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# ANALYTICAL RESEARCH

of compensation mechanisms for users of lost housing:  
challenges and ways to improve

October 2024 – March 2025, Ukraine



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# LIST OF ABBREVIATIONS

<b>UN</b>	United Nations
<b>ECtHR</b>	European Court of Human Rights
<b>UDHR</b>	Universal Declaration of Human Rights
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>ECHR</b>	Convention for the protection of human rights and fundamental freedoms/ European Convention on Human Rights
<b>ESC</b>	European Social Charter (revised)
<b>Pinheiro Principles</b>	Principles on housing and property restitution for refugees and displaced persons
<b>PACE</b>	Parliamentary Assembly of the Council of Europe
<b>OSCE</b>	Organization for Security and Co-operation in Europe
<b>BiH Federation</b>	Federation of Bosnia and Herzegovina; one of the two political entities that make up Bosnia and Herzegovina, the other being Republika Srpska
<b>RS</b>	Republika Srpska; one of the two political entities that make up Bosnia and Herzegovina, the other being the Federation of Bosnia and Herzegovina
<b>IDP</b>	Internally displaced person(s)
<b>Dayton peace agreement</b>	General framework agreement for peace
<b>UNHRMMU</b>	United Nations Human Rights monitoring mission in Ukraine
<b>KSE Institute</b>	Analytical centre of the Kyiv School of Economics
<b>Register of damaged and destroyed property</b>	State Register of property damaged and destroyed as a result of military operations, terrorist acts, sabotage caused by military aggression of the Russian Federation
<b>Register of Damage, Register of Damage for Ukraine or RD4U</b>	Register of Damage caused by the aggression of the Russian Federation against Ukraine
<b>CRPC</b>	Commission for Real Property Claims of Displaced Persons and Refugees of Bosnia and Herzegovina

# INTRODUCTION

The war in Ukraine, which escalated into a full-scale invasion in February 2022, caused unprecedented destruction of housing stock, leaving hundreds of thousands of people homeless.

In response to the humanitarian crisis, the government of Ukraine has implemented a national compensation mechanism, launching the "e-Recovery" programme, which aims to support victims by providing interim reparations for damaged and destroyed housing.

However, this mechanism is mainly aimed at homeowners or persons who had properly registered property rights or were in the process of their registration. At the same time, a significant number of housing users, including people who started the privatization procedure, but did not have time to complete it before 24 February 2022, are now excluded from the compensation programme. This creates the risk of a discriminatory approach to the restoration of housing rights and contradicts international standards for the protection of human rights.

The Commissioner for Human Rights of the Verkhovna Rada of Ukraine in the Concept of improving the national system of remedies and support for victims of armed aggression against Ukraine also noted the restrictions established by law on persons entitled to compensation: *"Thus, residents of dormitories who do not have documents on the ownership of residential premises, persons who use non-privatized housing, official residential premises ... are not included in the above list [of recipients of compensation], and, accordingly, will not be entitled to compensation"*.<sup>1</sup>

Ensuring inclusivity and equitable access to compensation mechanisms is essential. The core element of the rule of law, as one of the key principles of a democratic political regime, is non-discrimination and equality before the law. Consequently, all affected persons are entitled to effective remedies and recovery. The analysis of international experience indicates the need to expand the categories of recipients of compensation and create additional mechanisms for protecting the housing rights of those persons who, due to objective circumstances, were not able to register property in accordance with the established procedure.

**The purpose of this study** is an analysis of international standards and practices of the European Court of Human Rights on compensation for damaged or destroyed homes, as well as an overview of international approaches that could be adapted to the Ukrainian context, using the example of the conflict in Bosnia and Herzegovina. Furthermore, the study provides for an assessment of the current situation in Ukraine, in particular, determining the potential number of people who remained outside the national compensation mechanism, and considering the prospects of the international compensation mechanism, which is at the stage of formation.

Based on the analysis, recommendations were developed for the Government on possible ways to improve state policy in the field of support for the war-affected population in order to ensure equal access for all victims to compensation for damage, expenses and losses caused.

<sup>1</sup> Commissioner for Human Rights of the Verkhovna Rada of Ukraine, *Concept of improving the national system of remedies and support for victims of armed aggression against Ukraine*, paragraph 5 of Section 3 "Administrative mechanisms for the protection and restoration of property rights of affected persons and compensation for material damage". [Access available at](#).

