

COMPENSATION FOR HOUSING DESTROYED OR DAMAGED BY THE RUSSIAN–UKRAINIAN WAR

(NATIONAL AND INTERNATIONAL DIMENSIONS)

Kyiv – 2025

STUDY

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The study analyses international norms, experiences of post-conflict countries, domestic legislation, and case law along the path of a victim. It also identifies problems of access of victims to the national compensation mechanism and draws conclusions on expected adverse impacts of these problems on compensation awards to victims, including through an international compensation mechanism. Based on the study results, recommendations are proposed for stakeholders.

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The product content is solely the responsibility of the authors and does not necessarily reflect the views of the European Union.

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SUMMARY

The study was prepared in parallel to the launch of the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine.¹ The Register is the first of three components of an international compensation mechanism for damages caused by the war against Ukraine. The next steps are to establish a claims commission and a compensation fund.

The launch of the International Register has sparked a discussion in the expert environment and among human rights activists on numerous shortcomings of the national compensation mechanism which could become an obstacle for victims to receive compensation for housing damaged or destroyed by the war.

The study provides an overview of practical aspects of the national compensation mechanism for both those affected since 2014 and those who suffered from Russia's full-scale invasion on 24 February 2022. We will trace a person's path to compensation, consider international standards and experiences of post-conflict countries.

Based on the study results, relevant recommendations are provided.

1 Register of Damage Caused by the Aggression of the Russian Federation against Ukraine. URL: <https://rd4u.coe.int/uk>

I. INTRODUCTION

Millions of Ukrainians have become victims of the Russian-Ukrainian war, ongoing since February 2014. However, both international organisations and the government of Ukraine started accounting and recording human and material losses on a regular basis only following Russia's full-scale invasion of Ukraine, i.e. since 24 February 2022.²

Housing is part of the right to an adequate and dignified standard of living (Articles 47 and 48 of the Constitution of Ukraine, Article 25(1) of the Universal Declaration of Human Rights of 1948, Article 11(1) of the International Covenant on Economic, Social and Cultural Rights of 1966).

Massive missile and artillery attacks on cities are part of Russia's warfare tactics. They cause significant destruction to the housing stock in cities and towns, especially those close to the frontline areas. The fourth Rapid Damage and Needs Assessment (RDNA4) takes stock of almost three years of the ongoing invasion, 24 February 2022 to 31 December 2024, estimating that USD 176 billion (EUR 170 billion) in direct damage has been incurred compared with USD 152 billion (EUR 138 billion) in the RDNA3 report released in February 2024. The most affected sectors were housing, transportation, energy, trade and industry, and education. According to the current assessment, 13% of the total housing stock has been damaged or destroyed, affecting more than 2.5 million households. Reconstruction and recovery needs are the highest in the housing sector amounting to almost USD 84 billion (EUR 170 billion) of total long-term needs.³

According to Ukraine Humanitarian Needs and Response Plan 2024 of the United Nations Office for the Coordination of Humanitarian Affairs, 14.6 million people needed humanitarian assistance and protection in 2024, including 7.9 million people in need of shelter and non-food items. Life-saving shelter and non-food items were to be provided to 3.9 million war-affected people.⁴

The Ukrainian government provided assistance to citizens who had lost their homes in whole or in part since 2014 as a result of the Anti-Terrorist Operation based on the then-applicable regulatory acts. However, despite the availability, for example, of provisions on war-related emergencies in the Code of Civil Protection of Ukraine⁵, that piece of legislation, like all Ukrainian laws, was not "tailored" to war context.

2019 can be viewed as the starting point for establishing a national compensation mechanism. That was when the Cabinet of Ministers of Ukraine amended the Procedure under the Cabinet Resolution No. 947, based on the practice of applying the regulatory acts in force in 2014 (the Code of Civil Protection of Ukraine and the Resolution of the Cabinet of Ministers of Ukraine No. 947 "On Approval of the Procedure for Providing and Calculating the Amount of Monetary Payment to Emergency Victims Who Remained at Their Previous Place of Residence" (hereinafter referred to as the Procedure under the Cabinet Resolution No. 947)⁶ adopted on 18 December 2013 in the implementation of some provisions of the Code) and on case law on claims of victims

2 Resolution of the Cabinet of Ministers of Ukraine No. 380 "On Collecting, Processing and Accounting Information on Properties Damaged and Destroyed as a Result of Hostilities, Acts of Terrorism, Sabotage Caused by the Armed Aggression of the Russian Federation against Ukraine" dated 26.03.2022 (as of 26.02.2025). URL: <https://zakon.rada.gov.ua/laws/show/380-2022-%D0%BF#n22>. Last accessed: 26.02.2025.

3 Updated Ukraine Recovery and Reconstruction Needs Assessment. The United Nations. URL: <https://surl.li/oyfmzz>. Last accessed: 26.02.2025.

4 Ukraine Humanitarian Needs and Response Plan 2024. URL: <https://reliefweb.int/report/ukraine/ukraine-humanitarian-needs-and-response-plan-2024-december-2023-enuk>. Last accessed: 02.02.2025.

5 Code of Civil Protection of Ukraine No. 5403-VI dated 02.10.2012 (as of 26.02.2025). URL: <https://zakon.rada.gov.ua/laws/show/5403-17#Text>. Last accessed: 02.02.2025.

6 Resolution of the Cabinet of Ministers of Ukraine No. 947 "On Approval of the Procedure for Providing and Calculating the Amount of Monetary Payment to Victims of Emergencies and the Amount of Monetary Compensation to Victims Whose Homes (Apartments) Were Destroyed as a Result of a War-Related Emergency Caused by the Armed Aggression of the Russian Federation" dated 18.12.2013 (as of 26.02.2025). URL: <https://zakon.rada.gov.ua/laws/show/947-2013-%D0%BF#Text>. Last accessed: 26.02.2025.

of acts of terrorism by Russia in certain areas of Donetsk and Luhansk oblasts. In 2023, the Law of Ukraine No. 2923-IX⁷ “On Compensation for Damage and Destruction of Certain Categories of Immovable Property as a Result of Hostilities, Acts of Terrorism, Sabotage Caused by the Armed Aggression of the Russian Federation against Ukraine and on the State Register of Property Damaged and Destroyed as a Result of Hostilities, Acts of Terrorism, Sabotage Caused by the Armed Aggression of the Russian Federation against Ukraine” of 23 February 2023 (hereinafter referred to as the Law on Compensation) was adopted along with a number of resolutions of the Cabinet of Ministers of Ukraine for its implementation.

As part of an international initiative to hold Russia accountable, work began in 2022 on establishing an international compensation mechanism, an *ad hoc* instrument designed to ensure compensation for the damage caused. Its first component, the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine, was established in 2023 at a very fast pace compared with similar instruments. It was initiated on 17 May 2023 when more than 40 Member States of the Council of Europe, the US, Japan, Canada, and the EU signed a relevant agreement. The submission of applications for two categories of damage, one of which is damaged and destroyed housing, is already under way.

Why is there a need to examine the context of compensation for victims?

First, it should be noted that Ukraine is a party to an international armed conflict and has suffered from the actions of the Russian Federation, and the burden of compensation should therefore be placed on the one who caused the damage that is the Russian Federation as an aggressor state. This obligation of Russia is confirmed by the norms of international human rights law, international humanitarian law, and international criminal law. Under international human rights law, Ukraine has the obligation to assist its citizens (those who live under its jurisdiction and in the Ukrainian government-controlled areas) in securing their housing rights. Hence, is the obligation of Russia as an aggressor state to ensure compensation for the damage (various types of reparations which will be further discussed in this study).

Second, both the above Law on Compensation and an international compensation mechanism provide for obligations only in relation to victims whose housing was damaged or destroyed on and after 24 February 2022. Such approach seems to be unfair, and it is therefore necessary to assess its compliance with international human rights law.

Third, victims whose housing was damaged or destroyed as a result of Russia’s armed aggression against Ukraine since 2014 have problems with access to information about ways to receive assistance from the government of Ukraine and do not have the right to reparations in accordance with an international compensation mechanism being developed. This affects the fairness of victims’ access to resources.

The study analyses international norms, experiences of post-conflict countries, domestic legislation, and case law along the path of a victim. It also identifies problems of access of victims to the national compensation mechanism and draws conclusions on expected adverse impacts of these problems on compensation awards to victims, including through an international compensation mechanism. Based on the study results, recommendations are proposed for stakeholders.

7 Law of Ukraine No. 2923-IX “On Compensation for Damage and Destruction of Certain Categories of Immovable Property as a Result of Hostilities, Acts of Terrorism, Sabotage Caused by the Armed Aggression of the Russian Federation against Ukraine and on the State Register of Property Damaged and Destroyed as a Result of Hostilities, Acts of Terrorism, Sabotage Caused by the Armed Aggression of the Russian Federation against Ukraine” dated 23.02.2023 (as of 26.02.2025). URL: <https://zakon.rada.gov.ua/laws/show/2923-20#Text>. Last accessed: 26.02.2025.

II. METHODOLOGY

The study analyses:

- international documents on the rights of victims of armed conflicts and relevant obligations of States parties to armed conflicts (contracting parties), international responsibility of States for violations of international law,
- case law of the European Court of Human Rights, experiences of post-conflict countries on securing the housing rights of victims,
- national compensation mechanism – through a victim/survivor-centred approach for the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine⁸,
- case law of courts of Ukraine on protecting the rights of victims to receive assistance or compensation for damaged (destroyed) housing,
- information received in response to requests for access to public information on budgetary allocations to cover State's guarantees and the situation of enforcement of judgements.

The study used analytical materials on reparations and compensation from international organisations and expert NGOs.

Focus groups were also held with stakeholders involved in the implementation of national compensation mechanisms or representing the interests of those affected. Participants in a focus group carried out on 13 January 2025 included representatives of military administrations and local self-government bodies of Zaporizhzhia, Kyiv, Luhansk, Odesa, and Sumy oblasts. Participants in a focus group held on 14 January 2025 included representatives of civil society organisations and lawyers. The focus groups made it possible to collect data on the real situation of compliance with guarantees for victims defined by law, good practices, and challenges of securing the human right to housing.

8 Declaration of the Informal Conference of Ministers of Justice of the Council of Europe on the occasion of the Conference: "On the Path to Justice for Ukraine: Advancing Accountability, Reuniting Children with Their Families, and supporting the Resilience of Its Justice System" (Riga Principles, 11.09.2023). URL: <https://rm.coe.int/moj-declaration-riga-principles-final-en/1680ac8728>. Last accessed: 26.02.2025.

III. COMPENSATION AND REPARATIONS: INTERNATIONAL FRAMEWORK

Widespread violations of international human rights law and international humanitarian law, including forced displacement, torture, sexual and gender-based violence, enforced disappearances and arbitrary detention, have been reported in the context of Russia's unlawful annexation and temporary occupation of Crimea in 2014 and the conflict in eastern Ukraine since 2014.

Russia's full-scale invasion of Ukraine which began on 24 February 2022 has led to an unprecedented increase in the number of victims, including among civilians of Ukraine. Therefore, the Ukrainian authorities, Ukrainian and international civil society organisations are focusing their efforts on pursuing justice for those affected. Justice for victims should include liability, indemnity (both for non-pecuniary and pecuniary damages, i.e. reparations), the right of victims to truth and justice, and guarantees of non-repetition of gross violations of international human rights law and serious violations of international humanitarian law.⁹

The obligation to provide reparation derives from several sources and infers responsibility at different levels. Under international law, victims have the right to an effective remedy and reparation for violations of human rights and international humanitarian law, such as torture and conflict-related sexual violence, from the State responsible for committing these violations. Furthermore, there is a clear basis in international law for reparation to be paid to the State of Ukraine by Russia for its aggression against it, violating the territorial integrity of Ukraine through the use of force in accordance with the Charter of the United Nations (hereinafter referred to as the UN), and for the damage caused, in accordance with the law on State responsibility.¹⁰

1. International human rights law

The right to an effective remedy for violations of human rights is well established in international human rights law, including under treaties to which both Russia and Ukraine are parties. These documents are as follows: the [Universal Declaration of Human Rights](#) (Article 8); the [International Covenant on Civil and Political Rights](#) (Article 2); the [Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms](#) (hereinafter referred to as the European Convention on Human Rights) (Article 13); the [Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#) (Article 14); the [International Convention on the Elimination of All Forms of Racial Discrimination](#) (Article 6); the [International Convention for the Protection of All Persons from Enforced Disappearances](#) (Article 24).

International human rights law relates to obligations on the part of a State towards all individuals under the jurisdiction of the State (and the respective rights of those individuals against that State) and continues to apply during armed conflict. Individuals and groups of victims have the right to a remedy for violations of their human rights by an occupying State, a State which had effective authority or control over territory or persons, or from a State agent with authority or control.¹¹

9 This describes the components of the concept of transitional justice based on the UN General Assembly Resolution (A/RES/60/147) of 16.12.2005 which adopted the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. URL: <https://documents-ddsny.un.org/doc/UNDOC/GEN/N05/496/44/PDF/N0549644.pdf>. Last accessed: 26.02.2025.

10 The Delivery of Reparation for Ukraine. Briefing Paper, 2023. REDRESS. Global Survivors Fund. URL: <https://redress.org/wp-content/uploads/2023/12/Reparations-Briefing-UA-v.3.pdf>. Last accessed: 02.02.2025.

11 Ibid.

2. International humanitarian law

The obligation of States to provide reparation (compensation for damage) for violations of international humanitarian law is an established principle of customary international law by which States are required to make “full reparation” for violations of international humanitarian law.

Pursuant to Additional Protocol I to the Geneva Conventions¹², which both Ukraine and Russia have ratified, parties to a conflict are under an obligation to pay compensation where there have been violations of international humanitarian law committed. International humanitarian law does not explicitly determine who is owed full reparation. It recognises that parties to international armed conflicts are liable for compensation for violations, but it extends such obligations under customary law to non-international armed conflicts where non-State actors may be involved, which could suggest compensation could be payable to actors other than States. Moreover, the application of human rights law in a situation of armed conflict ensures the rights of individuals and groups to an effective remedy and reparation. Where Ukraine ensures the right to an effective remedy and reparation for human rights violations for which Russia is responsible, it has the right to reclaim the costs of such reparation from Russia.¹³

3. International criminal law

Under the Rome Statute of the International Criminal Court¹⁴ (hereinafter referred to as the ICC or the Court), victims of international crimes under the jurisdiction of the Court are entitled to reparation, notably for crimes against humanity, war crimes, genocide, and aggression. Importantly, at the Court, reparation is owed by convicted perpetrators (not States or armed groups) to victims of the crimes in question in the case. The so-called types of reparations are defined in Article 75 (“Reparations to Victims”) of the Rome Statute and include restitution, compensation, and rehabilitation.

The UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law¹⁵ offer guidance to States on how to ensure their obligation to provide reparation (these provisions are borrowed from the aforementioned Article 75 of the Rome Statute), including that reparation should take a number of forms:

- *Restitution*: restoring the victim to their original situation before the violation occurred, e.g. through the return of property or the return to one’s place of residence.
- *Compensation*: for any economically assessable damage, such as loss of earnings, loss of property, loss of economic opportunities, legal and medical costs, and moral damages.
- *Rehabilitation*: including medical and psychological care, legal and social services.
- *Satisfaction*: ceasing the continuation of violations, truth-seeking, searching for the disappeared or their remains, recovery, reburial of remains, public apologies, judicial and administrative sanctions, memorials, and commemorations.¹⁶

12 Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I) dated 08.06.1977. URL: https://zakon.rada.gov.ua/laws/show/995_199#Text. Last accessed: 26.02.2025.

13 The Delivery of Reparation for Ukraine. Briefing Paper, 2023. REDRESS. Global Survivors Fund. URL: <https://redress.org/wp-content/uploads/2023/12/Reparations-Briefing-UA-v.3.pdf>. Last accessed: 02.02.2025.

14 Rome Statute of the International Criminal Court. URL: https://zakon.rada.gov.ua/laws/show/995_588#Text. Last accessed: 26.02.2025.

15 UN General Assembly Resolution (A/RES/60/147) of 16.12.2005 which adopted the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. URL: <https://documents-ddsny.un.org/doc/UNDOC/GEN/N05/496/44/PDF/N0549644.pdf>. Last accessed: 26.02.2025.

16 The Delivery of Reparation for Ukraine. Briefing Paper, 2023. REDRESS. Global Survivors Fund. URL: <https://redress.org/wp-content/uploads/2023/12/Reparations-Briefing-UA-v.3.pdf>. Last accessed: 02.02.2025.

4. Inter-State responsibility

In international law, waging an aggressive war breaches provisions of the UN Charter on the use of force, and therefore as an internationally wrongful act, invokes a right to reparation. Articles 30 and 31 of the Draft Articles on the Responsibility of States stipulate that a State responsible for an internationally wrongful act must cease that act and is under an obligation to make reparation for the injury or damage. This includes material and moral damage. States providing “*aid or assistance in the commission of an internationally wrongful act*” with knowledge of the circumstances of the internationally wrongful act and where that “*act would be internationally wrongful if committed by that State*” could also be responsible.

Reparation under this body of law can take the form of:

- a) restitution, i.e. re-establishing the situation before the wrongful act was committed,
- b) compensation, or
- c) satisfaction, i.e. acknowledgement of the breach, expression of regret or a formal apology.

Importantly, it is the injured State, and not individual victims, which is envisaged as having the right to seek reparation for violations under this body of law, and the reparation may not cover all losses, only those causally linked to the wrongful act. Nonetheless, an injured State may seek reparation on behalf of its citizens who have suffered harm.¹⁷

Russia built up the scale of its aggression against Ukraine in 2022 and is therefore liable under international law as an aggressor state to a full compensation for severe damage caused to Ukraine, as confirmed by a number of UN General Assembly resolutions.¹⁸

¹⁷ Ibid.

