

TARGETING RUSSIAN OIL REFINERIES

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Abstract: *In March 2024, Ukraine significantly intensified its assaults on Russian energy infrastructures, deploying a multitude of long-range drones to hit Russia's largest refineries. This led to a temporary halt in production at several of these facilities. The primary objective of these assaults was to diminish Russia's military capacity. On the other hand, these actions inflicted damage on the Russian economy. Targeting refineries and oil depots has emerged as a contentious issue. The classification of refineries and oil depots as military objectives is legally not precise. These facilities are seen as essential infrastructure for the nation's economy and machinery of war. Targeting oil depots or works and installations containing dangerous forces during an international armed conflict could result in significant environmental damage, raising questions about the principles of military necessity, distinction and proportionality. An attack must not cause excessive incidental civilian damage relative to the concrete and direct military advantage anticipated. This essay will explore the legal issues regarding targeting refineries and oil depots and a comprehensive analysis of the situation within the framework of International Humanitarian Law.*

Keywords: Russia, Ukraine, International Humanitarian Law, Military Objectives, Targeting

1. Introduction

The Geneva Conventions and their Additional Protocols provide a comprehensive framework for the conduct of hostilities in armed conflicts. The recent intensification of assaults on Russian energy infrastructures by Ukraine, specifically targeting refineries and oil depots, raises pertinent questions about the legality of such actions under International Humanitarian Law (IHL). In essence, IHL attempts to govern the conduct of warfare with the aim of reducing human distress. On the other hand, it embodies the ongoing equilibrium between the military requirements that emerge during warfare and the imperative for humanitarian safeguards. IHL is established based on the principles of distinction, proportionality,

necessity and humanity [1], [2]. The principle of distinction serves as a key pillar in its framework. According to Article 48 of Additional Protocols I of 8 June 1977 (AP I), "[...] the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives" [3]. The principle of proportionality prohibits attacks that may "[...] cause incidental loss of civilian life, injury to civilians or damage to civilian objects that would be excessive in relation to the concrete and direct military advantage anticipated" (cf. Articles 51 (5) (b) and 57 (2) (a) (iii) AP I) [4]. The principle of necessity allows military forces to undertake actions that

may lead to damage and harm [5], [6]. In this context, the principle of humanity sets certain boundaries on the tactics and methods of warfare, e.g. insisting that individuals captured by the enemy must be treated with humanity at all times [7]. Apart from these principles, Article 52 AP I determines that attacks shall be strictly limited to military objectives. Additionally, Article 57 AP I specifies the precautions in attack during military operations.

2. Targeting Oil Refineries According to International Humanitarian Law

2.1. Definition of Military Objectives

The main provisions of IHL that govern international armed conflicts, including those related to belligerent occupation, are contained within the four Geneva Conventions of 1949, AP I and Customary International Law [8]. Both the Russian Federation and Ukraine are signatories to these agreements [9]. In context with the attacks on oil refineries, it is crucial to understand the distinction between civilian objects and military objectives outlined in Article 48 AP I. Article 52 (1) AP I establishes the fundamental rule of non-targeting civilian objects, while Article 52 (2) AP I determines military objectives [10]. The characterization of military objectives is based on two interrelated conditions. Firstly, “[...] *their nature, location, purpose or the use make an effective contribution to military action* [...]”. Secondly, the “[...] *total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage*”. Therefore, initiating an assault that has only a potential or vague benefit is considered illegal [11], [12].

2.2. Targeting Energy Infrastructure

Targeting energy infrastructure, especially the destruction of refineries has an impact on civilian life and the economy. Private and commercial road traffic, shipping and air traffic, heating systems and the production of many goods are dependent on

oil. On the other hand, energy is an essential source of military capability.



Figure 1: Fire at a terminal of Novatek at the Ust-Luga port.

Source: Peter Kovalev / TASS. The Moscow Times; 08 April 2024.

Interfering with the supply of refined petroleum products, like diesel, gasoline or kerosene, would significantly harm and/or disrupt military operations. Objects used for civilian and military reasons are called dual-use objects [13], [14]. According to the list of categories of military objectives drafted by the International Committee of the Red Cross (ICRC) in 1956, stores of fuel and installations providing energy mainly for national defence are qualified as military objectives [15]. Regarding the term “*mainly*”, it remains to be questioned whether the refineries are primarily used to supply the Russian army. International law experts qualify power infrastructure as lawful targets as long as the attacking force benefits out of the destruction even though it is used primarily for civilian purposes [16]. An essential element in assessing the legality of the attack on refineries is the principle of proportionality, as outlined in Articles 51 (5) (b), 52 (2) and 57 (2) (a) (iii) AP I. The key aspect is the concrete and direct military advantage. According to Article 52 AP I, every military objective that is targeted must present a definite military advantage [17]. Similarly, under Article 57 AP I, this requirement must be met. However, Article 57 AP I also stipulates that the military advantage, which should be concrete and direct, must be balanced against potential civilian

casualties and damage that could occur as a result of the attack (collateral damages) [18], [19]. According to Article 52 (2) AP I, the decision that an attack on the target will provide a distinct military benefit must be made based on the prevailing “[...] in the circumstances ruling at the time [...]”. Therefore, a military advantage must exist during the neutralization of the military objective [20]. Even when an assault is directed at a legitimate military target, all feasible precautions have to be taken into consideration to reduce damage to civilians and civilian objects. The “feasible” criterion mandates that attackers adopt measures to prevent harm to civilians that an attacker would implement under the same or comparable conditions and is based on the information “[...] reasonably available [to the attacker] at the relevant time and place” [21]. On the other hand, the weapon to be used for the attack depends on the expected effect and/or collateral damage, the duration of the conflict and its availability [22].