# SUMMARY

1. International human rights law guarantees the right to housing, even in the absence of formal ownership rights. While, the concept of "home" is not necessarily identified with the terms "ownership" or "property", but has an independent, broader meaning.
2. The key criterion for recognizing a particular place as a person's "home" is the presence of a sufficient and continuous link with this place.
3. In particular, the housing that the victims have been unlawfully or arbitrarily deprived of, as well as housing that has been damaged or destroyed as a result of war, is subject of compensation and/or restitution.
4. Tenants, residents of social housing and other legitimate users have the right to participate in restitution and/or compensation programmes for loss of access to housing, regardless of ownership rights.
5. The situation that has developed in Ukraine, when a significant number of citizens have not taken advantage of the opportunity to privatize their housing and, as a result, do not have access to compensation under the Government's "e-Recovery" programme, is not unique.
6. The experience of Bosnia and Herzegovina in restoring the rights of persons affected by armed conflict may be useful for Ukraine if it adapts to modern realities.
7. Among the key measures introduced in Bosnia, it is worth noting:
  - recognition of the rights of users of housing owned by local communities to return to it, even if it was resettled by internally displaced persons or other persons;
  - possibility of providing compensation for irretrievably lost housing destroyed as a result of the conflict;
  - introduction of an administrative procedure for reviewing claims that provided for the active participation of state authorities and special committees in collecting evidence and verifying the stated requirements.
8. Since 2014, the Government of Ukraine has mainly focused on supporting owners of damaged and destroyed housing, although there have been some initiatives to expand the circle of recipients of compensation.
9. Users of non-privatized apartments were particularly vulnerable in this situation, in particular in areas where military-civil administrations functioned instead of elected local governments.
 

The reason for this was the legislative ban on the privatization of municipal housing in the areas of the Anti-Terrorist Operation, introduced in 2015. As a result, residents of these localities were deprived of the opportunity both to register ownership of housing prior to the start of the full-scale invasion, and now to receive compensation under the "e-Recovery" programme.

It is now almost impossible to estimate the exact
10. number of users (non-owners) of damaged or destroyed housing.
 

The major reasons are: 1) loss of documents during displacement; 2) occupation of localities and loss of access to the archives of state authorities and local governments.

The study that covered mainly the Donetsk and
11. Luhansk regions, confirmed the urgency of this problem. However, the data obtained are indicative and do not claim to be exhaustive.
 

Currently, the Register of Damage caused by the aggression of the Russian Federation against Ukraine is the only mechanism that allows users of damaged or destroyed housing to claim compensation in the future.

However, the Register of Damage is only the initial
12. element of the compensation mechanism that is in the process of formation.

16. Category of claims A3.3 "Loss of housing or place of residence" provides for the possibility of submitting claims by users (non-owners) of damaged or destroyed housing for compensation for damage, expenses and losses caused.
17. The main challenge for potential applicants in this category is the difficulty in collecting evidence explained by: 1) loss of documents during displacement that may contain information necessary for submitting claims; 2) occupation of localities and loss of access to the archives of state authorities and local governments.
18. Given the quasi-judicial nature of the future compensation mechanism, it should not be expected that the Register of Damage will actively participate in the search or collection of evidence.
19. Thus, the Government of Ukraine should assume responsibility for supporting applicants in the most difficult cases.
20. The results of the study indicate the need to improve state policy in the field of support for affected persons in order to ensure equal access to compensation for damage, expenses and losses caused.
21. Civil society, including international and national humanitarian and human rights organizations, associations of internally displaced persons, should actively participate in this process, supporting the Government in developing appropriate reforms.

# METHODOLOGY

This study is based on an integrated approach to the analysis of legal and factual aspects of the problem.

In the course of the study, the following methods were used:

- **Analysis of the regulatory framework.** Retrospective analysis and review of the current provisions of the national legislation of Ukraine regulating the provision of compensation for damaged and destroyed housing as a result of the war, with an emphasis on determining the circle of subjects entitled to receive compensation.
- **International legal analysis.** Research of international standards for the protection of human rights in the field of restitution and compensation for lost housing, including international human rights law, UN Guiding Principles on Internal Displacement, Principles on Housing and Property Restitution for Refugees and Displaced Persons, etc.
- **Analysis of court practice.** Research of relevant judgements of the European Court of Human Rights (ECtHR) concerning the protection of the right to respect for home.
- **Comparative legal analysis.** Research of experience of Bosnia and Herzegovina in matters of compensation and restitution of housing after an armed conflict, in order to identify potential legal mechanisms that may be adapted to the Ukrainian context.
- **Analysis of the international compensation mechanism.** Research of the possibilities and functionality of the Register of Damage for Ukraine in the context of ensuring further compensation payments.
- **Collection and analysis of information from state authorities and local governments.** Conducting a study based on responses received from local governments, village, settlement, city and regional military administrations, in order to determine the potential number of persons who may not currently be recipients of compensation under the national compensation mechanism.