¹⁸ UN General Assembly Resolution “Aggression against Ukraine” (A/RES/ES-11/1) dated 02.03.2022. URL: <https://digitallibrary.un.org/record/3965290?ln=ru&v=pdf>. Last accessed: 26.02.2025.
UN General Assembly Resolution “Furtherance of remedy and reparation for aggression against Ukraine” (ES-11/5) dated 14.11.2022. URL: https://rd4u.coe.int/documents/358068/372244/A_RES_ES-11_5.pdf/079afc90-b392-a0ab-43ad-41409c7e8aa4?t=1708702069853. Last accessed: 26.02.2025.

IV. THE RIGHT TO HOUSING AS PART OF THE RIGHT TO AN ADEQUATE STANDARD OF LIVING IN INTERNATIONAL HUMAN RIGHTS LAW (REVIEW OF INTERNATIONAL NORMS)

Housing is one of the most important types of property meeting basic human needs. Traditionally, international practice does not distinguish between the concept of “housing” and the generic concept of “property” and considers compensation for housing in the context of compensation for property damage.

The fundamental principles of compensation mechanisms for the property lost or damaged were laid down in the UN Guiding Principles on Internal Displacement back in 1998. In accordance with the document, competent authorities have the duty and responsibility to assist internally displaced persons to recover their property and possessions which they left behind or were dispossessed of upon their displacement. Where recovery of such property and possessions is not possible, competent authorities should provide or assist these persons in obtaining appropriate compensation or another form of just reparation.¹⁹

Further development of international standards in this area is mirrored in the UN Principles on Housing and Property Restitution for Refugees and Displaced Persons, also known as the Pinheiro Principles. The document offers a holistic approach to housing and property restitution, based on and taking into account international law and best practices in post-conflict contexts.

According to the Pinheiro Principles, victims should be able to file a claim for restitution and/or compensation with an independent and impartial body, while the State should ensure that the restitution claims process is accessible and that adequate legal aid is provided to those seeking to make a restitution claim. This recognises the need for a holistic approach to documentary evidence proving their rights to their original homes²⁰, because there is little documentary evidence of ownership or rights of possession in situations of displacement.

Also, States should prevent the destruction or looting of abandoned housing and property. Importantly, the right to restitution and/or compensation extends not only to property owners but also to other legitimate right holders. In this regard, States should ensure that users of housing and/or property, including tenants, have the right to participate in the restitution claims process, including through the filing of collective restitution claims. Compensation is generally considered as an alternative mechanism for the protection of rights, applicable where the remedy of restitution is not possible or where the affected person voluntarily accepts compensation in lieu of restitution.²¹

19 UN Guiding Principles on Internal Displacement. URL: <https://www.unhcr.org/media/guiding-principles-internal-displacement>. Last accessed: 26.02.2025.

20 UN Principles on Housing and Property Restitution for Refugees and Displaced Persons. URL: <https://www.unhcr.org/media/principles-housing-and-property-restitution-refugees-and-displaced-persons-pinheiro>. Last accessed: 26.02.2025.

21 Ibid.

Although these Principles are advisory in nature, they should be taken into account by the UN Member States. The Parliamentary Assembly of the Council of Europe drew attention to the Pinheiro Principles designed to provide guidance for Member States.²²

22 Paragraph 9, PACE Resolution 1708 (2010) on solving property issues of refugees and internally displaced persons. URL: <https://rm.coe.int/16806b5a6d>. Last accessed: 26.02.2025.

V. INTERNATIONAL EXPERIENCE OF COMPENSATION FOR HOUSING (REVIEW OF INTERNATIONAL STANDARDS, USE OF SPECIAL TRIBUNALS AND COMMISSIONS)

1. The case law of the European Court of Human Rights

Approaches developed by the European Court of Human Rights (hereinafter referred to as the ECHR or the Court) are also important in the context of compensation for damage. First and foremost, it needs to be established what is covered by the concept of “home” according to the Court’s case law. In the case of *Prokopovich v. Russia* (2004, no. [58255/00](#), § 36), the Court considers that the concept of “home” is not limited to those which are lawfully occupied or which have been lawfully established. “Home” is an autonomous concept which does not depend on classification under domestic law. Whether or not a particular habitation constitutes a “home” will depend on the factual circumstances, namely, the existence of sufficient and continuous links with a specific place. Furthermore, in the case of *McCann v. the United Kingdom* (2008, no. [19009/04](#), § 46), the Court notes that whether a property is to be classified as a “home” is a question of fact and does not depend on the lawfulness of the occupation as joint tenants under domestic law. Pursuant to the Court’s opinion, the loss of one’s home is a most extreme form of interference with the right to respect for the home (*McCann v. the United Kingdom*, 2008, no. [19009/04](#), § 50).

When it comes to compensation, the Court considers that, as long as access to the property is not possible, the State has a duty to take alternative measures in order to secure property rights (*Sargsyan v. Azerbaijan*, 2015, no. [40167/06](#), § 234). However, the obligation to take alternative measures does not depend on whether or not the State can be held responsible for the displacement itself.

The ECHR considers that the mere fact that peace negotiations are ongoing does not absolve the government from taking other measures, especially when negotiations have been pending for a long time (*Sargsyan v. Azerbaijan*, 2015, no. [40167/06](#), §§ 236–237). The Court refers to the [PACE Resolution 1708 \(2010\)](#) on solving property issues of refugees and internally displaced persons which, bearing in mind relevant international standards, invites Member States to “*guarantee timely and effective redress for the loss of access and rights to housing, land and property abandoned by refugees and IDPs without regard to pending negotiations on the resolution of armed conflicts or the status of a particular territory.*”

The Court notes that it would appear particularly important to establish a property-claims mechanism, which should be easily accessible and provide procedures operating with flexible evidentiary standards, allowing the applicant and others in his situation to have their property rights restored and to obtain compensation for the loss of their enjoyment (*Sargsyan v. Azerbaijan*, 2015, no. [40167/06](#), § 238, *Chiragov and Others v. Armenia*, 2015, no. [13216/05](#), § 199).

Furthermore, the Court’s case law indicates that if the nature of the breach allows *restitutio in integrum*, it is for the respondent State to implement it. However, if it is not possible to restore the position, the Court, as a matter of constant practice, has imposed the alternative requirement on the Contracting State to pay compensation for the value of the property ([Demopoulos and Others v. Turkey, 2010](#), § 114).

Cases of destruction and damage to the homes of residents of Donetsk and Luhansk oblasts by hostilities in 2014 as a result of Russian aggression in Donbas (Lisnyy and others v. Ukraine and Russia, 2016, no. 5355/15, § 26, 29) are important for the interpretation of the standard of proof. The Court notes that under certain exceptional circumstances beyond the applicants' control, the Court applies a more lenient approach where a cogent argument is made by reference to such circumstances. Specifically, the ECHR notes that the applicant complaining about the destruction of his home should provide at least a brief description of the property in question. It has been the Court's consistent practice to accept documents such as land or property titles, extracts from land or tax registers, documents from the local administration, plans, photographs and maintenance receipts as well as proof of mail deliveries, statements of witnesses or any other relevant evidence. Generally, if an applicant does not produce any evidence of title to property or of residence or does not report any steps taken to obtain at least part of the necessary documentary evidence, his complaints are bound to fail.

In the context of Russia's armed aggression against Ukraine, approximately 9,300 applications have been filed by victims with the ECHR in relation to the conflicts in Crimea and in eastern Ukraine, as well as to Russia's military operations in Ukraine since 24 February 2022.²³ There have been pending cases against both Ukraine and the Russian Federation or against only one of them. Among other violations, the majority of applications are based on Article 1 ("Protection of Property") of Protocol I to the Convention for the Protection of Human Rights and Fundamental Freedoms and Article 13 ("Right to an Effective Remedy") of the European Convention on Human Rights.²⁴

It has to be mentioned that Resolution CM/Res (2022)3 on the cessation of membership of the Russian Federation in the Council of Europe was adopted by the Committee of Ministers on 23 March 2022.²⁵ Despite the fact that on 16 September 2022 Russia ceased to be a High Contracting Party to the Convention for the Protection of Human Rights and Fundamental Freedoms²⁶, it continues to be responsible for all violations of the Convention committed before 16 September 2022. In other words, the European Court of Human Rights is not competent to deal with applications concerning property destruction and damage filed after that date.

In its turn, Russia adopted a law providing that the Convention for the Protection of Human Rights and Fundamental Freedoms would be considered to have ceased to apply to the country since 16 March 2022. According to the position of the ECHR in the case of Pivkina and others v. Russia (2023, no. 2134/23, § 42, 45), the Court's jurisdiction cannot be contingent upon events extraneous to its own operation, such as domestic legislation that seeks to affect or limit its jurisdiction in pending cases. Accordingly, Russia's domestic legislation cannot change or diminish the scope of the Court's jurisdiction. The Court stated that it "*remained competent to deal with applications directed against the Russian Federation in relation to acts or omissions capable of constituting a violation of the Convention provided that they occurred until 16 September 2022*".

The above international standards and the ECHR's case law have been mirrored in compensation mechanisms of various States affected by armed conflicts. Of particular interest are experiences of States that had conflicts over the past 30–40 years, as a result of which a significant part of the housing stock was destroyed. The examples of Bosnia and Herzegovina, the so-called Turkish Republic of Northern Cyprus, and Georgia are illustrative. We will examine the specifics of compensation mechanisms of these countries in more detail.

23 Russia's war against Ukraine: the Council of Europe's response. URL: <https://www.coe.int/en/web/portal/war-in-ukraine/follow-up>. Last accessed: 26.02.2025.

24 Pursuing compensation for properties damaged or destroyed as a result of hostilities in the armed conflict in eastern Ukraine: Gaps and opportunities, March–October 2018. URL: https://www.nrc.no/globalassets/pdf/reports/0.2-pursuing-compensation-for-properties-damaged-or-destroyed-as-a-result-of-hostilities-in-the-armed-conflict-in-eastern-ukraine-gaps-and-opportunities/nrc-study_pursuing-compensation-for-damaged-or-destroyed-property_eng.pdf. Last accessed: 26.02.2025.

25 Resolution CM/Res(2022)3 on legal and financial consequences of the cessation of membership of the Russian Federation in the Council of Europe (adopted by the Committee of Ministers on 23 March 2022 at the meeting of the Ministers' Deputies). URL: [https://search.coe.int/cm/#{%22CoEIdentifier%22:\[%220900001680a5ee2f%22\],%22sort%22:\[%22CoEValidationDate%20Descending%22\]}](https://search.coe.int/cm/#{%22CoEIdentifier%22:[%220900001680a5ee2f%22],%22sort%22:[%22CoEValidationDate%20Descending%22]}). Last accessed: 26.02.2025.

26 URL: https://echr.coe.int/Documents/Resolution_ECHR_cessation_membership_Russia_CoE_ENG.pdf. Last accessed: 26.02.2025.

2. The experience of Bosnia and Herzegovina

The war in Bosnia and Herzegovina (1992–1995) resulted in widespread destruction of the housing stock. The United Nations High Commissioner for Refugees (UNHCR) estimated the number of destroyed housing units as 459,000. 60% of the housing stock was partially destroyed and 18% was completely destroyed, not only during the fighting but also after the signing of the peace agreement by those trying to prevent people from returning.²⁷

The issue of compensation for the property lost, in particular in Bosnia and Herzegovina, was regulated by the Dayton Peace Agreement, also known as the General Framework Agreement for Peace in Bosnia and Herzegovina of 21 November 1995.²⁸ The key is Annex 7 “The Agreement on Refugees and Displaced Persons” which enshrined the right of refugees and displaced persons to have restored to them property of which they were deprived in the course of hostilities since 1991 and to be awarded just compensation for any property that cannot be restored to them. For the first time it was stated that not only should refugees be able to repatriate to their country of origin but also that IDPs should be able to return to their pre-war homes.²⁹

To exercise these rights, the Commission for Real Property Claims of Displaced Persons and Refugees (hereinafter also referred to as CRPC) was established and operated from 1996 to 2003. The CRPC comprised 9 members appointed on a parity basis by the Republic of Bosnia and Herzegovina, the Republika Srpska, and the President of the ECHR.³⁰ Based on Article XV of Annex 7 to the Dayton Peace Agreement, the CRPC adopted the Book of Regulations on the Conditions and Decision Making Procedure for Claims for Return of Real Property of Displaced Persons and Refugees³¹ which contains procedural rules and instructions for claim reviewing and decision-making.

In practice, the compensation mechanism was as follows. Refugees, displaced persons, and other interested persons had the right to submit claims for compensation for real property where the property had not voluntarily been sold or otherwise transferred since 1 April 1992, and where the claimant did not enjoy possession of the property in question as of the date of claim.³² Claims could be for return of the property or for just compensation in lieu of return. Importantly, displaced persons and refugees were not required to prove their status when registering a claim. Their status was presumed. The claimants also were presumed not to be in possession of the claimed real property.³³ A claimant had to submit all available evidence confirming his ownership right to the claimed real property, through the claim could also be submitted when the claimant did not present any evidence, because it was not available to him.³⁴

The Commission for Real Property Claims of Displaced Persons and Refugees had access to any and all property records in Bosnia and Herzegovina, and to any and all real property located in Bosnia and Herzegovina for purposes of inspection, evaluation, and assessment related to consideration of a claim.³⁵ The CRPC could

27 Inmaculada Serrano. Property rights and reconstruction in the Bosnian return process. URL: <https://www.fmreview.org/ar/serrano>. Last accessed: 26.02.2025.

28 The General Framework Agreement for Peace in Bosnia and Herzegovina. URL: <https://www.osce.org/files/f/documents/e/0/126173.pdf>. Last accessed: 26.02.2025.

29 Catherine Phuong. At the heart of the return process: solving property issues in Bosnia and Herzegovina. URL: <https://www.fmreview.org/phuong>. Last accessed: 26.02.2025.

30 The General Framework Agreement for Peace in Bosnia and Herzegovina. URL: <https://www.osce.org/files/f/documents/e/0/126173.pdf>. Last accessed: 26.02.2025.

31 Bosnia and Herzegovina: Book of Regulations on the Conditions and Decision Making Procedure for Claims for Return of Real Property of Displaced Persons and Refugees. URL: https://www.refworld.org/legal/decrees/natlegbod/1999/en/17223?prevDestination=search&prevPath=/search?keywords=Property+Law+Implementation+Plan&order=asc&sm_country_name%5B%5D=Bosnia+and+Herzegovina&sort=ds_created&page=30&result=result-17223-en. Last accessed: 26.02.2025.

32 The General Framework Agreement for Peace in Bosnia and Herzegovina. URL: <https://www.osce.org/files/f/documents/e/0/126173.pdf>. Last accessed: 26.02.2025.

33 Bosnia and Herzegovina: Book of Regulations on the Conditions and Decision Making Procedure for Claims for Return of Real Property of Displaced Persons and Refugees. URL: https://www.refworld.org/legal/decrees/natlegbod/1999/en/17223?prevDestination=search&prevPath=/search?keywords=Property+Law+Implementation+Plan&order=asc&sm_country_name%5B%5D=Bosnia+and+Herzegovina&sort=ds_created&page=30&result=result-17223-en. Last accessed: 26.02.2025.

34 The General Framework Agreement for Peace in Bosnia and Herzegovina. URL: <https://www.osce.org/files/f/documents/e/0/126173.pdf>. Last accessed: 26.02.2025.

35 Ibid.

initiate evidence collection.³⁶ Importantly, the Real Property Claims of Displaced Persons and Refugees did not recognise as valid any illegal property transaction, including any transfer that was made under duress, in exchange for exit permission or documents, or that was otherwise in connection with ethnic cleansing.³⁷

To facilitate the claims process, the CRPC opened 23 regional offices in the country and 12 offices abroad.³⁸ A direct data collection system was put in place through mobile data collection teams that travelled throughout the country to assist people in submitting their claims.³⁹ Potential claimants received information in the Commission offices orally or through written instructions, through media, by distribution of pamphlets, or at meetings with representatives of potential claimants.⁴⁰

In the event of a positive decision by the CRPC, the person recognised as the lawful owner of the property had the following three options for exercising his right: to return the property, to be awarded just compensation in lieu of return, or to accept a satisfactory lease agreement rather than retake possession.⁴¹

Individual decisions adopted by the Commission for Real Property Claims of Displaced Persons and Refugees were issued in the form of a certificate and: (a) confirmed rights on behalf of the person found to be registered as right holder to the claimed real property on 1 April 1992; (b) enabled the right holder, their heirs and other persons to whom that right was transferred after 1 April 1992 in accordance with the Law on Inheritance or a legal transaction willingly concluded by the participants, to enter into possession of the designated immovable properties upon the presentation of the decision, within 60 days from the day when the request was submitted to the competent authority; (c) obliged the competent judicial and municipal administrative bodies to bring the persons referred to in paragraph (b), at their request, into possession of the designated immovable properties upon the presentation of the decision, within 60 days from the day when the request was submitted, and to make the relevant changes in real property records; (d) enabled the persons referred to in paragraph (b) to transfer their rights to the claimed immovable properties to other natural and legal persons, in accordance with the law, and Article XII of Annex 7 to the Dayton Peace Agreement; (e) enabled the claimant or other individual with legal interest in the designated real property to file a reconsideration request within 60 days from the day they learn of the new evidence which might materially affect the decision; (f) made ineffective all legal acts passed by the competent administrative or judicial bodies after 1 April 1992 which cancelled or restricted the legal rights to the designated real property of the persons referred to in paragraph (b) and all legal transactions concluded after 1 April 1992 without the free will of those persons, which gave rise to a change in the legal or factual status of the designated real property.⁴²

The Commission's decision was final, and any title, deed, mortgage, or other legal instrument created or awarded by the Commission was recognised as lawful throughout Bosnia and Herzegovina. The Commission could reconsider its decision if the claimant or any other person with a legal interest in the real property designated in the original decision, within 60 days as of the date of learning of new evidence which could

36 Bosnia and Herzegovina: Book of Regulations on the Conditions and Decision Making Procedure for Claims for Return of Real Property of Displaced Persons and Refugees. URL: https://www.refworld.org/legal/decrees/natlegbod/1999/en/17223?prevDestination=search&prevPath=/search?keywords=Property+Law+Implementation+Plan&order=asc&sm_country_name%5B%5D=Bosnia+and+Herzegovina&sort=ds_created&page=30&result=result-17223-en. Last accessed: 26.02.2025.

