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## “Amber Issue” in Ukraine: Prevention and Consequences

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### Abstract

The study analyses the current process of amber mining and assesses the legal consequences of illegal activities in the amber mining industry. The relevance of the study is due to the deterioration of the socio-economic aspect of the life of Ukrainian citizens due to the unauthorised extraction of raw materials. The existing fact determines the purpose of the study, namely: the analysis of legal preventive measures and the system of liability norms, in particular, for non-state mining of fossilised resin. The research uses the following methods of searching, processing and presentation of Information: general scientific (formal-logical, analysis and synthesis, concretisation and abstraction, and induction and deduction methods) and special-legal methods (formal-legal, comparative-legal, and method of interpretation of legal provisions). The paper highlights the main gaps in the regulations for amber mining and tort obligations. Based on the results, the main area for changes was established: strengthening responsibility for illegal amber mining, in particular, introducing a state monopoly on its extraction, stopping non-state extraction of valuable resin. The conclusions of the study emphasise that the issue under study also requires the examination of natural aspects of geology, geomorphology, palaeogeography, biology, and the ecology of amber mining sites in general, so only a comprehensive solution to the issues of legalising amber mining at the state level will allow bringing the industry to international standards for mining. The results of the study can be useful for researchers in the field of law, geology, ecology, and biology. Ultimately, the necessary changes in the process of legalising amber mining relate not only to legal aspects. For example, one of the measures aimed at a positive result is the implementation of reclamation processes in the amber mining areas

**Keywords:** amber, geology, criminal liability, smuggling, economic law

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## Introduction

Amber is a petrified wood resin used for jewellery, decoration, medicine, and perfumes. Samples with inclusions of insects and plants are of great scientific importance and are highly valued by collectors. Amber is usually yellow to brown in colour, and individual specimens are reddish-brown-red or reddish-brown in colour [1].

One of the main components of the development of the social area of the economy, namely the level of income of the population and the level of employment of society, is the extraction of minerals on the territory of Ukraine. Thus, in places where amber is mined, mainly in the regions of the economic region of Polissya (Volyn, Zhytomyr, Rivne regions), there is a noticeable unfavourable prospect of economic development [2].

Illegal amber mining adversely affects the economic prosperity of both the state in general and individual regions – places of the main deposit of valuable raw materials. Ultimately, there is not only its illegal extraction and sale but also, as a result, other fields of public life do not function properly: the lack of official employment, decent working conditions and payment for citizens involved in the extraction, the growth of a criminogenic atmosphere among the population. It is also impossible to avoid the negative impact of such mining on the ecological situation of these regions which leads to their devastation and irrevocable destruction.

Considering the above, the purpose of the study is to provide a comprehensive review of the amber mining regulations, the subsequent processing of mining territories, the algorithm for the occurrence of tort obligations of offenders and identify possible measures that will work as a prevention of future natural resource crimes.

While writing the study, the papers of Ukrainian researchers were used, for example, the paper by V.E. Filipovich [3], which proposed a methodology that can be used in the process of monitoring compliance with environmental legal provisions in the territories of open-pit mining, which is necessary against the background of present-day Ukraine. A study conducted by O.V. Gulak and R.A. Grab [4] on the state of organisational and legal support for the amber mining process in Ukraine also played a substantial role and proposed ways to optimise this problem. Most of the sources used are the papers of national lawyers, which are contained in the Scopus and Web of Science databases, for example, the study by R.O. Movchan, A.A. Voznyuk, D.V. Kamensky, O.O. Dudorov, and A.V. Andrushko, which highlights the problems of forming criminal legislation regarding liability for illegal amber mining [5].

### 1. Existing Problems of Amber Mining

Interest in the issue of the legality of amber mining began to increase steadily only in recent years since the average market price of amber reached over 10 thousand dollars per kilogram. The need to adopt appropriate legislation in Ukraine, which would become one of

the components of legalising amber mining, has existed for many years [6].

Citizens involved in the amber industry support the government's position that legalising the field will help streamline mining and promote soil reclamation, preserve the natural environment – hotbeds where direct work takes place. Notably, not everyone agrees with this approach to solving the problematic issue. Namely, most of the local smugglers are trying by all sorts of methods to prevent the state from being able to freely dispose of amber deposits. They attract corrupt officials and representatives of law enforcement agencies, who, having their own interests, are ready to promote their illegal activities and cover them up to do this.

State officials note: "Only six companies have mining permits: two private ones, and four state-owned enterprises that have recently been closed due to bankruptcy or bureaucratic problems. The main amber reserves of Ukraine are concentrated primarily in forests in the Rivne, Zhytomyr and Volyn Regions" [6].