The use of these methods allowed us to study the problem from various aspects — legal, practical and international, which contributes to the formation of reasonable conclusions and recommendations presented in further sections of the study.

## Section 1

# INTERNATIONAL STANDARDS

### 1.1. International Soft Law Norms and Standards

Забезпечення права на житло є одним із ключових  
Ensuring the right to home is a key aspect of international human rights protection. In the context of armed conflict and humanitarian crises, guarantees for the protection of housing rights of persons who do not have formal ownership rights, but actually live in the appropriate premises, are of particular importance. International legal acts contain a number of guarantees regarding the inviolability of the housing and protection against arbitrary eviction, regardless of the existence of a title to the immovable property.

Thus, Article 12 of the Universal Declaration of Human Rights (UDHR) prohibits groundless interference on the inviolability of the housing, and Article 25 establishes the right to adequate housing.<sup>1</sup>

The International Covenant on Civil and Political Rights (ICCPR) further prohibits arbitrary or unlawful interference on the inviolability of the housing (Article 17).<sup>2</sup>

Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes the right of everyone to adequate housing.<sup>3</sup>

The UN Committee on economic, social and cultural rights emphasizes that the right to adequate housing includes a guarantee of safe ownership, which means protecting persons living there from arbitrary eviction, even if they are not the owners of such housing.<sup>4</sup>

The Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) guarantees everyone the right to respect for their homes (Article 8)<sup>5</sup>, and the European Social Charter (ESC) obliges states to take measures aimed at ensuring the effective enjoyment of the right to home (Article 31).<sup>6</sup>

Details of this right in situations of armed conflict are contained in the soft law standards that complement the international legal obligations of states and outline approaches to protecting the housing rights of persons affected by war. Such standards provide recommendations for ensuring the right to housing for internally displaced persons, refugees and other vulnerable categories of the population. They emphasize the need to prevent arbitrary evictions, restore destroyed housing, compensate for losses and create effective mechanisms of legal protection, including for persons who do not have official ownership right over the housing, but were its actual users.

The UN Guiding Principles on Internal Displacement indicate that:

- national authorities have the primary duty and responsibility to provide protection to internally displaced persons within their jurisdiction (Principle 3);
- the authorities shall respect and ensure respect for their obligations under international law, including human rights law and humanitarian law, in all

<sup>1</sup> *Universal Declaration of Human Rights*, adopted and proclaimed by UN General Assembly Resolution 217 A (III) dated 10 December 1948. [Access via the link.](#)

<sup>2</sup> *International Covenant on Civil and Political Rights*. [Access via the link.](#)

<sup>3</sup> *International Covenant on Economic, Social and Cultural Rights*. [Access via the link.](#)

<sup>4</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment No. 4: Right to adequate housing (Article 11, paragraph 1, of the Covenant)* dated 13 December 1991. [Access via the link.](#)

<sup>5</sup> *Convention for the Protection of Human Rights and Fundamental Freedoms*. [Access via the link.](#)

<sup>6</sup> *European Social Charter (revised)*. [Access via the link.](#)

circumstances, so as to prevent and avoid situations that might lead to displacement of persons (Principle 5);

- no one shall be arbitrarily deprived of property and possessions; the property and possessions of internally displaced persons shall in all circumstances be protected (Principle 21);
- competent authorities have the primary duty and responsibility to establish conditions, as well as to provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence (Principle 28);
- the relevant authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover their property and possessions which they left behind or were disposed of upon their displacement. When recovery of such property and possessions is not possible, the relevant authorities should provide or assist these persons in obtaining appropriate compensation or another form of just preparation (Principle 29).<sup>7</sup>

Adoption in 2005 of the Principles on Housing and Property Restitution for Refugees and Displaced Persons (Pinheiro principles)<sup>8</sup> is regarded as a significant step in the formation of international standards that ensure the effective implementation of programmes and mechanisms for the return of housing, land and property.

The Pinheiro principles emphasize that all refugees and internally displaced persons *have the right to have restored to them **any housing**, land and *property* of which they were arbitrarily or unlawfully deprived. In cases where such the restoration is not possible, they have the right to be compensated as determined by an independent, impartial tribunal (paragraph 2.1).*

Everyone who has been arbitrarily or unlawfully deprived of **housing**, land and/or *property* should be able to submit a claim for restitution and/or compensation to an independent and impartial body, to have

a determination made on their claim and to receive notice of such determination. States should not establish any preconditions for filing a restitution claim (paragraph 13.1).