37 The General Framework Agreement for Peace in Bosnia and Herzegovina. URL: <https://www.osce.org/files/f/documents/e/0/126173.pdf>. Last accessed: 26.02.2025.

38 Lorena Castilla Medina. Housing, Land and Property Rights; the impact of the UN Peacekeeping Operation on economic recovery in Bosnia and Herzegovina, p. 106. URL: https://repository.essex.ac.uk/25273/1/PhD_Lorena%20Castilla.pdf. Last accessed: 26.02.2025.

39 Press Communique: Commission for Real Property Claims of Displaced Persons and Refugees. URL: <https://www.ohr.int/press-communique-commission-for-real-property-claims-of-displaced-persons-and-refugees-4/?print=pdf>. Last accessed: 26.02.2025.

40 Bosnia and Herzegovina: Book of Regulations on the Conditions and Decision Making Procedure for Claims for Return of Real Property of Displaced Persons and Refugees. URL: https://www.refworld.org/legal/decrees/natlegbod/1999/en/17223?prevDestination=search&prevPath=/search?keywords=Property+Law+Implementation+Plan&order=asc&sm_country_name%5B%5D=Bosnia+and+Herzegovina&sort=ds_created&page=30&result=result-17223-en. Last accessed: 26.02.2025.

41 The General Framework Agreement for Peace in Bosnia and Herzegovina. URL: <https://www.osce.org/files/f/documents/e/0/126173.pdf>. Last accessed: 26.02.2025.

42 Bosnia and Herzegovina: Book of Regulations on the Conditions and Decision Making Procedure for Claims for Return of Real Property of Displaced Persons and Refugees. URL: https://www.refworld.org/legal/decrees/natlegbod/1999/en/17223?prevDestination=search&prevPath=/search?keywords=Property+Law+Implementation+Plan&order=asc&sm_country_name%5B%5D=Bosnia+and+Herzegovina&sort=ds_created&page=30&result=result-17223-en. Last accessed: 26.02.2025.

materially affect the decision, presented such evidence to the Commission, or gave indications of the new evidence.⁴³

An important step was the adoption of the Law “On Implementation of the Decisions of the Commission for Real Property Claims of Displaced Persons and Refugees” in October 1999 which established clear procedures for the implementation of the Commission’s decisions. The right to file a request for the enforcement of the Commission’s decision confirming the right to private property was not subject to any statute of limitation.⁴⁴

The Property Law Implementation Plan, launched in October 2001, was a mechanism for the implementation of decisions of the Commission for Real Property Claims of Displaced Persons and Refugees. The initiative brought together the efforts of five international organisations, including the Commission, the UN Peacekeeping Mission in Bosnia and Herzegovina, the Office of the United Nations High Commissioner for Refugees, the Office of the High Representative, and the Organization for Security and Co-operation in Europe, to monitor the situation in each municipality and overcome obstacles to the return of property.⁴⁵

The effectiveness of the mechanism is demonstrated by tangible results, in particular the Commission for Bosnia and Herzegovina adopted some 311,000 final and binding decisions confirming property rights by the end of its mandate in December 2003, and close to 80% of the Commission’s decisions on residential property had been implemented. This contributed to the restitution of property to approximately 1 million displaced persons.⁴⁶ 459,000 destroyed housing units⁴⁷ included approximately 210,000 properties *de jure* and *de facto* returned to their lawful owners, and approximately 320,000 housing units rebuilt at the expense of budget funds, donations, and personal investments of returnees in 2010.⁴⁸

It has to be mentioned that although the Dayton Agreement provided for the establishment of a special fund for paying monetary compensation where the remedy of restitution was not possible⁴⁹, this mechanism failed due to a lack of necessary funding.⁵⁰ The CRPC only confirmed the ownership, occupancy rights, and lawful regular possession of real estate of displaced persons and refugees.⁵¹ Efforts were focused on two areas: the restoration of lawful ownership rights and the reconstruction of dwellings.

Bosnia’s experience shows the importance of international support. Important elements of its compensation mechanism are the presumption of the status of displaced persons and refugees and the possibility of submitting a claim without a full package of documents which significantly simplified the procedure, the Commission’s active role in evidence collection, and the finality of the Commission’s decisions.

43 The General Framework Agreement for Peace in Bosnia and Herzegovina. URL: <https://www.osce.org/files/f/documents/e/0/126173.pdf>. Last accessed: 26.02.2025.

44 Bosnia and Herzegovina: Law of 1999 on Implementation of the Decisions of the Commission for Real Property Claims of Displaced Persons and Refugees. URL: https://www.refworld.org/legal/legislation/natlegbod/1999/en/47698?prevDestination=search&prevPath=/search?keywords=Property+Law+Implementation+Plan&order=asc&sm_country_name%5B%5D=Bosnia+and+Herzegovina&sort=ds_created&page=33&result=result-47698-en. Last accessed: 26.02.2025.

45 Lorena Castilla Medina. Housing, Land and Property Rights; the impact of the UN Peacekeeping Operation on economic recovery in Bosnia and Herzegovina, p. 112–113. URL: https://repository.essex.ac.uk/25273/1/PhD_Lorena%20Castilla.pdf. Last accessed: 26.02.2025.

46 Letter dated 18 May 2012 from the Permanent Representative of Portugal to the United Nations addressed to the President of the Security Council, p. 66. URL: <https://documents.un.org/doc/undoc/gen/n12/355/37/pdf/n1235537.pdf>. Last accessed: 26.02.2025.

47 Inmaculada Serrano. Property rights and reconstruction in the Bosnian return process. URL: <https://www.fmreview.org/ar/serrano>. Last accessed: 26.02.2025.

48 Bosnia and Herzegovina: Revised Strategy for the Implementation of Annex VII of the Dayton Peace Agreement (2010), p. 26–27. URL: https://www.refworld.org/legal/decrees/natlegbod/2010/en/121052?prevDestination=search&prevPath=/search?keywords=Property+Law+Implementation+Plan&order=desc&sm_country_name%5B%5D=Bosnia+and+Herzegovina&sort=score&page=7&result=result-121052-en. Last accessed: 26.02.2025.

49 URL: <https://www.osce.org/files/f/documents/e/0/126173.pdf>. Last accessed: 26.02.2025.

50 Amsterdam International Law Clinic. Monetary Payments for Civilian Harm in International and National Practice, p. 18. URL: https://civiliansinconflict.org/wp-content/uploads/2020/12/2013_civic_report_on_monetary_payments.pdf. Last accessed: 26.02.2025.

51 Bosnia and Herzegovina: Revised Strategy for the Implementation of Annex VII of the Dayton Peace Agreement (2010), p. 26–27. URL: https://www.refworld.org/legal/decrees/natlegbod/2010/en/121052?prevDestination=search&prevPath=/search?keywords=Property+Law+Implementation+Plan&order=desc&sm_country_name%5B%5D=Bosnia+and+Herzegovina&sort=score&page=7&result=result-121052-en. Last accessed: 26.02.2025.

3. The experience of the so-called Turkish Republic of Northern Cyprus

The conflict in Cyprus between Greek Cypriots and Turkish Cypriots escalated in 1974 following an attempted coup d'état that led to the loss of control by the official government of the Republic of Cyprus over the north-eastern part of the island. In response, Turkey launched a military operation, resulting in the displacement of thousands of people – between 150,000 and 200,000 Greek Cypriots fled to the south and around 45,000 Turkish Cypriots fled to the north, abandoning their homes and property.

A mechanism for compensation for lost property was launched following the judgment of the ECHR in the case of *Xenides-Arestis v. Turkey* (2005, no. 46347/99, § 38) in which the Court recognised the situation of property rights of Greek-Cypriot displaced persons who had lost access to their property since the events of 1974 as a widespread problem. The Court considered that Turkey should introduce a remedy securing genuinely effective redress for the Convention violations, notably the right to respect for one's home and the right to protection of property (*Xenides-Arestis v. Turkey*, 2005, no. 46347/99, § 40).

To implement the above judgment, in December 2005, the Turkish Republic of Northern Cyprus adopted the Law for the Compensation, Exchange and Restitution of Immovable Properties which are within the scope of sub-paragraph (b) of paragraph 1 of Article 159 of the Constitution. The Law provided for the establishment of the Immovable Property Commission (IPC) of the so-called Turkish Republic of Northern Cyprus.⁵²

All natural or legal persons claiming rights to immovable property (real estate units, buildings and structures) that was declared abandoned or that was to be under state control or to the movable property that remained abandoned or was declared abandoned by law could submit claims to the Immovable Property Commission. The key condition was that the abandoned property in question had to be located in the northern part of Cyprus (i.e. in the territory of the self-proclaimed republic) before 13 February 1975 – the date of the self-proclamation of the so-called Turkish Federated State of Cyprus, the so-called Turkish Republic of Northern Cyprus since 1983. Claims could be submitted to the IPC in person or through a representative, upon payment of a fee of 100 Turkish liras.⁵³

In proceedings before the Commission the burden of proof rested with the applicant who had to prove to the Commission beyond a reasonable doubt the following:

- That the movable or immovable property claimed by the applicant is the property indicated in the application.
- That, in case of the immovable property claimed by the applicant, the property was registered in his name before 20 July 1974, or he is the legal heir of the individual in whose name that immovable property was registered.
- That, according to the Land Registry records, there are no other persons claiming rights to the immovable property subject to the claim other than those claiming rights under this Law.
- That the immovable property claimed by the applicant was not mortgaged, seized or in any other way encumbered before 20 July 1974; otherwise, it must be clearly stated in whose favour these encumbrances are levied, the amount of debt, the interest rate, the date on which the debt was incurred; the date and the amount of each instalment, if any.
- That the title to the movable property claimed belonged to the applicant before 13 February 1975 and that the applicant had to abandon it due to conditions beyond his own volition.
- That the compensation claimed by the applicant for the immovable property is equivalent to its market value as of 20 July 1974, plus compensation for the loss of use, plus compensation for non-pecuniary

52 Law for the Compensation, Exchange and Restitution of Immovable Properties, which are within the scope of sub-paragraph (b) of paragraph 1 of Article 159 of the Constitution. URL: <https://tamk.gov.ct.tr/Portals/37/67-2005yasalNG.pdf>. Last accessed: 26.02.2025.

53 Law for the Compensation, Exchange and Restitution of Immovable Properties, which are within the scope of sub-paragraph (b) of paragraph 1 of Article 159 of the Constitution. URL: <https://tamk.gov.ct.tr/Portals/37/67-2005yasalNG.pdf>. Last accessed: 26.02.2025.
The Constitution of the Turkish Republic Northern Cyprus. URL: <https://ombudsman.gov.ct.tr/Portals/20/Constitution%20of%20TRNC.pdf>. Last accessed: 26.02.2025.

damages where the immovable property was used for dwelling purposes and that the compensation claimed by the applicant for the movable property is equivalent to its market value as of the date of claim.⁵⁴

The Commission considered the claim for a term of 3 months (up to 6 months upon written justification) and could collect written or oral testimony, hear witnesses, and examine the documents submitted.⁵⁵

Based on the claim consideration results, the Immovable Property Commission composed of the President, the Vice-President, and 5 to 7 members could make one of the following three decisions: on restitution or exchange of property or on compensation payable to the applicant. The IPC also decided, by absolute majority of members present at the meeting where the decision was rendered, in cases where the applicant claimed compensation for the loss of use and/or non-pecuniary damages in addition to restitution, exchange or compensation in lieu of restitution.⁵⁶

Restitution was possible provided that the immovable property claimed had not been transferred to any other persons, except the State, that its restitution, having regard to property's location and conditions, would not endanger national security, that the immovable property claimed was not used for public needs and was located outside military areas. What is important is that decisions on restitution had to come into force only following the settlement of the Cyprus issue.⁵⁷

The amount of compensation for immovable property was calculated as its market value as of 20 July 1974 and, where applicable, taking due consideration of lost earnings, increase in property value, immovable property in the southern part of Cyprus in possession of the applicant, income from property, and non-pecuniary damages. The amount of compensation for movable property was calculated as its market value as of the date of the meeting where the IPC's decision was rendered. In case of exchange, the current market value of the immovable property proposed for exchange had to be approximately equal to the current market value of the immovable property to which the applicant was entitled with the option of paying the difference in value.⁵⁸

The IPC's decisions were similar in nature to those of a court. Such decisions were subject to immediate enforcement upon being forwarded to the relevant authorities. The IPC's decisions could be appealed before the High Administrative Court and then before the European Court of Human Rights.⁵⁹

The specifics of the compensation mechanism, among other things, was that following exchange of or compensation for the immovable property, the applicant could, under no circumstances, claim ownership rights to the original immovable property in question.

Furthermore, compensation awards had to be financed and covered under a special item provided for in the Budget Law for each year.⁶⁰

In its judgement on just satisfaction, the ECHR noted that the new compensation and restitution mechanism was in line with its decisions on the admissibility of the case as of 14 March 2005 and on the merits of the case as of 22 December 2005 (*Xenides-Arestis v. Turkey*, 2006, no. 46347/99, § 37). Furthermore, in the case of *Demopoulos and Others v. Turkey* (2010, § 127), the ECHR found that the above Law provided an accessible and effective framework of redress in respect of complaints about interference with the private property owned by Greek Cypriots. The Court maintained its opinion that allowing the respondent State to correct wrongs imputable to it does not amount to an indirect legitimisation of a regime unlawful under international law does not indirectly legitimise a regime that is unlawful under international law and emphasised that it continued to regard the government of the Republic of Cyprus as the sole legitimate government of Cyprus (cited above, § 96).

54 Law for the Compensation, Exchange and Restitution of Immovable Properties, which are within the scope of sub-paragraph (b) of paragraph 1 of Article 159 of the Constitution. URL: <https://tamk.gov.ct.tr/Portals/37/67-2005yasalNG.pdf>. Last accessed: 26.02.2025.

55 Ibid.

56 Ibid.

57 Ibid.

58 Ibid.

59 Ibid.

60 Ibid.

The effectiveness of the mechanism is confirmed by statistics: as of 4 November 2024, the IPC examined 1,896 out of 7,865 claims submitted. The IPC awarded GBP 501,076,843 in compensation to the applicants. Moreover, it ruled on exchange and compensation in two cases, on restitution in five cases, and on restitution and compensation in eight cases. It rendered the decision on restitution following the settlement of the Cyprus issue in one case and ruled on partial restitution in yet another case.⁶¹ The mandate of the IPC was extended until 21 December 2025.⁶²

A comprehensive approach to reparation, along with clear procedural safeguards, have been important components of the compensation mechanism of Cyprus. Its experience also shows the importance of long-term planning, because the extension of the Commission's mandate on a regular basis and stable budgetary funding have ensured the sustainability of the mechanism and had the confidence of the claimants.

4. The experience of Georgia

The issue of compensation for the property lost as a result of the conflicts of the 1990s arose in Georgia when it joined the Council of Europe in 1999 and undertook to take the necessary legislative and administrative measures.⁶³ The relevant prerequisites were created at the close of the communist era, when Ossetians in Georgia began demanding the unification of South and North Ossetia within a Russian state (South Ossetia was part of the Georgian Soviet Socialist Republic, North Ossetia was part of the Russian Soviet Federative Socialist Republic). Separatist sentiments escalated to a tense confrontation with Georgians seeking independence from the Soviet Union and in the long run turned into armed clashes between South Ossetian separatists and Georgian forces in 1990–1992. Those conflicts left some 2,000 dead and 100,000 homeless.⁶⁴

For this reason, the Law of Georgia “On Property Restitution and Compensation for the Victims of Conflict in the Former South Ossetian Autonomous District in the Territory of Georgia” was adopted in 2006. Its purpose was to ensure property restitution and to provide adequate (equivalent) immovable property or compensation for property damage to conflict-affected individuals.⁶⁵

The right to compensation was given to lawful owners of immovable property as listed below:

- initial occupants who were unable to return to their homes due to the conflict, a security situation or a lack of alternative housing,
- subsequent occupants who, in good faith or bad faith, own housing or other immovable property of initial occupants,
- initial occupants who have received alternative housing or compensation, but the value of their initial housing exceeded the amount of compensation received.⁶⁶

What matters is that the right to compensation was inheritable. Applicants could seek remedy for any immovable property, including housing, land or non-residential property.⁶⁷

For the purpose of meeting the objectives of the Law, the Commission on Restitution and Compensation (hereinafter also referred to as the CRC) was established for a term of 3 years (the Commission's mandate could be terminated early where the objectives are met or extended where they are not). The CRC consisted of 9 members appointed on a parity basis from among Georgian, Ossetian, and international community representatives.⁶⁸ The Commission on Restitution and Compensation acted as a quasi-judicial body, examining

61 Immovable Property Commission. URL: <https://tamk.gov.ct.tr/en-us>.

62 Guide to Applying to the Immovable Property Commission (IPC). URL: <https://sertbaylaw.com/en/ipc.html>. Last accessed: 26.02.2025.

63 Georgia's application for membership of the Council of Europe. URL: <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16669&lang=en>. Last accessed: 26.02.2025.

64 Elizaveta Valieva. Georgia: The value of property. URL: <https://reliefweb.int/report/georgia/georgia-value-property>. Last accessed: 26.02.2025.

65 Georgia: Law on Property Restitution and Compensation for the Victims of Conflict in the Former South Ossetian Autonomous District in the Territory of Georgia (2007). URL: <https://www.refworld.org/legal/decrees/natlegbod/2007/en/121162>. Last accessed: 26.02.2025.

66 Ibid.

67 Ibid.

68 Ibid.

applications in the manner prescribed by law.

The applicant had to file an application with the CRC, having specified his identification data (first name and surname), information on the reasons for property damage, a request for restitution of initial housing or other immovable property owned by the applicant or for equivalent compensation. Documentary evidence, if any, could be attached to the application.⁶⁹

Affected individuals could file applications with the Commission on Restitution and Compensation within 7 years from the date of the launch of its activities. The CRC was supposed to make a final decision within 6 months from the date of acceptance of the application, and within up to 9 months in complicated cases.⁷⁰

The Law provided for the following three forms of compensation: restitution of the initial property, provision of alternative housing of equivalent value, or monetary compensation as a last resort.⁷¹ In addition, the costs of the property's repairs and renovations could be reimbursed, if any.