2.3. Protection of Works and Installations Containing Dangerous Forces

Attacking natural energy resources considered as a military target, like oil or gas fields, requires a specific assessment of potential environmental risks that could result from the destruction of these targets. The principle of preventing environmental harm during armed conflicts is a customary rule of IHL. Legally speaking, oil fields, oil terminals and oil refineries do not fall into the category of objects containing dangerous forces according to Article 56 AP I [23].

3. Targeting Russian Oil Refineries

In March 2024, successful assaults on 12 significant refineries have resulted in an estimated 10% decrease of Russia’s refinery capacity [24]. With the front-line conflict increasingly leaning towards Moscow, Ukraine’s drone campaign is becoming a crucial element of its defence strategy [25].



Figure 2: Overview of Russian oil refineries, terminals, depots and storage.

Source: US urged Ukraine to halt strikes on Russian oil refineries. Financial Times; 22 March 2024.

Due to Ukrainian attacks, Russia has been forced to significantly increase its gasoline imports from Belarus. Furthermore, to maintain domestic price stability, a half-year prohibition on exports has been enforced [26]. The United States has reportedly advised Ukraine to cease its assaults on Russia’s energy systems, warning that the drone attacks could potentially escalate world oil prices and provoke counterattacks [27]. Ukraine’s Deputy Prime Minister Olha Stefanishyna argued that the attacked Russian oil refineries were “[...] absolutely legitimate targets from a military point of view [...]” [28]. Some statements indicate that Ukraine’s use of drones was solely aimed at economic damage to Russia by disrupting its crude oil processing capabilities and depleting its air defence systems [29], [30], [31]. The Ukraine Secret Service (SBU) declared its intention to weaken Russia’s economy [32], [33].

4. Legal Matrix Based on Two Drone Attacks

The partially destroyed oil storage facilities in Klintsy near the Ukrainian border – four burnt-out oil tanks with a capacity of around six million litres – were potentially

a source of fuel for Russian forces in the wider region [34]. The strikes against the distant refineries near St. Petersburg and the surrounding area did not cause any impact on military operations, as the oil of the refinery in Kirishi was dedicated mainly for export [35]. This assumption is supported by the statement of the US Defence Secretary, Lloyd Austin, advising the Ukraine to focus on military targets, since the attacks on refineries risk to impact the

global energy markets [36]. Additionally, media reports state that the damages caused by the drone attacks require time to influence Russia's export activities [37]. At the end of April 2024, the consumer prices for diesel raised up to 10 percent and for petrol up to 20 percent. Russia has reduced its fuel export to a historical low [38]. Up to now, there have been no concrete impacts on the Russian armed forces.

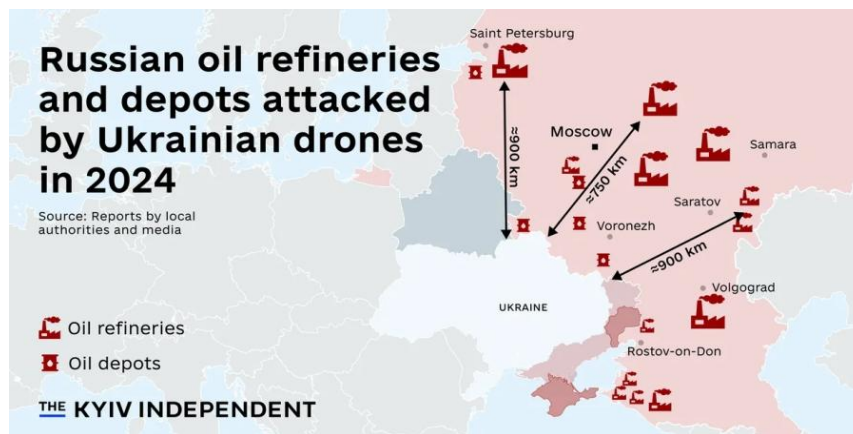


Figure 3: Distance to the attacked objects.

Source: Ukrainian drones hit one Russian oil refinery after another.
The Kyiv Independent; 19 March 2024.

AP I		Klintsy Bryansk	Kirishi St. Petersburg
Article 52	reliable intelligence or other indications	reasonable	uncertain
	supports military installations, equipment or activities	reasonable	uncertain
	military advantage	reasonable	uncertain
	civilian object		X
	dual-use object	X	
	military objective	X	
Article 57	feasible precautions in the choice of means and methods	drones	drones

Figure 4: Based on the available information on two drone strikes against refineries, the matrix visualizes the legal framework described in chapter 2.

Source: Created by the author; 24 April 2024.

5. Conclusions

In conclusion, the legality of Ukrainian drone attacks on Russian oil refineries under IHL depends on several factors, whether the refineries are legitimate

military objectives, whether the attacks are in line with the principles of proportionality and necessity, and whether the attacks result in excessive harm to civilians or civilian objects. Weakening the enemy's

economy cannot be considered a legitimate military aim. It is incontrovertible that oil refineries supplying military units are considered as military objectives according to AP I. However, when assessing an attack, more proportionate means and methods to achieve the military objectives should be taken into consideration, as for example, the destruction of lines of communication or main supply routes. So far, the drone attacks on refineries had no strategic impact on Russian forces to disrupt their fuel supplies. Therefore, the

attacks can be perceived as a demonstration of Ukrainian long-range drones and strike capabilities [39]. Obviously, Ukraine was attacking Russia's oil refineries for reasons other than, or at least in addition to, their military purposes. In the context of the Russian attacks on Ukraine's energy infrastructure, it should be noted that any violation of IHL by a party to the conflict, shall not release the other party from its legal obligations.

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