Such a situation with state-owned enterprises and licensed amber producers does not improve the situation in the industry, but only creates the appearance of a state presence and conditional control of this issue.

Environmentalists note the egregious situation that has developed on the ground, since there is already a place of existence of such territories that are no longer suitable for mining, even if this refers to legal extraction, due to the fact that forests need at least a hundred years to restore their bioresources, the reason for the absence of which is the wrong extraction procedure. Animals also encounter serious difficulties, because they fall into pits and are not able to get out on their own [6].

Notably, smugglers do not adhere to basic mining technologies, extracting rock with motor pumps, which damages the drainage channels of underground water. It will take many dozens of years to restore damaged woodlands and fields to proper condition. Therefore, even at this stage, the state authorities should approve proper legal regulation and save the industry from uncontrolled barbaric amber mining.

In fact, it is appropriate to say that the state does not conduct geological exploration for amber deposits. Therewith, there is also no control over chaotic places where raw materials are extracted by illegal diggers who search for them at random.

Ukrainian mass media, activists, and environmentalists are making substantial efforts to increase attention to this problem. At one time, there was information that law enforcement officers conducted raids on amber digs, where amber is illegally extracted, seized goods, and opened criminal proceedings against offenders. As it was noted: "The amber mafia operates in these regions, and mostly unemployed local residents are involved in mining. This is a social problem. It is complex" [7].

## 2. Legal Aspect of Problem Solving

It should be emphasised that it is not enough just to adopt a legal framework that will regulate the legal extraction of amber and the corresponding procedure. It is necessary to provide local residents with the opportunity to officially find a job and receive wages while having proper and safe working conditions. As for the corrupt state authorities and law enforcement agencies that contribute to the shadowing of amber mining, it is necessary to legislate such a measure of responsibility that they simply do not have such desires. There was an attempt to resist illegal amber mining through the law. Thus, the Verkhovna Rada in the first reading adopted a bill on the extraction and sale of amber, but it was never finally adopted [8].

It should be emphasised that the problem of illegal amber mining is dealt with not only by lawmakers but also by the public. Round tables were held on this subject, and the mass media sharply cover the problem and expose disclosure and criticism of those illegal facts that are covered up by dishonest officials and law enforcement agencies.

“The local population illegally extracts amber using water pumps and the technology of leaching rock from the soil column (up to 10 meters deep). The next stage is the sale of such illegally extracted amber to unregistered intermediary structures, after which it is exported for further processing outside the country” [9]. The nature of such mining is illegal, so those responsible for such acts should be held accountable in accordance with the current legislation.

Another factor that incites offenders is that public authorities do not have information about the factual extent of violations and damage caused to the environment. The State Ecological Inspectorate of Ukraine [10], the State Inspectorate of Agriculture [11] and the State Forest Protection [12] do not have data on the area of disturbed land (forest fund), so it is expected that they do not respond to violations [13]. Therefore, it is extremely important to adopt an appropriate regulatory framework that would help to analyse all these points and unify not only the process of amber mining but also issues related to the application of liability to offenders and other possible nuances.

“The proceedings of this category are difficult from the standpoint of organising and conducting a pre-trial investigation. This is due to the nature of the way they are committed. The difficulty lies in the fact that the extraction of amber, as a rule, is detected by employees of the forest guard and employees of the State Inspectorate of Agriculture, that is, from the moment of committing a crime to the moment of its detection, a certain period of time passes, which negatively affects the fixation of traces of the crime and the use of forensic means by which it is possible to identify the persons who committed them” [14].

Experts emphasise that it is not so easy to bring to justice those responsible for illegal amber mining in

modern realities. Because the fact of such mining is not immediately noticeable and it is problematic to create an evidence base. It should be added that often cases are not initiated and amber mining continues to be conducted by smugglers since law enforcement agencies are also interested in this.

The initial stage of the investigation of the described type of criminal illegal actions has certain features, which primarily relate to the following aspects: initiation, direct conduct, and documentary recording of the inspection of the place of commission of criminal illegal actions; establishment of the circle of persons involved in a criminal offence, and specific circumstances that are subject to proof [15]. That is, the investigation of such types of offences is of a special nature. This is due to the territory of their implementation and the need to attract individual specialists who must establish the relevant facts concerning amber mining activities.

The operational duty officer must take all measures to stop the criminal offence immediately after receiving a message about illegal amber mining, namely: ensure the organisation of the process of detaining violators of the law, eliminating the negative consequences of the offence, using the algorithm specified in the instructions for organising the activities of the duty service of bodies (divisions) of the National Police of Ukraine [16].