Along with that, the immovable property was assessed at market value at the date of transfer. Monetary compensation was paid in a lump sum or in instalments within a one-year term following the decision of the Commission on Restitution and Compensation. Additionally, those who chose Georgia as a permanent place of residence were eligible for a lump sum of GEL 1,500 per person and a monthly allowance for a term of 6 months.⁷²

The decision of the Commission on Restitution and Compensation had to enter into force immediately after its announcement. It could be appealed to the Supreme Court of Georgia in the event of procedural violations or at the Commission in the event of newly found circumstances.⁷³ The term for appealing against the Commission's decision was 1 month from the date of its entry into force. The enforcement of the decision was suspended for that term.

The CRC had to be established within 5 months of the date of the entry into force of the Law (1 January 2007⁷⁴), but it has never been set up.

The reasons for a failure to set up the CRC were, among other things, the reluctance of South Ossetia to participate in its activities and the fears of Ossetians of return to Georgia.⁷⁵ Furthermore, since the adoption of the Law, the Georgian government has taken no action to provide the funds needed for its implementation (no funds were earmarked from the budget).⁷⁶

However, in 2014, a new Law of Georgia "On Internally Displaced Persons from the Occupied Territories of Georgia" was adopted which laid down only basic provisions on compensation. Specifically, the Law enshrined the right to restitution of inheritable immovable property left in the place of permanent residence and the obligation of the State to take every action to return the property in question after eliminating the reasons for forced displacement. Along with that, the procedure for defining the amount of the damage incurred and compensating for immovable property was established at the by-law level.⁷⁷ For the time being, this issue is regulated by the Order of the Ministry of Internally Displaced Persons from the Occupied Territories, Health, Labour and Social Affairs of Georgia No. 01-30/H⁷⁸ of 8 April 2021 which applies a differentiated compensation scale depending on family size and a structured needs assessment mechanism.

69 Ibid.

70 Ibid.

71 Ibid.

72 Ibid.

73 Ibid.

74 Ibid.

75 Elizaveta Valieva. Georgia: The value of property. URL: <https://reliefweb.int/report/georgia/georgia-value-property>. Last accessed: 26.02.2025.

76 Nino Narimanishvili. Why are Ossetians affected by the conflict unable to regain Georgian citizenship and their property? URL: <http://www.humanrights.ge/index.php?a=main&pid=20482&lang=eng>. Last accessed: 26.02.2025.

77 Law of Georgia "On Internally Displaced Persons from the Occupied Territories of Georgia". URL: <https://matsne.gov.ge/en/document/view/2244506?publication=1>. Last accessed: 26.02.2025.

78 Order of the Minister of Internally Displaced Persons from the Occupied Territories, Health, Labour and Social Affairs of Georgia "On Approval of the Rules for Providing Internally Displaced Persons with Housing". URL: <https://matsne.gov.ge/ka/document/view/5145629?publication=0>. Last accessed: 26.02.2025.

Overall, the Ministry launched the following long-term housing programmes for IDPs:

- resettlement of IDPs to renovated or newly built houses,
- purchase of individual houses and apartments for IDP families,
- purchase and transfer of houses that had been privately owned by IDPs.

According to the Ministry, as of 1 December 2016, 35,457 IDP families were provided with long-term housing, of whom 24,475 families own the property where they live, and 5,387 families were given compensation instead of housing. Around the same number are still waiting to receive support.⁷⁹

The experience of Georgia demonstrates that without adequate funding and political will of the parties, even a well-designed compensation mechanism may remain unimplemented. The absence of instruments for expenditure budgeting and planning, coupled with the unwillingness of the parties to the conflict to cooperate, have effectively impeded the implementation of the compensation mechanism.

5. The Trust Fund for Victims

Article 75 of the Rome Statute of the International Criminal Court (ICC) governs reparations to victims. Specifically, the Court may make an order directly against a convicted person or, where appropriate, may order that the award for reparations be made through the Trust Fund for the benefit of victims, also known as the Trust Fund for Victims or the TFV. A legal framework for the TFV activities is also laid down by Article 79 of the Rome Statute that says that the Trust Fund is to be established for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims. Additionally, the Court may order money and other property collected through fines or forfeiture to be transferred, by order of the Court, to the Trust Fund.⁸⁰

To implement the above provisions, on 9 September 2002, the Assembly of States Parties to the Rome Statute adopted Resolution ICC-ASP/1/Res.6 entitled “Establishment of a fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims”.⁸¹

Although the Trust Fund is an independent body of the ICC, the Board of Directors of the TFV should submit the disbursement programme(s) to the Court for approval.⁸²

The TFV not only orders awards for reparations to victims but also provides physical or psychological rehabilitation or material support for the benefit of victims and their families.⁸³

In accordance with its reparations mandate, the Trust Fund implements Court-ordered reparations awards with the funds collected from the convicted person and deposited with the Trust Fund or upon the Board of Directors’ decision to complement such Court-ordered reparations awards with the voluntary contributions of States Parties or other donors. Reparations awards, in turn, can be individual or collective and may be symbolic in nature.⁸⁴

Although the TFV has little practice in paying reparations (according to the TFV, it is currently implementing Court-ordered reparations awards in three ICC cases, upon the decision of the Board of Directors of the Fund to either fully or partially complement the relevant reparations awards⁸⁵), it nevertheless plays a pivotal role in shaping the idea of a possibility to receive adequate reparations awards by victims of crimes committed as a result of Russia’s armed aggression.

In 2012, in the Lubanga Case, the Trial Chamber I unanimously found Mr Lubanga guilty, as a co-perpetrator, of the war crimes of conscripting and enlisting children under the age of 15 years and using

79 IDP Families Waiting for Permanent Homes – Limited State Resources or Lack of Political Will. URL: https://idfi.ge/en/refugees_still_waiting_for_permanent_residency_homes_limited_state_resources_or_lack_of_political_will. Last accessed: 26.02.2025.

80 Rome Statute of the International Criminal Court. URL: https://zakon.rada.gov.ua/laws/show/995_588#Text. Last accessed: 26.02.2025.

81 URL: https://asp.icc-cpi.int/sites/asp/files/asp_docs/Resolutions/ICC-ASP-ASP1-Res-06-ENG.pdf. Last accessed: 26.02.2025.

82 URL: https://asp.icc-cpi.int/sites/asp/files/asp_docs/Publications/Compendium/Compendium.3rd.11.ENG.pdf. Last accessed: 26.02.2025.

83 Ibid. Article 50(a)(i).

84 URL: <https://www.trustfundforvictims.org/en/what-we-do/reparation-orders>. Last accessed: 26.02.2025.

85 Ibid.

them to participate actively in hostilities in the Democratic Republic of the Congo from 1 September 2002 to 13 August 2003. The Trial Chamber II completed the Reparations Order, confirmed for the most part by the Appeals Chamber on 18 July 2019, by setting the amount of Mr Lubanga's liability for collective service-based and symbolic reparations at USD 10 million. In view of Mr Lubanga's indigence, the Trial Chamber invited the Trust Fund to examine the possibility of having its resources made available for the implementation of the collective reparations.⁸⁶

Evidence from previous proceedings had not resulted in a definitive number of victims, but the Fund provided an estimate of 3,000 potential victims. Subsequently, 473 persons submitted their files in support of reparations. Of these, 425 persons were recognised on the balance of probabilities as being direct or indirect victims with a right to collective reparations.⁸⁷

Direct victims were held to have experienced material, physical and/or psychological damages (former child soldiers). Indirect victims had to demonstrate a personal relationship or connection to the direct victim in addition to establishing harm (e.g. their family members).⁸⁸

The Trial Chamber II assessed liability in relation to 425 victims collectively at USD 3,400,000. In this regard, the Court established the average or estimated damages suffered by each victim as a result of material, psychological and physical harms, whether the victim was direct or indirect, in the amount of USD 8,000 per victim. The Court also set an additional liability at USD 6,600,000 for as-yet-unidentified victims (whose testimony may come to light at a later point in time or may be revealed through the process of implementing the reparations order).⁸⁹

The Katanga case is important in terms of reparations programmes of the ICC. In 2014, the Trial Chamber II 2014 found Mr Katanga guilty of the crime against humanity of murder, and the war crimes of murder, attack against a civilian population, destruction of enemy property, and pillaging committed on 24 February 2003 during an attack on Bogoro in the Province of Ituri, Democratic Republic of Congo. In accordance with the Trial Chamber's Reparations Order, 297 eligible victims were awarded with symbolic individual reparations of USD 250 per victim as well as collective reparations in the form of support for housing, support for income-generating activities, education aid and psychological support.⁹⁰

The Chamber assessed the extent of the physical, material and psychological harm suffered by the victims at a total monetary value of approximately USD 3,752,620. Nonetheless, observing the principle of proportionality, the Chamber set the amount of Mr Katanga's liability at USD 1,000,000.⁹¹

In May 2017, the Chamber found Mr Katanga indigent for reparations purposes and instructed the Board of Directors of the Fund to earmark USD 1,000,000 to disburse reparations awards to the victims.⁹²

A symbolic ceremony was held in April 2024 to mark the completion of the implementation of reparations in the Katanga case. This was the first time that the implementation of reparations ordered by the judges in an ICC case was completed.⁹³

In the Al Mahdi case, the ICC's Trial Chamber VIII found Mr Al Mahdi guilty, as a co-perpetrator, of the war crime of intentionally directing attacks against historic monuments and buildings dedicated to religion, all but one of which had the status of UNESCO World Heritage sites. In August 2017, Trial Chamber VIII issued a Reparations Order, confirmed for the most part by the Appeals Chamber on 8 March 2018, setting

86 URL: <https://www.trustfundforvictims.org/what-we-do/reparation-orders/lubanga>. Last accessed: 26.02.2025.

87 URL: <https://globaljustice.queenslaw.ca/news/case-comment-lubanga-new-direction-in-reparations-liability-from-the-icc>. Last accessed: 26.02.2025.

88 URL: <https://globaljustice.queenslaw.ca/news/case-comment-lubanga-new-direction-in-reparations-liability-from-the-icc>; <https://www.trustfundforvictims.org/en/news/factsheet-4-march-2021-collective-reparations-form-services-victims-crimes-which-thomas>. Last accessed: 26.02.2025.

89 URL: <https://globaljustice.queenslaw.ca/news/case-comment-lubanga-new-direction-in-reparations-liability-from-the-icc>. Last accessed: 26.02.2025.

90 URL: <https://www.trustfundforvictims.org/what-we-do/reparation-orders/katanga>. Last accessed: 26.02.2025.

91 URL: <https://www.icc-cpi.int/news/katanga-case-icc-trial-chamber-ii-awards-victims-individual-and-collective-reparations>. Last accessed: 26.02.2025.

92 URL: <https://www.trustfundforvictims.org/what-we-do/reparation-orders/katanga>. Last accessed: 26.02.2025.

93 URL: <https://trustfundforvictims.org/index.php/en/news/symbolic-ceremony-marks-end-icc-ordered-reparations-victims-case-prosecutor-v-germain-katanga>. Last accessed: 26.02.2025.

Mr Al Mahdi's liability at EUR 2.7 million, for both individual and collective reparations for the community in which the monuments and buildings were located. Noting that he was indigent, the Chamber encouraged the TFV to complement the reparations award Mr Al Mahdi indigence, the Chamber called on the Fund to financially supplement the reparations awarded.⁹⁴

The TFV, along with its partners, has delivered a significant portion of the collective reparations' measures mandated by the ICC in the Al Mahdi case. The initiative marked the commencement of the final phase of the reparation process which is set to conclude in December 2025.⁹⁵

The case law of the ICC is important in this context, since in the Lubanga case, the Chamber held expressly that the indigence of the convicted person is not an obstacle to the "*imposition of liability for reparations*". This reading is a clear victory for victims who sought express judicial acknowledgment of accountability, independently of the perpetrator's indigence.⁹⁶ Furthermore, it is equally important that the TFV can act for the benefit of victims of crimes, regardless of whether there is a conviction by the ICC. A victim who has not participated in the proceedings may make an application for reparations. The two applications are independent of each other. The Court may even decide on its own to make an award for reparations.⁹⁷

Having ratified the Rome Statute⁹⁸, Ukraine became a full member of the ICC on 1 January 2025 which will simplify access for Ukrainians to the Trust Fund for Victims and increase the chances of victims of Russian crimes to be paid reparations awards.⁹⁹ It is however understood that the Fund is unlikely to cover all claims for reparations for damage caused to natural and legal persons in Ukraine by Russia's military aggression. According to Oleksandra Yanovska, Judge of the Supreme Court of Ukraine, it is because of the extremely large number of victims, the Fund's limited resources, and other factors.¹⁰⁰

94 URL: <https://www.trustfundforvictims.org/what-we-do/reparation-orders/al-madhi>. Last accessed: 26.02.2025.

95 URL: <https://trustfundforvictims.org/index.php/en/news/al-mahdi-case-icc-trust-fund-victims-delivers-collective-reparations-timbuktu-community>. Last accessed: 26.02.2025.

96 URL: <https://www.ejiltalk.org/reparative-justice-after-the-lubanga-appeals-judgment-on-principles-and-procedures-of-reparation>. Last accessed: 26.02.2025.

97 P. 55. URL: <https://www.icc-cpi.int/sites/default/files/2023-06/UICC-UKR-rgb.pdf>. Last accessed: 26.02.2025.

98 Law of Ukraine No. 3909-IX "On Ratification of the Rome Statute of the International Criminal Court and Amendments Thereto" dated 08.21.2024 (as of 02.26.2025). URL: <https://zakon.rada.gov.ua/laws/show/3909-20#Text>. Last accessed: 26.02.2025.

99 URL: <https://www.facebook.com/100001687472163/posts/8405531649513001/?rclid=yX18TEBYm4a1l0lD>. Last accessed: 26.02.2025.

100 Oleksandra Yanovska, Judge of the Supreme Court of Ukraine: "Ukrainian victims of violence that could be equated to war crimes may also apply to the International Court of Justice of the United Nations to be recognised as victims." URL: <https://supreme.court.gov.ua/supreme/pres-centr/zmi/1264892>. Last accessed: 26.02.2025.

VI. ANALYSIS OF NATIONAL COMPENSATION MECHANISMS

1. State's guarantees to victims whose homes (apartments) were destroyed as a result of a war-related emergency caused by the armed aggression of the Russian Federation (compensation mechanism in force from 14 April 2014 to 23 February 2022)

The armed aggression of the Russian Federation against Ukraine was launched on 20 February 2014¹⁰¹ with unannounced and covert incursions in its territory by units of the Russian armed forces and other law enforcement agencies. On 13 April 2014, Ukraine responded with an Anti-Terrorist Operation¹⁰² pursuant to a decision of the National Security and Defence Council of Ukraine. Ukraine's legislative framework was not designed for war, even though war-related emergencies were listed in the Code of Civil Protection of Ukraine of 20 February 2014.¹⁰³ The compensation mechanism analysed in this Section was established primarily under the influence of the national case law (see Section 7 of the study). The first case law on compensation for destroyed (damaged) housing originated in 2015 from the provisions of the then-applicable Law of Ukraine "On Combating Terrorism". It provided for compensation for damage caused to citizens by an act of terrorism to be paid from the state budget of Ukraine. The Code of Civil Protection of Ukraine also listed various types of support due to emergencies, including war-related ones.

The case law governed compensation to be paid by the State of Ukraine for housing destroyed (damaged) as a result of a terrorist act. While motivating their decisions, courts emphasised that *"Ukraine should meet its positive obligations under Article 1 of Protocol I to the European Convention on Human Rights to its citizens, in particular in terms of developing a special regulatory act on compensation to owners for damage caused to their non-residential property by an act of terrorism"*.

Decisions of the Supreme Court of Ukraine partially served as the basis for amendments to the 2013 regulatory act which for the first time provided for partial compensation for destroyed (damaged) housing located in the Ukrainian government-controlled areas to be paid under the Procedure for providing and calculating the amount of monetary payment to victims of emergencies and the amount of monetary compensation to victims whose homes (apartments) were destroyed as a result of a war-related emergency caused by the armed aggression of the Russian Federation.¹⁰⁴

101 See the preamble to the Law of Ukraine "On Securing the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine". URL: <https://zakon.rada.gov.ua/laws/show/1207-18#Text>. Last accessed: 26.02.2025.

102 Article 1 of the Law of Ukraine "On Temporary Measures for the Period of the Anti-Terrorist Operation". URL: <https://zakon.rada.gov.ua/laws/show/1669-18#Text>. Last accessed: 02.02.2025.

103 Article 5 of the Code of Civil Protection of Ukraine (as amended on 01.07.2013). URL: <https://zakon.rada.gov.ua/laws/show/5403-17/ed20130701#Text>. Last accessed: 26.02.2025.

104 See the Resolution of the Cabinet of Ministers of Ukraine No. 947 dated 18.12.2013 as amended by the Resolutions Nos. 623 dated 10.07.2019, 767 dated 02.09.2020, and 1301 dated 09.12.2021. URL: <https://zakon.rada.gov.ua/laws/show/947-2013-%D0%BF#Text>. Last accessed: 26.02.2025.

1) THE PATH OF A VICTIM TO RECEIVING COMPENSATION FOR HOUSING DESTROYED FROM 14 APRIL 2014 TO 23 FEBRUARY 2022

The guarantee (what persons are entitled to) implies payment by the State of monetary compensation for housing destroyed from 14 April 2014 to 23 February 2022.

The guarantee is based on:

- [the Code of Civil Protection of Ukraine](#),
- [the Law of Ukraine “On Combating Terrorism”](#),
- the Procedure for providing and calculating the amount of monetary payment to victims of emergencies and the amount of monetary compensation to victims whose homes (apartments) were destroyed as a result of a war-related emergency caused by the armed aggression of the Russian Federation, as [approved by the Resolution of the Cabinet of Ministers of Ukraine No. 947 of 18 December 2013](#) (as amended by the Resolution of the Cabinet of Ministers of Ukraine No. 767 of 2 September 2020),
- [the Resolution of the Cabinet of Ministers of Ukraine No. 767](#) “On Payment of Monetary Compensation to Victims Whose Homes (Apartments) Were Destroyed as a Result of a War-Related Emergency Caused by the Armed Aggression of the Russian Federation” of 2 September 2020.