States should ensure that **users of housing**, land and/or *property*, including tenants, have the right to participate in the restitution claims process, including through the filing of collective restitution claims (paragraph 13.6).

Key in the context of this study is paragraph 16.1 of the Pinheiro principles, which emphasizes that States should **ensure that the rights of tenants, social-occupancy rights holders and other legitimate occupants or users of housing**, land and property are recognized within restitution programmes. To the maximum extent possible, States should ensure that such persons are able to return to and repossess and use their housing, land and property in a similar manner to those possessing formal ownership rights.

In Resolution 1901 (2010) of the Parliamentary Assembly of the Council of Europe (PACE) "Solving Property Issues of Refugees and Displaced Persons"<sup>9</sup> it is noted that the loss of housing and land is a serious barrier to achieving a sustainable solution to post-conflict situations and restoring justice. Effective legal mechanisms to protect against such losses play a key role in restoring the rule of law in post-conflict reconstruction. Remedies, including appropriate recovery, as well as mechanisms and procedures for their implementation, have a direct impact on stability, reconciliation and transitional justice. They are an integral part of any effective strategy for peaceful settlement and reconstruction.

PACE recommended that member states provide timely and effective recovery for the loss of access to housing, land and property left behind by refugees and internally displaced persons, even in the event of incomplete negotiations on the settlement of armed conflicts or the status of a particular territory.

Paragraphs 10.3 and 10.4 of the above PACE Resolution expressly relate to recommendations to

<sup>7</sup> *Guiding Principles on Internal Displacement*, adopted by the UN Commission on Human Rights on 17 April 1998. [Access via the link.](#)

<sup>8</sup> *Principles on housing and property restitution for refugees and displaced persons* adopted by the UN Sub-Commission on the promotion and protection of human rights in 2005. [Access via the link.](#)

<sup>9</sup> PACE, Resolution 1901 (2010) "Solving Property Issues of Refugees and Displaced Persons". [Access via the link.](#)

member states regarding attention to persons who did not have official titles of ownership of their housing: "ensure that refugees and displaced persons who did not have formally recognised rights prior to their displacement, but whose enjoyment of their property was treated as de facto valid by the authorities, are accorded equal and effective access to legal remedies and redress for their dispossession"; "ensure that previous occupancy and tenancy rights with regard to public or social accommodation or other analogous forms of home ownership which existed in former communist systems are recognised and protected as homes in the sense of Article 8 of the ECHR and as possessions in the sense of Article 1 of Protocol No. 1 to the ECHR".

The explanatory note to the above Resolution, prepared by the rapporteur Jorgen Poulsen, states that the requirement to exercise the rights to housing, land and property, which exist de facto but are not de jure recognized, is related to the internationally recognized right to housing. Claims for restitution of apartments used on the basis of leases in former communist systems pose particular difficulties for the European context. This applies to individuals who, together with their families, have occupied certain apartments for a long or indefinite period of time, paying rent or contributions to housing funds, and have used them continuously. Although such apartments, probably, *were homes under Article 8 of the ECHR*, questions as to their status of property under Article 1 of Protocol No. 1 to the ECHR may not be subject to a clear decision by a court.

The explanatory note to the Resolution focused on the need to provide effective remedies for persons affected by armed conflict, in accordance with the guarantees provided for in Article 13 of the ECHR. This question is relevant both in cases of direct violation by states of the rights of persons under their jurisdiction, and in cases where states do not take appropriate measures to prevent violations by non-state actors.

The right to an effective remedy provides that a person who considers himself/herself a victim of a violation of human rights and has a sufficiently reasoned position must have access to an effective mechanism, in particular a court or other competent author-

ity that may ensure that his/her complaint is properly addressed and that appropriate recovery is provided.

In the context of resolving property issues related to the rights of refugees and internally displaced persons, an effective remedy should cover not only access to the judicial system, but also the establishment of specialized commissions called to deal with property claims and ensure their fair resolution.

The rapporteur also noted that the failure to provide recovery for unlawfully revoked residence and rental rights is one of the key factors that hinder the resolving long-term situations of displacement in Europe:

*"There is no doubt that thousands of people who are now displaced have treated their apartments as housing and valuable assets. Their displacement in situations of armed conflict or human rights violations was forced, and if not for this movement, many of them would have long ago acquired full legal ownership of their apartments. Recovery for these losses should be considered as a legal obligation and an important step towards European integration, in the context of the European Convention on Human Rights and the Copenhagen criteria".*

## **1.2. Practice of the European Court of Human Rights (ECtHR) on the interpretation of the term "home"**

Taking into account the international standards analysed, it is necessary to emphasize that home, land and property are considered separate elements that may be subject to restitution and/or compensation in the event of their loss, damage or destruction as a result of war. Users (tenants) of home have equal rights with their owners to recovery for the loss of home or property that was damaged or destroyed as a result of military operations.

