation as an act of nuclear terrorism and take the necessary measures.

The Board appeals to the United Nations, the UN Scientific Committee on the Effects of Atomic Radiation, the International Atomic Energy Agency, the European Atomic Energy Community, the Western European Association of Nuclear Regulators, the Association of Heads of European Competent Authorities for Radiation Protection, the European Nuclear Safety Regulators Group, the International Commission on Radiological Protection, other international organizations, national regulatory bodies, the world community and calls for:

- recognition of the actions of the Russian Federation as acts of nuclear terrorism, which are subject to condemnation and immediate, unconditional cessation;
- assessing the nuclear and radiological risks associated with acts of nuclear terrorism committed by the Russian Federation;
- taking urgent, effective, and decisive measures to prevent potential severe radiation injuries to the civilian population and the long-term harmful effects of radioactive contamination of the environment on the present and future generations, in particular, within the framework of the implementation of the

relevant provisions of the UN General Assembly Resolution ES 11/1 «Aggression against Ukraine».

The Board calls on the United Nations and the IAEA to introduction immediately the following measures:

- cessation and further prevention of military attacks on Ukrainian nuclear installations and other facilities with dangerous radioactive materials and radionuclide sources;
- withdrawal of the troops of the Russian Federation from the Ukrainian nuclear installations and facilities with dangerous radioactive materials and radionuclide sources;
- creation of 30-kilometre demilitarized zones around the Ukrainian nuclear installations;
- facilitation of the resumption of the regulatory control of Ukraine over nuclear facilities on the territory of Ukraine, including the creation of appropriate conditions for compliance with non-proliferation guarantees;
- suspension of the UN and IAEA staff members with the citizenship of the Russian Federation or the Republic of Belarus from duties related to the nuclear safety and security issues caused by the war waged by the Russian Federation against Ukraine.

The Board of the State Nuclear Regulatory Inspectorate of Ukraine appeals to the Director General of the IAEA to convene this appeal to the United Nations Security Council to take urgent actions under provisions of the United Nations Charter (IAEA GC(XXXIV)/RES/533).

**The Board
of the State Nuclear Regulatory
Inspectorate of Ukraine**