Who is entitled to compensation

Victims – citizens of Ukraine, (or) foreigners, (or) stateless persons who meet all of the following criteria:

- housing was destroyed as a result of a war-related emergency caused by the armed aggression of the Russian Federation after 14 April 2014, i.e., as of the date of the entry into force of the Decree of the President of Ukraine No. 405 “On the Decision of the National Security and Defence Council of Ukraine “On urgent measures to counter the threat of terrorism and preserve the territorial integrity of Ukraine” of 13 April 2014”,¹⁰⁵
- they are owners of damaged/destroyed housing,
- destroyed housing is located in the Ukrainian government-controlled areas of Donetsk and Luhansk oblasts.

Reservations regarding compensation:

- persons are not entitled to monetary compensation where their destroyed housing was fully reconstructed as of the date of inspection at the expense of the state or local budgets or at the expense of business entities,
- persons are entitled to monetary compensation where their destroyed housing was partially reconstructed on the date of inspection at the expense of the state or local budgets or at the expense of business entities.

The amount of monetary compensation is within UAH 300,000.

What to do to receive monetary compensation

To receive monetary compensation, the applicant needs to have his destroyed housing inspected, the inspection report drawn up, the positive decision made, and to be recognised as a person affected by the emergency.

The positive decision is made where all the required documents are available, and the destruction of the housing is confirmed. Where the housing is partially reconstructed, the applicant is entitled for monetary compensation for the part of the housing that remains destroyed.

105 URL: <https://www.president.gov.ua/documents/4052014-16886>. Last accessed: 02.02.2025.

The algorithm for monetary compensation is as follows:

Step 1. Attach the following documents to the application:

- 1) a request for inspection of housing destroyed as a result of a war-related emergency caused by the armed aggression of the Russian Federation and for monetary compensation (the request form is available in Annex 2 to the Procedure under the Cabinet Resolution No. 947),
- 2) a copy of an identity document confirming Ukrainian citizenship or a copy of an identity document confirming special status (foreigner, stateless person),
- 3) a copy of one of the documents listed in the Tax Code of Ukraine and providing a person's tax identification number (except where the applicant is a foreigner, a stateless person or a person who, due to his religious beliefs, refused, in accordance with the established procedure, to accept the tax identification number, notified the competent authority of his refusal, and has a relevant mark in the Ukrainian passport),
- 4) a document confirming that the applicant is the owner of (has ownership rights to) the destroyed housing as of the date of submitting the request for housing inspection and monetary compensation, in particular an ownership notice or a copy of an extract from the State Register of Property Rights to Immovable Property, or notarised copies of documents confirming ownership rights of the applicant.

The applicant should pay attention to the following:

- documents are submitted separately for each destroyed housing unit of the applicant (where the applicant owns several residential properties that were destroyed),
- where the destroyed or damaged housing is in joint partial ownership of several victims, the documents required for monetary compensation are submitted separately on behalf of each victim,
- to confirm the destruction of housing (scope of destruction) and the fact that the housing was destroyed as a result of a war-related emergency caused by the armed aggression of the Russian Federation, it is recommended to collect as many documents as possible, in particular materials of photo and video recording before and after destruction, preliminary inspection reports, certificates, expert opinions or reports, fire reports, extracts from the Unified Register of Pre-Trial Investigations, and other documents issued by competent public authorities, local self-government bodies or business entities within the scope provided by legislation, data of official reports (messages) of the UN High Commissioner for Human Rights, the Organization for Security and Co-operation in Europe, the International Committee of the Red Cross, the Ukrainian Parliament Commissioner for Human Rights posted on the websites of these organisations,
- where the applicant does not have all the documents required or does not understand where and how to get them, he may use the free legal aid system in the oblast where he lives, including contact by phone,¹⁰⁶
- the applicant (his representative) has the right to be present during the inspection commission's work, including during the inspection of the housing and during the drawing up of the inspection report; the applicant also has the right to provide the inspection commission with expert opinions, reports or other documents issued by design and research organisations and other business entities authorised to carry out construction expert examination and/or technical inventory of immovable properties. These documents are mandatory for consideration by the inspection commission when drawing up the inspection report.

Step 2. Submit all the documents collected to the local self-government body or to the military and civil (military) administration of the population centre (could be submitted in person or through a representative) at the property's location.

106 Coordination Center for Legal Aid. URL: <https://legalaidd.gov.ua/tsentry/koordynatsijnyj-tsentr>. Last accessed: 02.02.2025.

The documents could be submitted:

- in person or
- by registered mail (with description of attachments).
Where the documents are submitted by a representative of the person entitled to compensation, a copy of a document certifying their authority should be attached,
- through the Administrative Services Centre (ASC), if any, in the relevant area.

Upon receiving a copy of the decision on monetary compensation and upon appearing on the list of victims, the applicant should receive, as soon as possible, a notice of termination of ownership due to housing destruction (extract) from the State Register of Property Rights to Immovable Property. The date of entry of this information in the State Register may matter when deciding on the priority right to monetary compensation.

The deadline for considering documents and rendering decisions by the local self-government body or by the military and civil (military) administration of the population centre is as follows:

- within 5 calendar days as of the date of receipt of the application:
 - a decision on housing inspection is made, or
 - the applicant, or his representative, is given an opportunity to eliminate deficiencies in the documents submitted, and a decision on housing inspection is made within 5 calendar days as of the date of receipt of the corrected documents which the applicant or his representative is notified of via the communication channels indicated by the applicant,
- within no more than 30 calendar days as of the date of the meeting where the relevant decision was rendered, housing inspection is conducted,
- within 3 working days as of the date of housing inspection, a certificate of a victim of emergency is issued free of charge to the applicant or his representative where the housing is found to be destroyed (damaged) in the inspection report,
- within 10 calendar days, the applicant or his representative is given an opportunity to provide missing documents or to eliminate the relevant deficiencies where the applicant or his representative submitted an incomplete package of documents required for carrying out housing inspection and receiving monetary compensation, or where the documents submitted contain technical errors or other deficiencies,
- by the 5th of each month, the list of victims whose housing was destroyed is updated, approved, and sent together with all documents to social protection units of Donetsk and Luhansk Oblast State Administrations.

Who considers documents and makes decisions:

1) the commission for inspection of housing destroyed as a result of a war-related emergency caused by the armed aggression of the Russian Federation (inspection commissions) established by the military and civil (military) administration of the population centre:

- considers applications and documents attached thereto,
- based on the inspection results, draws up inspection reports (in the form specified by the Procedure under the Cabinet Resolution No. 947) in two copies, one of which is handed over to the applicant or his representative.

The following specifics that may affect the final decision on compensation award should be taken into account by the applicant:

- the inspection report provides an opinion on the technical condition of housing as of the date of its inspection: “destroyed”, “damaged”, “was destroyed but is fully reconstructed as of the date of inspection” or “was destroyed but is partially reconstructed as of the date of inspection”. Where the housing is damaged, the inspection report includes details about its suitability for living as “suitable for living” or “unsuitable for living”,

- the inspection commission investigates and establishes the facts that the housing was destroyed particularly as a result of a war-related emergency caused by the armed aggression of the Russian Federation,
- the inspection commission is obliged to take into account the available preliminary inspection reports, certificates, expert opinions or reports, fire reports, extracts from the Unified Register of Pre-Trial Investigations, and other documents issued by competent public authorities, local self-government bodies or business entities within the scope provided by legislation and may take into account materials of photo and video recording before and after destruction and data of official reports (messages) of the UN High Commissioner for Human Rights, the Organization for Security and Co-operation in Europe, the International Committee of the Red Cross, the Ukrainian Parliament Commissioner for Human Rights posted on the websites of these organisations,
- where the applicant disagrees with an opinion of the inspection commission, he has the right to repeated inspection (reconsideration of the opinion) by the commission with the mandatory participation of a relevant expert of a design or research organisation, or another business entity authorised to carry out construction expert examination and/or technical inventory and/or specialist inspection of immovable properties at the choice and expense of the applicant,
- where access to the destroyed property's location is restricted by the Commander of the Joint Forces (the Commander did not give the inspection commission permission to carry out inspection), the Commander may authorise particular persons to take photos and videos of the property in question for the inspection commission,
 - establishes the grounds and makes decisions to award/refuse to award monetary compensation to victims who are lawful owners of destroyed housing,
 - calculates the amount of monetary compensation,
 - considers other issues in respect of decisions that may be taken in accordance with the Procedure under the Cabinet Resolution No. 947.

The commission may refuse to award monetary compensation where:

- 1) the applicant has submitted false information in the documents attached to the application,
- 2) the application is submitted by the applicant who has formerly been paid monetary compensation for the same destroyed housing (except for monetary compensation paid for the part of the same destroyed housing),
- 3) the applicant's ownership right to the housing was registered after its destruction (except as provided for by the Procedure under the Cabinet Resolution No. 947),
- 4) there is a court decision which has entered into force and which satisfied in full or in part the claim for monetary compensation from the State (compensation for damage) for the same destroyed housing in the total amount equivalent or exceeding that provided for by the Procedure under the Cabinet Resolution No. 947,
- 5) the Treasury has paid funds in pursuance of the court awards of compensation from the State (compensation for damage) for the same destroyed housing in the total amount equivalent or exceeding that provided for by the Procedure under the Cabinet Resolution No. 947,
- 6) social protection measures in the form of exchange of destroyed housing have been taken, in particular the construction or purchase of apartments (residential property) by local state administrations, local self-government bodies, and business entities,
- 7) the housing was reconstructed at the expense of the state or local budgets, or at the expense of business entities in the total amount equivalent or exceeding that provided for by the Procedure under the Cabinet Resolution No. 947.

The oblast social protection authorities:

- within 3 working days as of the date of the meeting where the commission's decision was rendered on awarding monetary compensation and including the applicant in the list of victims, send a copy of the decision to the applicant and to the local self-government body and, in case of its absence, to the military and civil (military) administration,
- within 3 working days as of the date of the meeting where the commission's decision was rendered on refusing to award monetary compensation, send a copy of the decision with the indication of grounds for refusal to the applicant and to the local self-government body and, in case of its absence, to the military and civil (military) administration.

When monetary compensation is expected to be paid

Oblast social protection authorities pay monetary compensation within 5 working days as of the date of receipt of budget funds.

Monetary compensation is transferred to the recipient's card (bank account).

Monetary compensation is paid in a lump sum.

2) ADVANTAGES OF THE MECHANISM FOR MONETARY COMPENSATION FOR DESTROYED HOUSING AS SET OUT BY THE PROCEDURE UNDER THE CABINET RESOLUTION No. 947

- Citizens, foreigners, stateless persons recognised as victims could receive compensation, although partial, for destroyed homes. At the same time, payments made in accordance with decisions of the commission or payments made in accordance with court awards for non-pecuniary damages for the failure of the State of Ukraine to comply with its positive obligations could be conventionally considered as compensation awards (see Section 7 of the study),
- the Procedure under the Cabinet Resolution No. 947 for the first time defined the term "victims" in the context of transitional justice.¹⁰⁷ Victims mean citizens of Ukraine, foreigners, and stateless persons whose homes (apartments) were damaged/destroyed as a result of emergencies or emergency response operations (paragraph 2 of the Procedure under the Cabinet Resolution No. 947).

Unlike the Procedure under the Cabinet Resolution No. 947, the compensation mechanism does not define "affected persons" but has been using the terms "applicants" and "compensation recipients" since 24 February 2022.

The term "victims" meaning "citizens of Ukraine, foreigners or stateless persons, business entities regardless of their ownership and legal form, state-owned or municipal institutions and organisations, public authorities, local self-government bodies, and the State of Ukraine that have suffered losses as a result of the armed aggression of the Russian Federation" is defined in the general principles of assessing damage to property and property rights caused by the armed aggression of the Russian Federation.¹⁰⁸ The Procedure governs the calculation of damage and losses caused to Ukraine by the armed aggression of the Russian Federation since 19 February 2014.

¹⁰⁷ UN General Assembly Resolution (A/RES/60/147) of 16.12.2005 which adopted the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. URL: <https://documents-ddsny.un.org/doc/UNDOC/GEN/N05/496/44/PDF/N0549644.pdf>. Last accessed: 26.02.2025.

¹⁰⁸ Annex to the Procedure for assessing damage and losses caused to Ukraine as a result of the armed aggression of the Russian Federation, as approved by the Resolution of the Cabinet of Ministers of Ukraine No. 326 "On Approval of the Procedure for Calculating Damage and Losses Caused to Ukraine as a Result of the Armed Aggression of the Russian Federation" dated 20.03.2022 (as of 26.02.2025). URL: <https://zakon.rada.gov.ua/laws/show/326-2022-%D0%BF#Text>. Last accessed: 26.02.2025.

- Payment of monetary compensation to victims is an integral part of the preparation of Ukraine's consolidated claim to Russia regarding its international legal responsibility for the armed aggression against Ukraine in accordance with Article 6 of the Law of Ukraine "On the Peculiarities of the State Policy for Ensuring the State Sovereignty of Ukraine in the Temporarily Occupied Territories in Donetsk and Luhansk Oblasts".

This means that the State of Ukraine will use information on the amount of compensation paid to its citizens to seek reparations awards from the Russian Federation.

- The Procedure under the Cabinet Resolution No. 947 laid the foundation for the national compensation mechanism which has been in effect since 2022. The compensation mechanism is based on the amount of information (including relevant updates) submitted by the applicant, the procedure for housing inspection, and the procedure for the establishment and operation of inspection commissions.

3) OBSTACLES TO RECEIVING MONETARY COMPENSATION AS SET OUT BY THE PROCEDURE UNDER THE CABINET RESOLUTION No. 947

- The compensation mechanism has not been applied since 2022, and no funds have been allocated in the state budget for compensation purposes.

This creates obstacles to access to compensation for those citizens who live (lived) in Donetsk and Luhansk oblast as of 23 February 2022, or whose homes were destroyed or damaged before 24 February 2022, since the new compensation mechanism applies only to property destroyed or damaged after 24 February 2022. Theoretically, affected persons who live in Donetsk and Luhansk oblasts may file applications for compensation with commissions, because the Procedure under the Cabinet Resolution No. 947 has not been cancelled. Though in practice, this mechanism is no longer in effect.

2. State's guarantees to victims whose homes were destroyed or damaged after 24 February 2022 as a result of hostilities, acts of terrorism, sabotage caused by the armed aggression of the Russian Federation against Ukraine

In this Section, "housing" means the following real estate units (Article 1 of the Law on Compensation):

- apartments, other residential premises in buildings, homestead-type houses, garden and summer houses,
- construction projects (homestead-type houses, garden and summer houses) which had load-bearing and external enclosing structures (except for translucent structures and filling of door openings) erected at the time of destruction or damage and in respect of which the right to perform construction works was received,
- components of construction projects (apartments, other residential premises in the building) which, after being put into operation, were independent real estate units provided that they had load-bearing and external enclosing structures (except for translucent structures and filling of door openings) erected at the time of destruction or damage and in respect of which the right to perform construction works was received,
- joint property of an apartment building other than a land plot – only for the purposes of recovery of damaged housing.

1) THE PATH OF A VICTIM TO RECEIVING COMPENSATION FOR HOUSING DESTROYED AFTER 24 FEBRUARY 2022

The State's guarantees include:

- compensation for destroyed housing,
- compensation for damaged housing.

The general requirements for the applicant seeking compensation:

- 1) Ukrainian citizenship,
- 2) availability of relevant records in the State Register of Property Rights to Immovable Property confirming that the applicant is the lawful owner of the housing for which he claims compensation,
- 3) before claiming compensation, the applicant has submitted a notice of destroyed immovable property to the Register of Damaged and Destroyed Property (where the applicant failed to submit a notice of destruction, he should submit it before claiming compensation),¹⁰⁹
- 4) the applicant opened a bank account (current account of the compensation recipient) with a special mode of use,
- 5) the applicant is not among: (1) sanctioned persons in accordance with the Law of Ukraine “On Sanctions”; (2) persons who have criminal records for committing criminal offenses provided for in Section I “Crimes against the Foundations of National Security of Ukraine” of the Special Part of the Criminal Code of Ukraine; (3) heirs to damaged/destroyed immovable properties owned by the persons listed in points (1) and (2),
- 6) the applicant has the Diia mobile application installed on an electronic medium.

The general requirements for housing for which the applicant seeks compensation:

- 1) be registered in the State Register of Property Rights to Immovable Property,
- 2) be located in the territory of Ukraine, which was not temporarily occupied,
- 3) be located in the areas where hostilities (possible or active) are not taking place.¹¹⁰

To receive monetary compensation, the applicant needs to have his destroyed or damaged housing inspected, the required documents and the checklist (filled out by technical means of the Register of Damaged and Destroyed Property) drawn up, and the positive decision made. The positive decision is made where all the required documents are available, and the destruction or damage of the housing is confirmed.

The applicant should join the agreement on the assignment to the State/territorial community of the right to submit claims against the Russian Federation for compensation for damages for the immovable property destroyed as a result of hostilities, acts of terrorism, sabotage caused by the armed aggression of the Russian Federation against Ukraine.

Methods for submitting the application (that really work): through the Diia application or portal. The algorithm for receiving and using relevant compensation is fully generated by technical means of the Diia application or portal. All the applicant has to do is to select and fill in the necessary fields, to answer the questions, and to enter the information requested.

The applicant could also contact the ASC, the social protection authority, or the notary to receive particular types of compensation.

Compensation for destroyed housing (compensation methods) includes:

- 1) providing the applicant with funds to finance the construction of a homestead-type house, garden or summer house,
- 2) providing the applicant with a housing certificate to finance the purchase of housing or to invest in/finance its construction,
- 3) transferring to the applicant the ownership right to housing recovered under local housing recovery programmes in exchange for the destroyed immovable property.