The definition of the term "home" should be considered based on the interpretation of the European Convention on Human Rights and the judgement of the ECtHR.

The concept of "home" is autonomous and does not depend on qualification under national law.<sup>10</sup>

<sup>10</sup> Case *Chiragov and Others v. Armenia* [HC], § 206. [Access via the link.](#)

The answer to the question of whether a premise is "home" from the point of view of the protection of Article 8 of the ECHR depends on the specific circumstances, in particular *on the having sufficient and continuous links with a specific place*.<sup>11</sup> "Home" is not limited to ownership. Home may be discussed even in the case of long-term residence in a house that belongs to a relative.<sup>12</sup> Home may be claimed by a person who lives in an apartment whose lease agreement is not concluded in his/her name.<sup>13</sup> An apartment may be home for the tenant, even if it is owned by the local community, and the tenant's right to live in it has already ended.<sup>14</sup>

However, if a "home" is claimed in relation to property that has never or almost never been occupied by the applicant, or that has not been occupied for a sufficiently long time, it may happen that the links with this property are weakened so much that the issue under Article 8 of the ECHR is no longer raised.<sup>15</sup> The very possibility of inheriting ownership rights is not a specific enough link to conclude that this is "home".<sup>16</sup>

Refusal of permission for displaced persons to return to their homes may constitute a "long-term violation" of Article 8.<sup>17</sup> The inability of persons displaced by military conflict to return to their homes constitutes an "interference" with the enjoyment of their rights under Article 8.<sup>18</sup>

### 1.3. Evidence of sufficient and continuous links with a specific place on the example of the case *Prokopovich v. Russia*<sup>19</sup>

The applicant, Mrs. Prokopovich, was a civil partner of a man who worked at a state-owned enterprise and had obtained a warrant to move into the apartment, the warrant being issued only in his name, because their marriage was not officially registered.

In 1988 they moved into the apartment together, with the applicant retaining the registration at her previous address. After the death of the civil partner, Mrs. Prokopovich asked the relevant state institution to issue her a residence order in that apartment, but the warrant was refused because the day before her request, the warrant was issued to another person. Subsequently, a few days later, the applicant's belongings and she herself were forcibly evicted from that apartment. Mrs. Prokopovich tried to defend her violated rights in the national judicial authorities of the Russian Federation, but failed to achieve a positive result, after which she filed a complaint with the ECtHR.

The European Court of Human Rights, assessing whether the above apartment had been the applicant's home, noted that the Russian government did not agree that the applicant's right to respect for home could be the subject of proceedings before the ECtHR, as her residence in the impugned apartment had not been legally formalized.

In response, the ECtHR noted that the concept of "home" is not limited to the right of ownership, but is an independent concept. As noted earlier, the determination of whether a particular place of residence is "home" depends on the existence of sufficient and continuous links with it.

In assessing the evidence provided by the applicant, the ECtHR noted that the apartment had become her home as early as 1988; the applicant had provided receipts and other financial documents confirming that she and her civil partner had bought furniture and household items and had jointly borne the expenses of home maintenance. Furthermore, the testimony of witnesses and postal correspondence sent to the address of that apartment were taken into account as evidence that the applicant had often been in or near the apartment.

<sup>11</sup> Case *Prokopovich v. Russia*, § 36. [Access via the link.](#)

<sup>12</sup> Case *Menteş and others v. Turkey*, § 73. [Access via the link.](#)

<sup>13</sup> supra note 11.

<sup>14</sup> Cases *Brežec v. Croatia*, § 36, *McCann v. the United Kingdom*, § 46. [Access via link No. 1 and link No. 2.](#)

<sup>15</sup> Case *Andreou Papi v. Turkey*, § 54. [Access via the link.](#)

<sup>16</sup> Case *Demopoulos and Others v. Turkey*, §§ 136-137. [Access via the link.](#)

<sup>17</sup> Case *Cyprus v. Turkey*, § 174. [Access via the link.](#)

<sup>18</sup> Cases *Chiragov and Others v. Armenia*, § 207, *Sargsyan v. Azerbaijan*, § 260. [Access via link No. 1 and link No. 2.](#)

<sup>19</sup> supra note 11.

Given that the Russian government had neither refuted nor disputed the fact that since 1988 the disputed apartment had been the applicant's actual place of residence, the ECtHR concluded that the apartment was a "home" for Mrs Prokopovich.