The procedural order that exists when a new offence is detected is general in most cases [17]. However, the pre-trial investigation of illegal amber mining provides for a number of features. There are certain features of conducting an investigative inspection of the scene of such crimes. First of all, this procedure requires the use of special knowledge. Therefore, during the investigation of such types of offences, the investigator should involve specialists who will provide the investigation with industry conclusions, for example, determine the boundaries of the territory of illegal mining, types of minerals, analyse samples of illegally extracted minerals for further preparation of the report [14].

Depending on the situation and the scale of the offence committed regarding illegal amber mining, an operational investigator can involve specialists in the field of geology, mining, chemists, employees of the State Ecological Inspectorate, the Ministry of Environmental Protection and Natural Resources, etc [11].

It is worth emphasising that, as a rule, the state forest guard informs the public about detected violations and works closely with law enforcement and environmental authorities within its competence.

Such crimes not only harm the economy of the country but also negatively affect the ecological state of territories that are rich in mineral deposits [18]. In Ukraine, mineral resources are a unique and important economic and strategic natural resource, which is defined by the Constitution of Ukraine as an object of property rights of the Ukrainian people, which is why special attention is paid to the illegal mining of minerals of national significance among the list of environmental crimes.

The number of crimes in the environmental field related to violation of the rules for the protection or use of mineral resources is constantly growing [19]. Experts on such issues note that crimes in the field of subsurface use can be committed both in the form of action and inaction. However, as for the extraction of amber by illegal means, these are always active measures. The legislation distinguishes: methods of violating the established rules for the protection of mineral resources, methods of violating the rules for the use of mineral resources, and methods of illegal extraction of minerals of national significance [19].

In the case of amber smuggling, there are always active actions, this refers to the preparation, direct extraction process, and hiding traces of the committed offence. "The development of amber ores from Ukrainian deposits can be conducted in an open way by excavator and transport method. Ore processing is performed by washing on metal sieves (screens). Sand and clay are washed off with water, and pieces of amber are selected and sent for sorting and further use. In addition, illegal extraction of raw amber is conducted by the local population of the Rivne region and Zhytomyr region using water pumps by leaching rock from the soil column (up to 10 meters deep). A compressor and motor pump are adjusted to the likely location. The latter consists of an engine and a fire pump. Under high water pressure, water is poured into this place. A pit is formed through which amber, lighter than water, is pushed up" [18, p. 35].

In general, experts divide the methods of illegal amber mining into those that are conducted by open and those that are conducted by underground methods. It is worth emphasising that each of them equally adversely leads to the destruction of ecosystems – places of illegal mining of mineral resources. According to experts, the legal extraction of amber from sand deposits, according to the established production standards, is generally conducted mainly in two ways: mechanical and hydraulic.

The mechanical method involves the mechanical development of an array of soil in an open pit or underground. However, this method of extraction is defined as economically unprofitable due to low profitability: first of all, it not only has high operational and economic costs but also negative consequences for the environment.

The second method, hydraulic, is conducted by eroding the productive soil layer with high-pressure jets and raising amber on the deposit surface using hydraulic flows [20].

It should be emphasised that the legal technology of amber mining should ideally provide the highest level of amber extraction from the deposit with minimal human costs. A high level of productivity should be ensured through the use of the latest technologies to reduce electrical capacity and negative technogenic and environmental impact on the environment. The present forests and roads of some regions of Polissya have the appearance of deep sinkholes since no one pays due attention to the reclamation of excavated areas.

Therefore, every year, due to illegal amber mining, substantial forest areas are deliberately destroyed. Insufficient punishability and regulation by laws has led to the fact that unique minerals are stolen [18, p. 37].

There are scientific approaches to solving this problem by the prospect of strengthening the penalty provided for by the current legislation to a more severe one for offences in the field of subsurface use. Such a step would be more justified because the damage caused by amber smuggling activities poses a threat not only to the country's economy, but also to its ecology, environment, and local legal order.

Notably, there were legislative attempts to resolve the issue of legalising amber mining, in particular, through amendments and additions to the Draft Law of Ukraine "On the Extraction and Sale of Amber" [8].

### **3. Prevention of Natural and Financial Problems**

Unauthorised extraction of raw amber requires a comprehensive approach in many areas that are combined to solve a common problem, in particular, legislative, environmental, scientific, public etc. Only after the legislative settlement of this problem, it is necessary together with researchers to create and process a mechanism for the reclamation of damaged land, which will have maximum efficiency, since one of the main problems is ensuring the creation of new forests [6].