109 Procedure for submitting a notice of damaged and destroyed immovable property as a result of hostilities, acts of terrorism, sabotage caused by the armed aggression of the Russian Federation against Ukraine, as approved by the Resolution of the Cabinet of Ministers of Ukraine No. 380 dated 03.26.2022 (as amended by the Resolution of the Cabinet of Ministers of Ukraine No. 624 dated 06.13.2023) (as of 02.26.2025). URL: <https://zakon.rada.gov.ua/laws/show/380-2022-%D0%BF#n22>. Last accessed: 26.02.2025.

110 This information could be verified in the Order of the Ministry of Reintegration of Temporarily Occupied Territories of Ukraine No. 309 dated 12.22.2022 registered with the Ministry of Justice of Ukraine under No. 1668/39004 “On Approval of the List of Territories Where Hostilities Are (Were) Conducted or Temporarily Occupied by the Russian Federation” on 23.12.2022. URL: <https://zakon.rada.gov.ua/laws/show/z1668-22#n15>. Last accessed: 26.02.2025.

Monetary compensation is paid where the applicant does not want to get a housing certificate and plans to build a house on his own.

The housing certificate is used for the purchase of new housing.

The algorithm for receiving and using the certificate is as follows:

Step 1. Submit the notice of destroyed property through the Diia application or portal.

Step 2. Submit the application for compensation for destroyed property through the Diia application or portal.

Step 3. Receive the certificate.

Step 4. Submit the application for reserving funds for the certificate through the Diia application or portal and wait until the reservation is confirmed.

Step 5. Conclude the agreement with the notary. The reserved funds will be transferred to the account of the property seller.

In actual fact, the certificate is a payment method implying that the reserved funds will be transferred to the seller after the agreement is concluded. It can be used to purchase housing in both the primary and secondary markets or to invest funds in a construction project.

The certificate is valid for a term of 5 years as of the date of its receipt.

The specifics of awarding compensation to internally displaced persons

Compensation for destroyed immovable property is provided to internally displaced persons who meet all of the following criteria:

- they are registered as internally displaced persons and have found themselves in difficult straits,
- the destroyed housing was the only housing of the internally displaced person who has no ownership rights to other housing registered in the State Register of Property Rights to Immovable Property; or the housing registered in the State Register of Property Rights to Immovable Property is located in the temporarily occupied areas where hostilities (possible or active) are taking place.

The legislative framework for the State's guarantees of compensation for destroyed housing:

- [the Law of Ukraine](#) "On Compensation for Damage and Destruction of Certain Categories of Immovable Property as a Result of Hostilities, Acts of Terrorism, Sabotage Caused by the Armed Aggression of the Russian Federation against Ukraine and on the State Register of Property Damaged and Destroyed as a Result of Hostilities, Acts of Terrorism, Sabotage Caused by the Armed Aggression of the Russian Federation against Ukraine",
- the Procedure for compensation for destroyed immovable property, as approved by the [Resolution of the Cabinet of Ministers of Ukraine No. 600 of 30 May 2023](#),
- the Procedure for compensation to internally displaced persons for damaged/destroyed real estate property as a result of hostilities, acts of terrorism, sabotage caused by the armed aggression of the Russian Federation against Ukraine, as approved by the [Resolution of the Cabinet of Ministers of Ukraine No. 1432 of 13 December 2024](#).

Monetary compensation for damaged housing (compensation methods) includes:

- 1) providing funds for works related to the construction and/or purchase of construction products,
- 2) providing funds for construction products purchased by the applicant and/or repair works performed by the applicant (in full or in part).

The algorithm for receiving and using compensation for damaged housing is as follows:

Step 1. Request the service of Reporting Damaged Property through the Diia application or portal.

Step 2. Open the eRecovery account in one of the banks of Ukraine.

Step 3. Submit the application for compensation through the Diia application or portal.

Step 4. Assist in the inspection of damaged housing by the commission.

Step 5. Wait for the decision to be entered in the Register of Damaged and Destroyed Property.

Step 6. Receive funds on the eRecovery account (card).

Step 7. Submit the report on the use of funds.

The amount of monetary compensation is UAH 200,000 to UAH 500,000 depending on the type of housing.

The legislative framework for the State's guarantees of compensation for damaged housing:

- [the Law of Ukraine](#) "On Compensation for Damage and Destruction of Certain Categories of Immovable Property as a Result of Hostilities, Acts of Terrorism, Sabotage Caused by the Armed Aggression of the Russian Federation against Ukraine and on the State Register of Property Damaged and Destroyed as a Result of Hostilities, Acts of Terrorism, Sabotage Caused by the Armed Aggression of the Russian Federation against Ukraine",
- the Procedure for compensation for the recovery of certain categories of damaged real estate property as a result of hostilities, acts of terrorism, sabotage caused by the armed aggression of the Russian Federation against Ukraine using the eRecovery electronic service, as approved by the [Resolution of the Cabinet of Ministers of Ukraine No. 381 of 21 April 2023](#).

The documents could be submitted:

- 1) in electronic form – through the Unified State Web Portal of Electronic Services,
- 2) in paper form – through the ASC, the social protection authority, or the notary,
- 3) since 15 July 2023 – in electronic form through the Unified State Web Portal of Electronic Services, in particular through the Diia mobile application.

ACSS and social protection authorities ensure the operation of field points for acceptance of applications for compensation for destroyed immovable properties.

Where the application and documents attached thereto are submitted through the notary, copies of the documents may be notarised and uploaded by the notary to the Register of Damaged and Destroyed Property or to another state-owned information and communication system interconnected with the Register of Damaged and Destroyed Property. The notary signs the electronic copies of the documents uploaded to the Register of Damaged and Destroyed Property with an electronic signature based on a qualified certificate. In this case, the originals of the relevant documents are not required.

The deadline for considering documents and rendering decisions

According to the general rule, the deadline should not exceed 30 calendar days as of the date of submitting the application. By the commission's decision, the deadline for considering the application for compensation may be extended by 30 calendar days if access to housing is temporarily restricted (e.g., due to military (combat) operations).

The decision on awarding compensation for destroyed housing to the compensation recipient who has not submitted all the necessary documents due to their loss or in connection with the need to establish facts of legal significance is made following the submission of the relevant documents.

A copy of the decision to award/refuse to award compensation for destroyed immovable property is uploaded by the competent official of the executive body of the council or the military administration or the military and civil administration of the population centre to the Register of Damaged and Destroyed Property within 5 working days as of the date of the meeting where the commission's decision was rendered.

The grounds for refusal to award compensation:

- 1) the application for compensation is submitted by a person who cannot be the recipient of compensation in accordance with the Law on Compensation or does not have the authority to submit the application,
- 2) inaccurate data are found in the application for compensation,
- 3) the application for compensation is submitted after the expiration of the deadline set out in the Law on Compensation: the application should be submitted during martial law and within one year following its cancellation or termination in the area where the destroyed immovable property is or was located.

The specifics of the claims process

The claims commission mandated to examine and adjudicate claims for compensation is established by the executive body of the village, settlement, town, city, city district council, if any, or by the military administration of the population centre or by the military and civil administration of the population centre.

The claims commission:

- accepts the application for compensation automatically by software of the Register of Damaged and Destroyed Property,
- has no authority to request additional documents not provided for by law,
- uses information and state-owned and municipal communication systems, requests on its own initiative the necessary information from public authorities, local self-government bodies, other authorities, enterprises and officials, and therefore:
 - assists in confirming the information submitted by the applicant, so as in particular to replace the lost documents needed for taking a decision on compensation award,
 - is obliged to go to the location of the destroyed (damaged) housing, carry out the inspection, and draw up relevant documents,
 - has no influence on the priority of payments to the applicants, since the priority of payments is set by software of the Register.

2) ADVANTAGES OF THE MECHANISM FOR MONETARY COMPENSATION FOR HOUSING DESTROYED OR DAMAGED AFTER 24 FEBRUARY 2022

- The State meets its positive obligations to citizens (under Protocol I to the Convention for the Protection of Human Rights and Fundamental Freedoms).
- Following the full-scale invasion of the Russian Federation into Ukraine, the number of affected people who have lost (in full or in part) their housing is rapidly growing (see the Introduction to the study). It can be considered that the State quickly defined the mechanism for compensation for destroyed or damaged housing.
- The compensation mechanism for the most part complies with international standards and is based on the best international practices: it is partially focused on those affected (the documents may not be submitted in full, the commission is obliged to collect and confirm on its own initiative the information provided by the applicant; victims who have the priority right to compensation, in particular large families, are identified) and offers flexible approaches to compensation.
- Citizens are awarded compensation and provided with housing.
- Internally displaced persons have special guarantees for housing, as provided for by international documents on internally displaced persons.
- Electronic services to be provided to citizens are being developed.
- Electronic interaction between various authorities providing services to citizens is being developed.

3) PROBLEMS IN THE SYSTEM OF OBTAINING GUARANTEES UNDER THE NEW COMPENSATION MECHANISM: PAYMENTS OF MONETARY COMPENSATION FOR HOUSING DESTROYED OR DAMAGED AFTER 24 FEBRUARY 2022

- Foreigners and stateless persons are not entitled to compensation.

This is a major difference between the new compensation mechanism and the one based on the Procedure under the Cabinet Resolution No. 947. Such approach can be viewed as discriminatory. With full understanding of the limited resources of the State, it is recommended to develop real mechanisms for access of foreigners and stateless persons to compensation. If the situation remains unchanged, the State may bear significant resource losses in the event of the ECHR-ordered compensation awards in cases against Ukraine (the probability of filing compensation claims against Ukraine by foreigners and stateless persons is high).

- Citizens are not entitled to compensation for housing located in the temporarily occupied and frontline areas.

For this category of citizens, it is possible to apply some State's guarantees identical to those for internally displaced persons in the context of compensation for housing rent, compensation for utility costs, compensation for destroyed housing (see information in this Section).

- Not all citizens have access to electronic services.

Analysis of the practice of applying the new compensation mechanism showed that the State's guarantee can be provided only through electronic services in the Diia application or on the Diia portal, since not all ASCs and notaries are authorised to accept and process applications for compensation. Also, lonely elderly persons, citizens living in the frontline areas (with limited access to the Internet), persons with visual, hearing and mental disabilities face challenges in accessing electronic services. The National Strategy for a Barrier-Free Environment in Ukraine until 2030, as approved by the Resolution of the Cabinet of Ministers of Ukraine No. 366-p¹¹¹ of 14 April 2021, is geared towards addressing the problem of access to public and emergency services. The Strategy's successful implementation directly affects citizens' access to compensation.

- Many citizens are unable to enter information on destroyed or damaged housing in the State Register of Property Rights to Immovable Property.

In many cases, relevant documents were lost, damaged or destroyed as a result of hostilities, hasty evacuation of property owners or for other war-related reasons. Where information on ownership rights was preserved in state registers or where archives of the Technical Inventory Bureau were timely evacuated, the commission can find and confirm this information.

Actual owners of immovable properties who may claim for compensation often do not have any documents confirming their ownership. This problem is especially relevant to villages and settlements where the cost of private houses is comparable to or even lower than that of registration of ownership rights. Such houses are bought and sold using hand-written receipts, for cash only, and without proper registration of ownership rights. For the same reasons (high costs associated with registration of ownership rights), heirs often refrain from entering upon an inheritance that includes ownership of immovable properties.

The lack of documents confirming ownership rights to unauthorised construction projects could also be considered as a widespread problem. A person who has carried out or is carrying out unauthorised construction of immovable property does not acquire the right of ownership to it. Unauthorised construction is so widespread in Ukraine that domestic legal framework provides for several mechanisms enabling legalisation of unauthorised constructions and ownership rights to them. At the same time, the use of these mechanisms involves interactions of owners with authorities which could be problematic, especially in the areas where hostilities are taking place or in the temporarily occupied areas.

- Non-recognition by Ukraine of ownership documents for immovable properties issued in the temporarily occupied areas.

Some of the above problems could be solved by contacting notaries, public registrars or administrative services centres. Along with that, population centres of the frontline or temporarily occupied areas face pronounced difficulties with access to notary services. In some territorial communities consisting of many population centres, such services are provided by only one notary, with people waiting in line for the first consultation for months.

- Difficulties in confirming ownership of parts of immovable property from co-owners in case one or more co-owners cannot be found (e.g., they relocated and there has been no contact with them).
- Access to compensation is impossible for victims who left Ukraine for another country seeking temporary protection.

111 Ordinance of the Cabinet of Ministers of Ukraine No. 366-p "On Approval of the National Strategy for a Barrier-Free Environment in Ukraine until 2030" dated 04.14.2021 (as of 02.26.2025). URL: <https://zakon.rada.gov.ua/laws/show/366-2021-%D1%80#top>. Last accessed: 26.02.2025.

Most of them cannot get a letter of attorney to represent their interests in submitting claims and receiving compensation, including the presence of a representative during the commission's inspection of the immovable property¹¹².

- Problems in the work of commissions preventing decisions on compensation awards, in particular:
 - the impossibility of inspecting housing in the areas where hostilities are taking place,
 - the absence of appraisal specialists in the commission. This problem is most urgent in villages left by residents for safer places due to hostilities, temporary occupation, and ongoing shelling. Understaffed executive committees of local councils have been discussed in the analytical reports "Principles of Resilience and Key Challenges for Communities during the War"¹¹³ and "Measuring the Resilience of Territorial Communities through Assessing Their Capacity",¹¹⁴
 - commissions need more time to inspect all properties within a particular timeframe, especially in population centres which are shelled time and again,
 - following periodic updates of indicators for calculating the cost of housing, commissions are forced to make the retrospective recalculation of compensations already awarded to the applicants. In the opinion of representatives of local self-government bodies, such updates of information on already provided housing seem to be ineffective,
 - many commissions lack official vehicles which prevents timely inspection of housing.
- Access to compensation is impossible for victims from population centres where hostilities are taking place (although not included in the list) as of the date of scheduled housing inspections. The security conditions in a large number of frontline population centres are different due to ever-shifting situation in the frontline. Commissions do not carry out housing inspections there.
- Problems of funding monetary compensation for repairs of damaged housing (and purchase of construction materials) carried out by owners on their own. This guarantee is not funded from the state budget.

3. Other mechanisms for receiving housing

Although pilot programmes and local compensation projects are not widespread, they partially meet the housing needs of victims (primarily through the implementation of repair works, provision of victims with construction materials). They cannot be deemed as part of the national compensation mechanism but should be taken into account to ensure justice when allocating resources among those affected.

Specifically, human rights activists consider the implementation of the Resolution of the Cabinet of Ministers of Ukraine No. 382 "On Implementation of the Pilot Project for the Recovery of Settlements Affected by the Armed Aggression of the Russian Federation" of 25 April 2023 to be successful enough in some oblasts. A nation-wide project, Shoulder to Shoulder, is part of We Build Ukraine think tank.¹¹⁵

The project played a pivotal role in recovery of Kherson oblast. 12 Ukrainian oblasts took patronage over individual communities of Kherson oblast and helped people recover their housing. The oblasts allocated their own resources and specialists and worked throughout the summer and autumn of 2023 so that more than a thousand families from Kherson oblast could survive the winter under normal conditions. Housing recovery works as part of this initiative are still under way. Shoulder to Shoulder is a recovery project uniting partner

112 See, for example, Analysis of damaged property restoration programmes. Experience of Kochubeivka and Chornobaivka territorial communities of Kherson oblast. Regional analysis of the state of compliance with human rights, 2025. URL: <https://www.radiosvoboda.org/a/novyny-pryzovya-plich-o-plich-vidbudova-khersonshchyny/32517018.html>. Last accessed: 02.02.2025.

113 Principles of Resilience and Key Challenges for Communities during the War. The National Platform for Resilience and Social Cohesion. URL: <https://national-platform.org/zasady-stijkosti-ta-osnovni-vyklyky-dlya-gromad-pid-chas-vijny-analitychnyj-zvit>. Last accessed: 02.02.2025.

114 Measuring the resilience of territorial communities through assessing their capacity. Analytical report. The National Platform for Resilience and Social Cohesion, the Ukrainian Helsinki Human Rights Union. URL: <https://national-platform.org/vymir-stijkosti-terytorialnyh-gromad-cherez-oczinku-yih-spromozhnosti>. Last accessed: 02.02.2025.

115 We Build Ukraine. URL: <https://www.webuildukrainefund.org/uk>. Last accessed: 02.02.2025.

territorial communities and oblasts. Recovery of population centres of Kherson oblast under the project is funded from oblast and local budgets, with no allocations from the state budget.

According to Kochubeivka Village Military Administration of Beryslav raion of Kherson oblast, 198 claims for recovery of destroyed and damaged housing were sustained as part of Shoulder to Shoulder initiative. Communities of Rivne oblast provided support in the form of construction materials.

As part of this programme, in 2023, UAH 14,756,384 was allocated from the budget of Chornobaivka territorial community for repairs of 47 houses in Blahodatne and Kyselivka villages of that community.¹¹⁶ UNITED24 initiative funded the repairs of an apartment building in Hostomel, Kyiv oblast, enabling 300 persons to return to their homes. This is the fourth building commissioned under the programme.¹¹⁷

116 Analysis of damaged property recovery programmes. Experience of Kochubeivka and Chornobaivka territorial communities of Kherson oblast. Regional analysis of the state of compliance with human rights, 2025. URL: <https://www.radiosvoboda.org/a/novyny-pryzovya-plich-o-plich-vidbudova-khersonshchyny/32517018.html>. Last accessed: 02.02.2025.

117 An apartment building was renovated in Hostomel, Kyiv oblast, by the funds of UNITED24 initiative of the President of Ukraine. 26.09.2024. URL: <https://www.congress.gov.ua/na-kyivshchyni-koshtom-prezydentskoi-prohramy-united24-vidnovly-bahatokvartyrnyy-budynok-u-hostomeli>. Last accessed: 02.02.2025.