#### **1.4. Sufficiency of evidence on the example of the case *Lisnyi and others v. Ukraine and Russia*<sup>20</sup>**

In the present case, several applicants complained about the destruction or partial damage to their homes as a result of the armed conflict in eastern Ukraine that has been going on since 2014.

The applicants relied on violations of Article 8 of the ECHR and Article 1 of Protocol 1 to the ECHR. As proof of ownership of the houses, they provided copies of their passports, photos of destroyed houses, OSCE reports and other materials obtained from internet resources.

When considering these complaints, the ECtHR pointed out that applicants are required to provide sufficient evidence to support their claims for the destruction of property during the armed conflict.

The ECtHR noted that the ongoing armed conflict is a circumstance that makes it difficult to collect and present evidence in support of complaints. Therefore, in such cases, the ECtHR applies a lenient approach to the assessment of evidence.

At the same time, the applicants did not provide any justification for why they had failed to provide appropriate evidence supporting their complaints, nor did they report the attempts they had made to obtain at least part of that evidence.

At the same time, the applicants did not provide any justification for why they had failed to provide appropriate evidence supporting their complaints, nor did they report the attempts they had made to obtain at least part of that evidence.

As a result, the applicants' complaints were dismissed as manifestly unfounded.

It follows from the above that, notwithstanding the sustained approach of applying a more lenient standard of proof in the event of an ongoing armed conflict, the collection of sufficient evidence remains critical for establishing sufficient and continuous links with a specific place and thus for the determination of a particular object as "home".

#### **1.5. Conclusions**

So, the concept of "home" is not identical to the concept of "property" and is not limited exclusively to the ownership right. The determining factor in recognizing a premise as a home for a particular person is the presence of sufficient and continuous links of this person with the corresponding place. Since such a definition is abstract in nature, its detail is necessary for effective law enforcement at the national level.

According to international human rights law, both users of residential premises damaged or destroyed as a result of military operations and their owners must have a guaranteed opportunity to file claims for restitution and/or compensation.

Exclusion of home users from restitution and/or compensation programmes may be seen as discriminatory practices contrary to international standards of equality and non-discrimination.

To ensure the exercise of the right to effective legal protection of victims, it is necessary not only to ensure access to the judicial system, but also to establish a mechanism for out-of-court consideration of claims for restitution and/or compensation through specialized institutions. Such a mechanism should also provide assistance to victims in collecting evidence to support their claims.

<sup>20</sup> Case *Anton Vasyliovych Lisnyi and two other applicants v. Ukraine and Russia*. [Access via the link](#).

## Section 2

# EXPERIENCE OF BOSNIA AND HERZEGOVINA

### 1.1. Context

Between April 1992 and December 1995, a war broke out in Bosnia and Herzegovina, which was closely linked to the collapse of the Federal Republic of Yugoslavia.

This three-year conflict has resulted in more than 2.3 million refugees and internally displaced persons. Some of them were forced to flee active hostilities, while others were forcibly evicted because of their ethnicity.<sup>1</sup>

The war ended on 14 December 1995, with the signing of the general framework agreement for peace in Paris, better known as the Dayton peace agreement. This document put an end to the conflict and established the state of Bosnia and Herzegovina, consisting of two entities: Federation of Bosnia and Herzegovina (BiH Federation) and Republika Srpska (RS).<sup>2</sup>

As a result of the armed conflict in Bosnia and Herzegovina, hundreds of thousands of people have left their homes in the country's villages and cities. Local authorities, faced with a large influx of refugees and internally displaced persons (IDPs), have introduced a series of laws aimed at declaring these properties abandoned to accommodate arriving refugees and IDPs, giving them the legal right to occupy these abandoned properties. At the same time, some displaced persons independently settled in abandoned immovable property without the appropriate permission of local authorities.

In Bosnia and Herzegovina, as in other former republics of the Socialist Federal Republic of Yugoslavia, there were two main forms of ownership: private, widespread in free-market economies, and "socially-owned property", which was a special form of the right

to use property, stronger than lease, but weaker than private property in the legal sense.

In the context of the then legal system of Bosnia and Herzegovina, socially-owned property had fundamental differences from private ownership. In particular, when talking about socially-owned property, they usually meant apartments located in cities. Employees of state-owned enterprises or bodies, such as municipalities or ministries, contributed part of their salary to the housing stock. Managers of enterprises or government agencies used these funds to build apartments for employees. Employees who had the right to receive an apartment in accordance with the legislation on housing relations received them at their disposal. After settling in, such persons acquired the official "occupancy right holders", hereinafter referred to as the "persons who have/had the official right to occupy apartments of socially-owned property".