The environmental crisis, which has engulfed the whole world due to the thoughtless economic activity of humans and their indifferent attitude to the environment, threatens the world with a catastrophe. Global warming, the lack of drinking water, and the natural disasters that are present today are just harbingers of it. It should be emphasised that the illegal extraction of amber by destructive, artisanal methods is also part of this harmful activity for nature that occurs in our country.

As for the current ecological situation, there are changes in substantial areas of landscapes. It is worth paying attention to the north-western regions of Polissya, as they are most destroyed by incessant mining. Unauthorised extraction of wood resin negatively affects not only the economic sector of the regions but also disrupts harmony in landscapes and relief structures, in particular, causing disturbances in soils and groundwater, which in the future leads to the destruction of forests [21].

The destruction of forests conducted by smugglers in mines and damaging the soils and surface waters during amber mining directly destroy the local ecological environment.

Representatives of the leading Ministry of Environmental Protection and Natural Resources of Ukraine in this area called for strengthening administrative and criminal liability for the illegal extraction of amber since the country does not have proper effective legislation regulating legal relations in this area [6].

Clear legal regulation of amber mining and its implementation will help to stabilise the situation in

the industry and bring it to state standards. Ultimately, not only the extraction itself requires regulation by the state, but also the process of legal sale of amber and products made from it.

The progression of these problems has led to serious consequences concerning many fields of public life: "This is the violation of the ecosystem of the Ukrainian Polissya that has developed over the centuries, the complete decline of state mining of a unique stone, the predominance of opaque mining schemes and criminal skirmishes, the lack of a legal market, its replacement with shadow market and smuggling" [21].

Experts determine the following reasons for the illegal extraction, purchase, storage, processing, and sale of amber:

- "shallow occurrence of productive amber horizons from the daytime surface, distance from densely populated centres, forest cover, and high swampiness of the territory;
- absence or incapacity of laws on the protection of mineral resources and regulatory support for labour activity in the field of extraction, production, and use of amber;
- unemployment and plight of the population, geo-ecological ignorance of the authorities and local residents, including the younger generation;
- ineffective counteraction to illegal amber mining and trafficking in Ukraine by the Parliament, the Cabinet of Ministers, officials of regional, district and rural administrations" [21].

Only if decisions that will have a positive lasting effect are made at the state level, then it will be possible to talk about solving the amber problem. It is also necessary to approve the concept of activities of economic entities for the development of amber deposits. The main criteria for its creation should be the factors that underlie the success of the amber mining industry: economic, financial, and social.

The financial issue is what funds the entities will receive from the activities of such an enterprise. Basically, rent is fully deducted to the state budget. It would be acceptable if part of the fee remained at the places of its payment, that is, in local budgets – this would certainly have positive consequences [6]. The course of decentralisation of power, which has been promoted in our country in recent years, should provide for this. Since taxes and fees from the amber industry do not work for the benefit of the relevant region but go to the general budget, this does not contribute to the rapid development of the relevant territories and is economically unfair.

As for social factors, the introduction of an enterprise specialising in amber mining will create a certain social tension within society. Therefore, for the comprehensively successful functioning of such enterprises, it is necessary to conduct explanatory work with the population and determine the benefits for society, for example, from solving the problem of employment [6].

Therefore, transparent activities in the amber industry, the confidence of the local population in the

processes in it, and the understanding that legal mining is for the benefit of the whole society, and not just corrupt managers who create an illusive picture at state-owned enterprises, while satisfying their own interests, will allow legalising business and contribute to the elimination of unauthorised amber mining and smuggling.

However, it will not be easy to implement such a process, since today the smuggling business includes not only its organisers and direct performers, but also provides for a more complex structure. Therefore, the decisive methods of the authorities are necessary at all levels of the state apparatus to prevent and counteract crime, which was the result of amber smuggling in Ukraine.

Therewith, it is necessary to remember that ineffective legislation and unauthorised extraction of the fossil for a considerable time caused substantial damage to Ukrainian forests. Thus, the authors consider it necessary to introduce simple and transparent explanations to consider the interests of local residents, the regional community, and the state that will make a profit.

Dialogue and close cooperation of all stakeholders can move any complex task forward. The same applies to the regulation and establishment of regulations on the amber mining and sales market in Ukraine.