VII. JUDICIAL PROTECTION OF THE RIGHT TO COMPENSATION FOR DESTROYED OR DAMAGED HOUSING UNDER THE NATIONAL COMPENSATION MECHANISM

1. General overview of the case law on compensation for destroyed (damaged) housing

Housing of civilians in Donetsk and Luhansk oblasts had been damaged and destroyed as a result of Russia's armed aggression since 2014. However, victims did not receive any restitution or compensation from the State of Ukraine as part of its positive obligations under the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms.

The first case law on compensation for destroyed (damaged) housing was recorded in 2015 and was based on the provisions of the then-applicable Law of Ukraine "On Combating Terrorism". As the Anti-Terrorist Operation was launched in Ukraine by the decision of the National Security and Defence Council of Ukraine of 13 April 2014, the Law of Ukraine "On Combating Terrorism" provided for compensation for damages caused to citizens by an act of terrorism to be paid from the state budget. The Code of Civil Protection of Ukraine also envisaged various types of benefits in the event of emergencies, including war-related ones. The case law concerned recovery of compensation from the State of Ukraine for housing destroyed (damaged) as a result of an act of terrorism. The case law in this regard was generalised by the Resolution of the Grand Chamber of the Supreme Court of Ukraine in the case No. 265/6582/16-ц of 4 September 2019 in which the Supreme Court emphasised that the Law of Ukraine "On Combating Terrorism" and the Code of Civil Protection of Ukraine did not apply to legal relationships in cases of the applicants. Along with that, the Court ruled that *"Ukraine must nevertheless comply with its positive obligations under Article 1 of Protocol I to the Convention, in particular in terms of drafting a special regulatory act on compensation to be paid to the owner for damages caused to his non-residential property by an act of terrorism"*. The conclusions in that case were consistently applied in residential property-related cases. The above Resolution of the Grand Chamber of the Supreme Court of Ukraine and the special judgement of the Civil Court of Cassation in the case No. 237/557/18 of 4 March 2020 partly served as a basis for amendments to the regulatory act which for the first time provided for partial compensation for destroyed (damaged) property in the Ukrainian government-controlled areas, the Procedure for providing and calculating the amount of monetary payment to victims of emergencies and the amount of monetary compensation to victims whose homes (apartments) were destroyed as a result of a war-related emergency caused by the armed aggression of the Russian Federation, as approved by the Resolution of the Cabinet of Ministers of Ukraine No. 947 of 18 December 2013 and as amended by the Resolutions of the Cabinet of Ministers of Ukraine Nos. 623 of 10 July 2019, 767 of 2 September 2020, and 1301 of 9 December 2021.

The adoption of amendments to the Procedure under the Cabinet Resolution No. 947 in 2019 paved the way for the practice of appealing against decisions of commissions on consideration of claims for monetary compensation to victims whose homes (apartments) were destroyed as a result of a war-related emergency

caused by the armed aggression of the Russian Federation (claims commissions were established pursuant to the Procedure under the Cabinet Resolution No. 947). However, in cases of recovery of compensation from the State of Ukraine for destroyed (damaged) housing, especially following Russia's full-scale invasion in 2022, courts started to reject claims against the State of Ukraine.

Also, a positive practice was established for victims in claims for recovery of damage against the Russian Federation following the full-scale invasion.

Later, on 23 February 2023, the Verkhovna Rada of Ukraine adopted the Law of Ukraine No. 2923-IX "On Compensation for Damage and Destruction of Certain Categories of Immovable Property as a Result of Hostilities, Acts of Terrorism, Sabotage Caused by the Armed Aggression of the Russian Federation against Ukraine and the State Register of Property Damaged and Destroyed as a Result of Hostilities, Acts of Terrorism, Sabotage Caused by the Armed Aggression of the Russian Federation against Ukraine" of 23 February 2023 (the Law on Compensation). That Law and related bylaws paved the way for a number of appeals against decisions on compensation for housing destroyed as a result of hostilities, acts of terrorism, sabotage caused by the armed aggression of the Russian Federation against Ukraine.¹¹⁸

Analysis of the case law on claims for compensation (reparation) for destroyed (damaged) housing shows that the most promising ones in terms of securing the rights of victims are claims on recognition as unlawful of decisions of claims commissions on compensation for destroyed housing as a result of hostilities, acts of terrorism, sabotage caused by the armed aggression of the Russian Federation against Ukraine and their cancellation, because such claims involve real compensation mechanisms and prospects for recovering housing or obtaining housing certificates. Claims should be filed in case of a failure of claims commissions to take into account certain facts, discrepancies between inspection reports and the actual conditions of housing, unlawful refusals to pay compensation for destroyed (damaged) housing. These cases are usually considered in courts of administrative jurisdiction. The applicants should provide evidence of ownership of the property as of the date of its damage (destruction), the circumstances of property damage (destruction), and the scope of destruction. At the same time, the burden of proof of the lawfulness of actions and decisions rests with public authorities. Victims should pay a court fee for appealing the above decisions in the amount of 1/4 of the subsistence minimum for able-bodied persons (in 2024, the court fee was UAH 1,211.20). The duration of consideration of such cases depends on the territorial jurisdiction and workload of courts and on average takes two to six months in first instance courts. As of now, decisions on compensation for destroyed (damaged) property are rendered only for the property located in the Ukrainian government-controlled areas since 24 February 2022. Hence, due to legislative restrictions, not all persons can use the above administrative mechanisms and appeal against decisions taken on their basis.

Accordingly, victims seek another effective remedy to secure their rights. National courts have established a positive practice in cases against the Russian Federation which are considered by courts of general jurisdiction in civil proceedings. In such cases, the applicants should provide evidence of title, the circumstances of property damage (destruction), and the amount of damage caused. The applicants are exempt from paying a court fee for filing claims in such cases. The duration of consideration of the case may last on average two months to one year in first instance court.

In court cases, evidence of title to property primarily includes extracts from the State Register of Property Rights to Immovable Property, property purchase and sale contracts, ownership certificates, and other title documents. The scope of property destruction can be confirmed by notices of destruction (damage) to property, opinions of construction and expert examination. The amount of damage caused can be confirmed by opinions of construction and expert examination, private appraisal reports.

Another alternative mechanism is represented by civil claims in criminal proceedings against the Russian military. These claims are considered within criminal proceedings, and the applicants are exempt from court fees. At the same time, evidence in such cases is collected by investigative authorities. Expert examinations at the initiative of investigative authorities or at the request of the victim are carried out at the expense of the state budget. However, the consideration of a criminal case in court may take longer than the consideration of an administrative or civil case.

118 Review of the national case law on compensation for destroyed (damaged) housing, 2025. URL: <https://www.helsinki.org.ua/publications/vidshkoduvannia-za-poshkodzhenu-nerukhomist-iak-ukrainski-sudy-vyrishuiut-spory>. Last accessed: 02.02.2025.

Despite problems with the implementation of decisions against Russia and its military, they can be used as evidence when submitting applications to the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine.

At present, we also witness negative case law on recovery of damage from the State of Ukraine caused by the destruction (damage) of property of natural persons. Along with that, the circumstances of meeting positive obligations under Article 1 of Protocol I to the Convention for the Protection of Human Rights and Fundamental Freedoms by Ukraine are not the same in different cases. For the time being, there is no effective mechanism in place for compensation for destroyed (damaged) property for those whose property was destroyed (damaged) before 24 February 2024. The Procedure under the Cabinet Resolution No. 947 is not applicable due to the lack of budget funding. It provides for a compensation award for destroyed property worth up to UAH 300,000 regardless of its area. At the same time, new legislative acts provide for a compensation award for damaged property in the amount of up to UAH 500,000 calculated based on its floor area to which a regional coefficient of destruction is applied. This shows a different attitude of the legislator to victims and a failure of domestic courts to take into account these circumstances.¹¹⁹

2. The case law on recovery of damage for destroyed (damaged) housing since 2014 in claims against Ukraine

Prior to the launch of compensation mechanisms in 2015, victims started to seek compensation before courts for destroyed (damaged) housing based on the then-applicable Law of Ukraine "On Combating Terrorism" which defined compensation for damage caused to citizens by an act of terrorism to be paid by counter-terrorism agencies from the state budget of Ukraine. The primary defendants in those cases were the Cabinet of Ministers of Ukraine, the State Treasury of Ukraine, and other counter-terrorism agencies, including the Anti-Terrorist Operation Headquarters in the east of Ukraine at the Security Service of Ukraine, and the Ministry of Internal Affairs of Ukraine.

In a number of cases, a positive practice was established when claims were sustained based on Article 1 of Protocol I to the Convention for the Protection of Human Rights and Fundamental Freedoms, Article 41 of the Constitution of Ukraine, and Article 19 of the Law of Ukraine "On Combating Terrorism".

Since 2019, the Supreme Court of Ukraine (the Grand Chamber and the Civil Court of Cassation) has rendered decisions leaning on the following legal positions in a number of cases:

- the exercise of the right to compensation, as provided for by Article 19 of the Law of Ukraine "On Combating Terrorism", depends on the availability of a compensation mechanism to be established by a particular law, which was unavailable when contentious relations emerged and when cases were considered by courts,
- in cases on redress of damage to property and non-pecuniary damage caused by property destruction in the course of the Anti-Terrorist Operation, the Court has for the most part sustained claims for monetary compensation worth UAH 20,000 to UAH 100,000 to be paid from the state budget for the failure of the State of Ukraine to comply with its positive obligations under Article 1 of Protocol I to the Convention for the Protection of Human Rights and Fundamental Freedoms, which implied the failure to pay compensation for damage caused over a long period of time and the failure to recover housing; the absence of a special procedure for compensation for housing damaged as a result of an act of terrorism; the absence of an effective investigation into the circumstances of housing destruction.

However, despite the court-ordered compensation awards, the State Treasury of Ukraine does not execute these decisions noting the absence of a special budget allocation for their execution. According to the State Treasury of Ukraine, from 31 January 2019 through December 2024, there were 42 pending enforcement documents on compensation for damage (destruction) of housing as a result of an act of terrorism. Also, the issue of defining the source and procedure for paying monetary compensation to those who suffered damage as a result of an act of terrorism remained unresolved as of December 2024, which made it impossible for the Treasury to write-off funds for that particular category of cases.

¹¹⁹ Ibid.

In cases of recovery of pecuniary damage in the temporarily occupied areas, courts apply different approaches. Specifically, in the case No. 757/37203/16-ц, the Civil Court of Cassation recovered from the State of Ukraine represented by the Cabinet of Ministers of Ukraine monetary compensation in the amount of UAH 50,000 (fifty thousand) to be paid from the state budget in favour of each applicant for Ukraine's failure to comply with its positive obligations. In the case No. 757/40388/17-ц, the Civil Court of Cassation rendered the opposite decision and refused to satisfy the applicants' claims, since they did not provide evidence of the amount of damage caused to them and failed to resolve the issue of a voluntary transfer of the destroyed building and adjacent land plot to the city administration.

Hence, in cases of recovery of damage from the State of Ukraine represented by the Cabinet of Ministers of Ukraine and the State Treasury of Ukraine, courts established a practice according to which claims were sustained only in terms of monetary compensation for Ukraine's failure to meet its positive obligations under Article 1 of Protocol I to the Convention for the Protection of Human Rights and Fundamental Freedoms; courts rejected claims for compensating damage to property and non-pecuniary damage for destroyed (damaged) housing due to the absence of relevant provisions in domestic legislation.¹²⁰

3. The case law on recovery of damage for destroyed (damaged) housing after 2022 in claims against Ukraine

Following the onset of the full-scale invasion, courts started rejecting claims in cases of recovery of damage to property and non-pecuniary damage from the State of Ukraine.

The position of the Supreme Court of Ukraine, in particular in cases of recovery of non-pecuniary damage caused by property destruction, is based on the fact that *"as a result of the armed aggression of the Russian Federation, Ukraine decided to establish a special mechanism to determine the amount of damages caused by an aggressor state. Ukraine has confirmed this commitment in the Resolution of the Cabinet of Ministers of Ukraine No. 326 "On Approval of the Procedure for Calculating Damage and Losses Caused to Ukraine as a Result of the Armed Aggression of the Russian Federation" of 20 March 2022. If the applicant believes that the destruction of his property occurred as a result of actions of the Russian Federation, the State of Ukraine cannot be held responsible for this."*¹²¹

4. The case law on recovery of damage for destroyed (damaged) housing in claims against the Russian Federation

Since 2016, claims against both the Russian Federation and its authorities have been pending in first instance courts for damage to property and non-pecuniary damage caused as a result of the armed aggression of the Russian Federation against Ukraine. The case law on the possibility of non-application of state jurisdictional immunity of the Russian Federation and the need for its notification thereof varies.

By its decision of 14 April 2022 in the above case No. 308/9708/19 as regards the consideration of the cassation appeal for a suspension of proceedings in the case of compensation for damage caused by the aggression of the Russian Federation for the duration of serving a request for the relevant consent of the Russian Federation, the Civil Court of Cassation finally ruled in favour of filing claims against the Russian Federation. In the ruling, the Court concluded that *"Ukrainian courts have the right to ignore the immunity of the Russian Federation and to consider cases on compensation for damage caused to natural persons as a result of the armed aggression of the Russian Federation, based on a claim filed against the Russian Federation"*.

The ruling encouraged dozens of Ukrainian citizens to file claims against the Russian Federation.¹²²

¹²⁰ Ibid.

¹²¹ Ibid.

¹²² Ibid.

5. The case law on recovery of damage for destroyed (damaged) housing after 2022 in claims against Ukraine and the Russian Federation

The existing case law shows that following the onset of the full-scale invasion, the applicants started to file civil claims with courts of general jurisdiction against the State of Ukraine represented by the Cabinet of Ministers of Ukraine and the State Treasury of Ukraine and against the Russian Federation represented by the government of the Russian Federation on recovery of damage to property and non-pecuniary damage caused as a result of the military invasion. As a rule, the applicants claimed compensation from the State of Ukraine for damage caused by its failure to meet positive obligations and compensation from the Russian Federation for damage caused by violation of ownership rights (negative obligations). The case law in that category of cases concerned recovery of compensation from the Russian Federation in favour of the applicants for damage to property and non-pecuniary damage. Courts rejected claims in cases of recovery of damage to property and non-pecuniary damage from the State of Ukraine.

Hence, according to the latest case law, compensation awards for destruction (damage) of property caused as a result of the armed aggression should be paid by an aggressor state, i.e. the Russian Federation. However, none of the above decisions has been implemented so far, and there is no mechanism in place for their implementation.¹²³

6. Appeals against decisions of commissions on consideration of claims for monetary compensation to victims whose homes (apartments) were destroyed as a result of a war-related emergency caused by the armed aggression of the Russian Federation, on refusals to award compensation in accordance with the Procedure under the Cabinet Resolution No. 947

In administrative appeals against certificates issued and decisions rendered by the above commissions, courts, as a rule, sustain claims of victims where all facts are established and undisputed. When rendering a decision, courts take into account details of the construction expert examination and whether housing is found unsuitable for living in the inspection report.

However, court decisions in favour of the applicants have not been implemented since 2022, because funds under KPKVK 3901120 (programme classification of expenditures and loans of the budget code) “Monetary compensation for victims whose homes (apartments) were destroyed as a result of a war-related emergency caused by the armed aggression of the Russian Federation” have been channelled to the reserve fund of the state budget. In their decisions, courts also state that the applicants have the right to demand compensation from the State for a failure to meet its positive obligation under Article 1 of Protocol I to the Convention for the Protection of Human Rights and Fundamental Freedoms, taking into account a lack of funding for the State’s compliance with the obligations set forth in the Procedure under the Cabinet Resolution No. 947 to pay the applicants monetary compensation for housing destroyed as a result of a war-related emergency caused by the armed aggression of the Russian Federation due to the suspension of funding for the relevant budget programme.¹²⁴

¹²³ Ibid.

¹²⁴ Ibid.

7. Appeals against decisions of commissions on consideration of claims for compensation for properties destroyed as a result of hostilities, acts of terrorism, sabotage caused by the armed aggression of the Russian Federation against Ukraine, on the suspension of consideration of applications, refusals to award compensation in accordance with the Law on Compensation

The case law on the implementation of the Law on Compensation and its by-laws in terms of compensation for damaged (destroyed) housing is being currently developed. The case law is not widespread and is being stockpiled primarily at the level of first instance courts. However, it will soon be most commonly applied in cases on compensation for destroyed (damaged) housing, since it concerns the operational compensation mechanism.

In their decisions, courts draw attention to the fact that claims should be filed against the relevant defendant, i.e. not against commissions which are advisory bodies of executive committees of relevant village, settlement, and city councils and do not have the status of natural persons and therefore do not have a *locus standi*. The relevant defendants in administrative cases on actions, inaction and decisions of such commissions are the executive committees of the relevant village, settlement, and city councils. Furthermore, courts pointed out the importance of evidence confirming the scope of destruction of housing after 24 February 2022 (that the destruction is a result of Russia's armed aggression, the suitability or unsuitability of housing for living, the possibility and economic feasibility of housing recovery through current repairs or reconstruction). Courts also take into account the validity of refusal or postponement of housing inspections to be conducted by commissions.

Another category of cases and another challenge faced by courts is the impossibility of payment of compensation awards for destroyed (damaged) property to new owners who purchased that destroyed (damaged) property.

Yet another problem of applicable legislation on compensation for damaged (destroyed) housing is the impossibility of payment of compensation awards to foreigners permanently residing in Ukraine.¹²⁵

8. Recovery of damage for destroyed (damaged) housing in criminal proceedings

Although the Code of Criminal Procedure of Ukraine provides for a mechanism for filing civil claims in criminal proceedings, victims practically do not apply it. Therefore, the case law on recovery of pecuniary damage for destroyed (damaged) housing in criminal proceedings has been mostly absent so far. There are cases in the Unified State Register of Court Decisions of Ukraine on claims for recovery of damage to property filed by legal persons and on claims for recovery of damage to property caused by the shooting of a civilian vehicle. In those cases, claims were filed both against the accused military personnel of the Russian Federation and against an aggressor state.

Despite recovery of damage to property other than housing in the above cases, it can be argued that the case law on recovery of damage to property caused by its destruction will be identical.

¹²⁵ Ibid.