The persons who had the official right to occupy apartments of socially-owned property had almost unlimited rights to such housing, including the possibility of transferring it to their children. However, the most important thing was that such apartments could not be sold, and they had to be directly occupied. The right of residence could be revoked if the person had not lived in the apartment for six months or more.

Housing of both private and socially-owned property was declared temporarily abandoned by the local authorities that transferred these facilities to refugees, IDPs and politically close persons. Laws were passed that defined how owners and individuals, who have the official right to live in socially-owned apartments may return and restore their right of ownership of the property. Local authorities referred to the fact that people who left their housing during the conflict

<sup>1</sup> Paul Prettitore, "The Right to Housing and Property Restitution in Bosnia and Herzegovina: A Case Study," Working Paper No. 1, BADIL Resource Center for Palestinian Residency & Refugee Rights, April 2003, p. 5. [Access via the link.](#)

<sup>2</sup> *General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Peace Agreement)*, Article III, signed in Paris, December 14, 1995. [Access via the link.](#)

did not fulfill their duty of residence, and on this basis revoked hundreds of thousands of residence rights. These apartments were then redistributed, mainly between IDPs and refugees, but also among the political elite.<sup>3</sup>

## 1.2. Legal status of abandoned public property apartments

In 1992, Bosnia attempted to settle the issue of abandoned socially-owned apartments by enacting the "*Law on Abandoned Apartments*"). A year later, the authorities passed legislation concerning abandoned private property, namely the "*Decree with the force of Law on Temporarily Abandoned Real Property under Private Ownership during the State of War or the State of Immediate War Danger*").

The Law on Abandoned Apartments was intended to regulate emergency housing needs for the growing number of internally displaced persons in urban areas. Under the provisions of this Law, persons who had the official right to occupy apartments of socially-owned property in the pre-war period temporarily lost the right to use the apartment if they or members of their households left the apartment and did not use it after 30 April 1991. However, the law provided for exceptions, in particular for apartments abandoned due to an immediate threat of war and a threat to personal security. Municipal authorities responsible for housing issues were given the authority to declare the apartment abandoned. The Law provided that apartment buildings and apartments could be provided to temporary users for up to one year after the end of the "danger of direct war". After the announcement of the apartment abandoned, municipal authorities usually provided these apartments for temporary use, either to members of the Bosnian armed forces or to persons who were left without a roof due to the immediate threat of war. Therefore, distribution decisions were often based on political and ethnic ties.

A series of amendments to the Law on Abandoned Apartments was intended, often for political reasons, to reduce the rights of persons who had the official right to occupy apartments of socially-owned

property in the pre-war period. A striking example of this trend is the amendments to Article 10 of the above Law. The amendments provided for the deprivation of thousands of Bosnian citizens of the right to reside, establishing as a criterion for the continuity of this right the obligation of persons who had the official right to occupy apartments of socially-owned property to return to their apartments within seven days (if such a person is internally displaced) or fifteen days (if a refugee) after the declaration of the end of the war. Failure to comply with this procedure within the established time limit could lead to the recognition of apartments permanently abandoned and the cancellation of the right to occupy housing. This rule became crucial for tens of thousands of people at the end of the war. When the Presidency of the Republic of Bosnia and Herzegovina officially declared the end of the war on 22 December 1995, many people did not know that the end of the "state of war" had been officially declared, and that this declaration would have an immediate impact on their rights to occupy socially-owned apartments. At the same time, the declaration of the end of the state of war was published in the official gazette only seven days after the actual declaration. This delay in publication prevented displaced persons from legally retaining their residency rights.<sup>4</sup>

A similar situation was experienced by owners of apartments declared abandoned by the local authorities in accordance with the Decree with the force of Law on Temporarily Abandoned Real Property under Private Ownership during the State of War or the State of Immediate War Danger.<sup>5</sup>

The adoption of the Law on Abandoned Apartments was considered a violation of fundamental human rights, including the rights of refugees and internally displaced persons to freely return to their homes.

NB!: during the war, the territory of the former Socialist Republic of Bosnia and Herzegovina was de facto divided into three legal entities, each of those developed its own legislation and institutions: 1) in the territory controlled by the Army of the Republic of Bosnia and Herzegovina (*RB-H*); 2) in the territory controlled by the Army of the *Republika Srpska*; and 3) in

<sup>3</sup> Office of the High Representative, "*Property Rights and the Right to Return*," May 15, 2000. [Access via the link.](#)

<sup>4</sup> UN-HABITAT, "*Housing and Property Rights in Bosnia and Herzegovina, Croatia, Serbia, and Montenegro*," 2005, p. 31–32. [Access via the link.](#)

<sup>5</sup> UN-HABITAT, supra note 4, at 32–33.

the territory controlled by the military forces of the Croatian Defence Council (*Herceg Bosna*). Thus, the review of legislation in this section is devoted to the Law on Abandoned Apartments that was in force in the territory controlled by the Army of the Republic of Bosnia and Herzegovina *prior to the signing of the Dayton peace agreement*. Other entities that actually controlled part of the territory of the former Socialist Republic of Bosnia and Herzegovina adopted similar legislation, but the review of each of these laws is not the purpose of this study.