As L. Khmurovska notes: "The experts include the following main ways to prevent illegal amber mining:

- strengthening administrative and criminal liability for illegal amber mining;
- introduction of a state monopoly on the extraction of amber to overcome the illegal extraction of this material;
- establishment of appropriate export quotas, creation of conditions for internal processing of amber;
- operation of 24-hours hotlines for reporting cases of illegal amber mining;
- strengthening the work of law enforcement agencies" [22].

First of all, to stop the process of illegal mining and further solve it, it is necessary to have more control in this industry. It is also a good idea to use the finances received from fines in the interests of the territories that are used in the extraction of amber, for example, to conduct land reclamation. Using information resources, it is possible to implement measures to prevent and minimise the negative environmental and economic consequences of amber mining, and offences in this area [23].

However, it is still an open question of how to implement all this in practice and defend it in the realities of the national legislation of Ukraine. It is important not only to consolidate the theory in legal provisions but also to create conditions for the successful implementation of the measures in practice.

## Conclusions

The authors consider it necessary to recognise that the issue of illegal amber mining has only worsened in recent years, although it has existed for several years. Ultimately, amber attracted the human imagination from

the very beginning of written history and, according to archaeological data, this wonderful product of the earth of mysterious origin and unusual properties was known to our ancestors.

There is a need to address the current critical state of the amber industry through comprehensive changes that should address many aspects of the country's socio-economic, educational, cultural, and political activities. It is necessary to raise the issue of adopting a number of fundamental legislative changes that would help preserve the country's national wealth – amber and protect it from illegal mining and smuggling abroad.

The necessary changes should relate to the issue of complete termination of non-state amber mining in its places of deposits; introduction of sufficient penalties in case of violation of the norms of regulatory legislation in the industry; ensuring real reclamation of all disrupted land; providing monetary support for geological exploration and studies on amber by state research institutes; solving the issue of employment of the local population, including the development of the infrastructure of local communities; ensuring civilised forms of legal relations between territorial communities

on whose lands amber is mined, prospecting associations, and state mining companies businesses.

Notably, amber mining is only one of the problems of natural resource law, which has become the most substantial due to the exceptional price of the resource itself, its relatively easy method of extraction, combined with the low level of well-being of residents of the territories where this natural resource lies, with their own insufficiently high level of legal culture.

In view of the above, it can be concluded that illegal amber mining appears as a socio-economic catastrophe of our time, the consequences of which will be felt for a considerable time until the principles of natural resource law really serve as guiding ideas, and nature, like human life, becomes the highest social value.

As prospects for the development of the amber industry and legal aspects related to it, it is advisable to implement the proper development of a complex approach to solving the current situation of this industry. Because only if the damaged land is restored, and changes in the legislation regarding the regulation of the resin mining process and tort obligations are implemented, it will be possible to achieve the desired results.

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## «Бурштинове питання» в Україні: превенція та наслідки

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### Анотація

У статті проведено аналіз сьогоденного процесу видобутку бурштину та оцінено правові наслідки нелегальної діяльності в бурштиновидобувній галузі. Актуальність роботи зумовлено погіршенням соціально-економічного аспекту життя громадян України у зв'язку з несанкціонованим видобуванням сировини. Наявний факт зумовлює мету дослідження, а саме: аналіз правових превентивних заходів та системи норм відповідальності, зокрема за недержавний видобуток скам'янілої смоли. У дослідженні використано такі методи пошуку, обробки та викладення інформації: загальнонаукові (формально-логічний, методи аналізу та синтезу, конкретизації та абстрагування, а також методи індукції та дедукції) і спеціально-юридичні методи (формально-юридичний, порівняльно-правовий та метод тлумачення правових норм). У роботі висвітлені основні прогалини у регламенті видобутку бурштину та деліктних зобов'язаннях. За результатами роботи встановлено основний напрям для змін: посилення відповідальності за нелегальний видобуток бурштину, зокрема введення державної монополії на його видобування, припинення недержавного видобутку цінної смоли. У висновках статті наголошено, що досліджуване питання потребує також вивчення природничих аспектів геології, геоморфології, палеогеографії і біології та загалом екології місць розробки бурштину, тому лише комплексне вирішення питань легалізації видобутку бурштину на державному рівні дасть змогу привести галузь до міжнародних стандартів видобування корисних копалин. Результати дослідження можуть стати в пригоді науковцям у сфері права, геології, екології, біології. Адже необхідні зміни у процесі легалізації видобутку бурштину стосуються не лише правових аспектів. Наприклад, один із заходів, спрямований на позитивний результат, – реалізація рекультивацийних процесів на територіях видобутку бурштину

**Ключові слова:** бурштин, геологія, кримінальна відповідальність, контрабанда, економічне право