VIII. ESTABLISHMENT OF AN INTERNATIONAL COMPENSATION MECHANISM FOR UKRAINE

The Register of Damage Caused by the Aggression of the Russian Federation against Ukraine (hereinafter referred to as the Register or the Register of Damage for Ukraine or RD4U) was established by the [Resolution](#) of the Committee of Ministers of the Council of Europe of 24 February 2023. At the 1466th meeting of the Ministers' Deputies on 12 May 2023, the Committee of Ministers adopted the [Resolution](#) CM/Res(2023)3 establishing the Enlarged Partial Agreement on the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine. The establishment of the Register of Damage was announced at the Summit of Heads of State and Government of the Council of Europe in Reykjavik on 16–17 May 2023. 43 States and the European Union joined the Register as of December 2024.

RD4U serves as a record, in documentary form, of evidence and information on claims for damage, loss or injury inflicted by the full-scale invasion.

The primary functions of the Register include:

- receiving and processing information about claims for compensation and evidence contained therein,
- categorising, classifying and systematising claims,
- assessing the eligibility of claims and determining whether they meet the specified criteria for inclusion,
- recording eligible claims for future examination and evaluation.

It is important to understand that the Register is the first component of a future international compensation mechanism. RD4U does not order any compensation awards. Its task is to collect, verify and store information for a future claims commission.

Claims for compensation for damage are submitted according to particular categories. The Register has launched 45 categories of claims for compensation for damage caused to natural and legal persons, as well as to the State of Ukraine. As of December 2024, natural persons could submit claims to the Register only for damage or destruction of residential immovable property ([category A3.1](#)). At the same time, according to the [list of categories of claims eligible for recording in the Register of Damage for Ukraine](#), compensation for housing could potentially be awarded for categories "A3.3 Loss of housing or residence" and "A3.6 Loss of access to or control of immovable property in the temporarily occupied territories". The possibility of submitting claims under these categories is yet to be available.

As for the mechanism for submitting claims, claims for compensation for damaged or destroyed residential immovable property can be submitted by natural persons or by representatives acting on behalf of natural persons who are owners of residential immovable property in the territory of Ukraine, within its internationally recognised borders, including territorial waters, which was damaged or destroyed on or after 24 February 2022 by internationally wrongful acts of the Russian Federation in or against Ukraine.

Claims in this category relate only to the cost of destroyed property or repairs or reconstruction of damaged residential immovable property (other losses related to damage or destruction should be submitted in other categories).

Importantly, the claimants provide evidence confirming ownership rights, information from the Register of Damaged and Destroyed Property, if available, a description of the event that caused damage/destruction of the property (type, date, description), information about how the property was damaged or destroyed (type, scope, description), evidence of damage or destruction (photo, video), expert evaluation of damage, if available, evidence of the property value before 24 February 2022, evidence of the cost of repairs, information about compensation awards paid by the State, and information about the estimated value of the claim.

Claims can be submitted via the Diia portal. No other submission formats are provided. Claims via Diia can be submitted in person or through ASCs (the option is not yet available).

Applications may be submitted in Ukrainian or English, though submissions in English are not possible at the moment. The official language for processing and entering applications into the Register is English. However, if the application is submitted in Ukrainian, a non-certified translation into English will be made by the Register for internal working purposes. Applicants may provide their own translation of documents.

The establishment of the Register is the first component. The second component is the establishment of a claims commission tasked to analyse applications on the merits and to calculate the amount of compensation award in each particular case. The third component of the compensation mechanism is a compensation fund for making payments in the future. The above three components are parts a unified compensation mechanism that should ensure that Ukraine and Ukrainians receive just reparations for damage inflicted during the war.¹²⁶

126 Markiyan Kliuchkovskiy, Executive Director of the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine: Soon we will open the second category of the Register – the death of a close relative. Ukrinform, 03.12.2024. URL: <https://www.ukrinform.ua/rubric-ato/3933849-markian-kluckovskij-kerivnik-reestru-zbitkiv-zavdanih-agresieu-rf-proti-ukraini.html>. Last accessed: 26.02.2025.

IX. PROBLEMS OF THE NATIONAL COMPENSATION MECHANISM THAT MAY AFFECT COMPENSATION AWARDS IN RELATION TO CLAIMS RECORDED IN THE REGISTER OF DAMAGE CAUSED BY THE AGGRESSION OF THE RUSSIAN FEDERATION AGAINST UKRAINE

When documenting violations of human rights and international humanitarian law, UHHRU monitors outlined problems of recording damages with a view of obtaining compensation that owners of damaged or destroyed immovable property face. Those same problems were confirmed and detailed by focus group participants. The below listed problems should be taken into account when setting evidentiary standards, notably in the work of the Register of Damage for Ukraine, which will ensure their flexibility and adaptability to the conditions in which victims of the Russian war find themselves, especially in the temporarily occupied or deoccupied areas, as well as in the areas where hostilities are taking place. The described problems can be addressed through improving public policy in the field of registration of rights to immovable property and changing approaches to recording such damages.

These include the following:

- *difficulties in providing documents that confirm ownership rights, namely:*
 - in many cases, ownership documents were lost, damaged or destroyed as a result of hostilities, hasty evacuation of property owners or for other war-related reasons,
 - actual owners of immovable properties who may claim for compensation often do not have any documents confirming their ownership. This problem is especially relevant to villages and settlements where the cost of private houses is comparable to or even lower than that of registration of ownership rights. Such houses are bought and sold using hand-written receipts, for cash only, and without proper registration of ownership rights. For the same reasons (high costs associated with registration of ownership rights), heirs often refrain from entering upon an inheritance that includes ownership of immovable property,
 - lack of documents confirming ownership rights to unauthorised construction projects could also be considered as a widespread problem. A person who has carried out or is carrying out unauthorised construction of immovable property does not acquire the right of ownership to it. Unauthorised construction is so widespread in Ukraine that domestic legal framework provides

for several mechanisms enabling legalisation of unauthorised constructions and ownership rights to them. At the same time, the use of these mechanisms involves interactions of owners with authorities which could be problematic, especially in the areas where hostilities are taking place or in the temporarily occupied areas,

- non-recognition by Ukraine of ownership documents for immovable properties issued in the temporarily occupied areas. Some of the above problems could be solved by contacting notaries, public registrars or administrative services centres. Along with that, population centres of the frontline or temporarily occupied areas face pronounced difficulties with access to notary services. In some territorial communities consisting of many population centres, such services are provided by only one notary, with people waiting in line for the first consultation for months,
- *difficulties in recording the destruction of immovable property, namely:*
 - owners of immovable properties located in the areas where hostilities are taking place or in the temporarily occupied areas are often unable to provide evidence confirming the destruction of their properties, because they do not have safe access to them,
 - for the same reasons, claims commissions established by local self-government bodies, military administrations or military and civil administrations cannot ensure inspections of unfinished construction projects or destroyed immovable properties. By the commission's decision, the deadline for considering claims for compensation for the destroyed property may be extended by 30 calendar days if the destroyed property is in the territorial community located in the area where military (combat) operations are ongoing or is in the territorial community that is temporarily occupied, surrounded (blocked). However, the deadline extension does not guarantee that the required inspection will take place,
 - lack of qualified personnel in these commissions. Given a massive migration, military mobilisation, and security risks in the frontline areas or those close to the temporarily occupied territories, commissions are composed of persons without the necessary qualifications. Specifically, there is a shortage of engineers capable of assessing and describing the scope and nature of damage to immovable properties, etc. Commissions may, upon consent, include representatives of public authorities, local self-government bodies, enterprises, institutions, organisations, experts, appraisers, appraisal entities, performers of particular construction-related works (services), representatives of international and civil society organisations. However, this option cannot be used in practice,
 - these and other difficulties in turn increase the time it takes for commissions to complete their tasks and the actual timeframe for decisions on compensation. Against the backdrop of the above difficulties, the interest of owners of destroyed or damaged immovable properties in the promptness of the commission's decisions, as well as in its approval of the maximum possible amount of damage, may provoke corruption or a formal attitude towards the commission's exercise of its powers,
 - organisational specifics of public authorities and their interactions with owners of immovable properties. Specifically, some owners recognised as victims in criminal proceedings are often unable to obtain documents confirming their ownership rights (extracts from the Unified Register of Pre-Trial Investigations), since the acceptance of applications for war crimes and examination of the crime scene were carried out by mobile groups consisting of representatives of the police and other law enforcement agencies who left population centres following the completion of their tasks and do not keep in touch with owners of the destroyed or damaged immovable properties. The comprehensive nature of measures aimed at documenting the facts of destruction or damage to immovable properties, the novelty of relevant mechanisms, and the lack of understanding of procedures carried out by other authorities result in bizarre incidents. Specifically, representatives of a public authority demanded that persons seeking compensation have their extracts from the Unified Register of Pre-Trial Investigations stamped.

Notwithstanding the remarkable advancements of the Ukrainian government in the digitalisation of public administration, including communication with victims, the procedure for documenting property damage on the ground is still carried out in paper form in some places. In this case, there is always a risk that the evidence collected may be destroyed. An unfortunate incident was reported by the UHHRU team when an authorised representative in a frontline village had been documenting the damage caused to residents for more than a month, but due to a Russian missile strike on the administration building, all the information documented on paper was destroyed and the man was killed¹²⁷,

- *difficulties in interactions (sometimes lack of interactions) between military administrations and local self-government bodies when verifying evidence provided by victims, organising and carrying out housing inspections.*

This sometimes results in lost opportunities to help affected community residents (a focus group participant from Sumy oblast gave an example of how a lack of communication between the Executive Committee of the Oblast Council and the Oblast Military Administration prevented the implementation of a pilot project for recovery of housing in the community). There are also positive examples of interaction. Specifically, focus group participants from Kyiv oblast noted that, thanks to fruitful cooperation between local self-government bodies and military administrations of Kyiv oblast, Shoulder to Shoulder initiative was successfully implemented in 2024, and international technical assistance was provided for the recovery of destroyed housing.

127 What should the International Register of Damage take into account when designing procedures for submitting and reviewing applications concerning destroyed or damaged housing? The Ukrainian Helsinki Union for Human Rights, the Institute for Legislative Ideas. URL: <https://izi.institute/analysts/18/#sb9>. Last accessed: 26.02.2025.

X. CONCLUSIONS

Ukraine has made and is making every effort to ensure that persons whose homes were destroyed or damaged by war receive at least partial compensation or new housing. It is possible to agree that Ukraine is a unique case in the history of modern warfare when a victim of an international armed conflict provides, to the extent possible, housing or compensation for destroyed or damaged housing to those affected.

Given Ukraine's progress in establishing a national compensation mechanism, which is obvious to the authors of this study, it is recommended that relevant stakeholders take into account and remove obstacles to access of victims to compensation.

Some of these obstacles can be eliminated by changing and improving administrative practice, others by ensuring transparency and zero tolerance for corruption and by developing case law to correct errors in registration documents. In the long run, there is an obvious need for targeted amendments in applicable legislation that would make it possible to take into account special conditions in which people find themselves. To this end, it is necessary to hold trainings for officials and employees, carry out awareness-raising activities for the public, provide legal counselling, enhance outreach efforts, etc. The implementation of these measures will help exercise the right of millions of victims of the Russian war to compensation for the damage suffered.

Probably, some of the above obstacles will not be removed immediately. Although Ukrainian authorities spent a lot of time for overcoming some impediments, they have failed to achieve conclusive results. Specifically, this applies to unauthorised construction projects or shadow sales of immovable properties in rural areas. Along with that, the mechanism for submitting evidence to the Register of Damages for Ukraine should consider the facts on the ground which often do not meet the requirements of domestic legislation. The development of such mechanism should not be largely dependent on the efforts of Ukrainian authorities to remove the above obstacles but should aim to secure the right to compensation for all victims of war. While fully sharing the objective to prevent abuse of the right to compensation, we also emphasise the right of all victims of war to compensation, including for destroyed or damaged properties, through approaches that facilitate the submission of evidence. Where possible and appropriate, we propose to use the capabilities of the Register of Damage for Ukraine, its participants, and the State of Ukraine to collect evidence of damage or to strive to pay at least minimum compensation where such capabilities have been exhausted by all participants in the relevant procedures.¹²⁸

128 Ibid.

XI. RECOMMENDATIONS

1. **To ensure fair distribution of compensation for damaged or destroyed housing, it is recommended that:**

1.1) the Cabinet of Ministers of Ukraine consider the following possibilities:

extending the national compensation mechanism established by the Law on Compensation to affected persons whose housing was destroyed or damaged as a result of the Russian-Ukrainian war before 24 February 2022,

giving foreigners and stateless persons who were in Ukraine as of 24 February 2022 the right to compensation pursuant to the Law on Compensation on a par with citizens of Ukraine,

integrating a victim-centred approach into the national compensation mechanism, including the priority right to compensation for women and children,

1.2) the Ministry for Communities and Territories Development of Ukraine, the Ministry of Justice of Ukraine, Kyiv City Administration, Kyiv district state administrations, military administrations of population centres, local self-government bodies, the All-Ukrainian Association of Communities, the Association of Cities of Ukraine (upon their consent) consider ways to eliminate obstacles to access to electronic services, through which the right to compensation for destroyed or damaged housing is secured, for persons with disabilities, lonely elderly persons, low-income persons, persons living close to the areas where military (combat) operations are ongoing and having limited access to the Internet, in particular through studying the need (in the context of oblast, district, settlement, village, city) and

including relevant objectives, along with institutional and resource support for their achievement, in the Action Plan for 2025–2026 for the implementation of the National Strategy for a Barrier-Free Environment in Ukraine until 2030 to be approved by a resolution of the Cabinet of Ministers of Ukraine, as well as local action plans developed, approved, and implemented by village, settlement, and city councils,

setting up ASCs and ensuring their provision of relevant administrative services to help those affected submit claims for compensation,

ensuring the provision of services by notaries, without queues, unnecessary bureaucracy and expenses, and in territorial accessibility to help those affected submit claims for compensation.

2. **To implement the Pinheiro Principles in terms of introducing a holistic approach to documentary evidence proving the rights to possessions and property,¹²⁹ taking into account that there may be little documentary evidence of ownership or rights of possession in situations of displacement, it is recommended that:**

2.1) the President of Ukraine step up the signing of the Law of Ukraine reg. No. 11161 “On Amendments to the Law of Ukraine “On Compensation for Damage and Destruction of Certain Categories of Immovable Property as a Result of Hostilities, Acts of Terrorism, Sabotage Caused by the Armed Aggression of the Russian Federation against Ukraine and on the State Register of Property Damaged and Destroyed as a Result of Hostilities, Acts of Terrorism, Sabotage Caused by the Armed Aggression of the Russian Federation against Ukraine” Regarding Compensation for Destroyed or Damaged Property Located in the Areas of Active Hostilities or in the Areas Temporarily Occupied by the Russian Federation” which, among other things, abolishes the need for inspections of housing of internally displaced persons located in the temporarily occupied area or in the area where military (combat) operations are ongoing,

129 Principles on Housing and Property Restitution for Refugees and Displaced Persons. UN Sub-Commission on the Promotion and Protection of Human Rights, 2005. URL: <https://www.unhcr.org/media/principles-housing-and-property-restitution-refugees-and-displaced-persons-pinheiro>. Last accessed: 26.02.2025.

2.2) the Cabinet of Ministers of Ukraine together with civil society organisations (upon consent):
consider ways to simplify the national compensation mechanism in terms of the possibility of submitting claims for compensation without a full package of documents (in particular for residents of rural and urban population centres) and legalising the status quo of unauthorised construction projects (residential properties),

take into account experiences of post-conflict countries analysed in this document to apply a holistic approach to compensation, clear procedural guarantees, long-term planning, extension of mandates of relevant authorities (components of the national compensation mechanism), and sustainable budget funding,

2.3) local self-government bodies and military administrations together with civil society organisations (upon consent):

conduct regular inspections of the housing stock to form a reserve for the accommodation of internally displaced persons, provide for the possibility of replacing payments (as a compensation method) with the transfer of ownership of suitable housing in other population centres of Ukraine to victims (upon their consent).

3. To resolve organisational problems in the work of claims commissions, it is recommended that the Ministry for Communities and Territories Development of Ukraine together with military administrations of raions and village, settlement, and city councils:

- conduct assessment of staffing of commissions to identify the need for appraisers and consider the possibility of involving specialists from other oblasts in accordance with labour legislation,
- ensure adequate resource support for the performance by officials of village, settlement, and city councils of their mandates in the framework of activities of claims commissions,
- consider the expediency of revision by claims commissions of the already awarded amounts of compensation in case of monthly updated indicators of the cost of construction of housing with a relevant floor area calculated based on the average cost of housing in Ukraine's oblasts at housing location,
- revise the deadline for rendering decisions by claims commissions, taking into account the impossibility of timely inspections of property in the areas where hostilities are ongoing and which are not included in the List of territories where hostilities are (were) conducted or temporarily occupied by the Russian Federation.¹³⁰

4. It is recommended that the Cabinet of Ministers of Ukraine, the Ministry of Digital Transformation of Ukraine step up digitalisation of documenting property damage in communities.

5. It is recommended that the Cabinet of Ministers of Ukraine take further measures at the political and diplomatic level for the purpose of:

- rallying international support for launching the operation of components of an international compensation mechanism,
- searching for sources of replenishment of the fund to pay compensation awards to victims of the Russian-Ukrainian war, in particular through the confiscation of Russia's assets and other alternative methods, including the confiscation of assets of sanctioned individuals and entities or tax revenues of international corporations that continue to operate in the Russian Federation,
- extending the mandate of the International Register of Damage to record damage caused by Russia's aggression since 2014.

130 The List is approved by the Order of the Ministry of Reintegration of Temporarily Occupied Territories of Ukraine No. 309 of 12.22.2022 registered with the Ministry of Justice of Ukraine under No. 1668/39004 "On Approval of the List of Territories Where Hostilities Are (Were) Conducted or Temporarily Occupied by the Russian Federation" on 23.12.2022. URL: <https://zakon.rada.gov.ua/laws/show/z1668-22#n15>. Last accessed: 26.02.2025.



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