### 1.3. Restoration of the right to use public property apartments

The rights of refugees and internally displaced persons are set out in Annex 7 to the Dayton peace agreement. Thus, the first paragraph of Annex 7 states that:

*"all refugees and displaced persons have the right freely to return to their homes of origin. They shall have the right to have restored to them property of which they were deprived in the course of hostilities since 1991 and to be compensated for any property that cannot be restored to them."*

The right to return property is also guaranteed by the Constitution of Bosnia and Herzegovina, which is part of the Dayton peace agreement (Annex 4). Article II of the Constitution contains provisions relating to Human Rights and Fundamental Freedoms. This Article refers the right to return and restoration of property to the level of constitutional rights, providing that:

*"all refugees and displaced persons have the right freely to return to their homes of origin. They have the right, in accordance with Annex 7 to the General Framework Agreement, to have restored to them property of which they were deprived in the course of hostilities since 1991 and to be compensated for any such property that, cannot be restored to them. Any commitments or statements relating to such property made under duress are null and void."*

Additionally, in accordance with Annex 7 to the Dayton peace agreement, the parties to the agreement com-

mitted to repeal national legislation that deprived internally displaced persons of the right to return their property.

So, between 1997 and 1999, both the Federation of Bosnia and Herzegovina and the Republika Srpska adopted a number of laws to perform their earlier commitments:

- On 6 December 1997 the *"Law on the Sale of Apartments with Occupancy Rights"* was passed — this law of the BiH Federation allows those who have not left socially-owned apartments to purchase these apartments. It is also the basis for allowing internally displaced persons and refugees who return their socially-owned apartments to purchase these apartments;
- On 4 April 1998 the *"Law on the Cessation of the Application of the Law on Temporary Abandoned Real Property Owned by Citizens"* was passed — this Law of the BiH Federation defines the procedure for restoring lost property rights for owners of the housing who have actually left their homes or whose homes have been declared abandoned;
- On 4 April 1998 the *"Law on the Cessation of the Application of the Law on Abandoned Apartments"* was passed — this Law of the BiH Federation defines the procedure for restoring lost property rights for persons who had the official right to occupy apartments of socially-owned property, and who actually left their homes, or whose homes were declared abandoned;<sup>6</sup>
- On 2 December 1998 the *"Law on the Cessation of the Application of the Law on the Use of Abandoned Property"* was passed — this Law of the Republika Srpska is a version of the two aforementioned laws of the BiH Federation, which allow refugees and internally displaced persons to restore their right to their private homes and socially-owned apartments.<sup>7</sup>

In the context of this study, the most relevant is the *"Law on the Cessation of the Application of the Law on Abandoned Apartments"* and the *"Law on the*

<sup>6</sup> *Law on the Cessation of the Application of the Law on Abandoned Apartments* with further amendments, April 4, 1998. [Access via the link.](#)

<sup>7</sup> *Law on the Cessation of the Application of the Law on the Use of Abandoned Property* with Further Amendments, December 2, 1998. [Access via the link.](#)

*Cessation of the Application of the Law on the Use of Abandoned Property*", the adoption of those by the federal entities of Bosnia and Herzegovina meant the recognition of the right to return to their own homes not only for the owners of the relevant immovable property, but also for the users who, in the pre-war period, had subsequently used the apartments abandoned due to the war legally.

Therefore, further attention of this study will be focused on the review of these Laws.

#### 1.4. Procedure for restoring the right to use public property apartments

The Law on the Cessation of the Application of the Law on Abandoned Apartments of 1998 (adopted by the BiH Federation) provided that all previous decisions defining the rights of refugees and internally displaced persons to use housing were null and void. Entry into force of this Law and the corresponding cancellation of all previous decisions was particularly important to ensure the security of ownership of socially-owned apartments by persons who had an official right to occupy them in the pre-war period, but who were deprived of these rights due to earlier, often arbitrary, decisions.<sup>8</sup>

According to this Law, a person who had an official right to occupy a socially-owned apartment in the pre-war period had the right to demand its return to his/her use by submitting relevant application orally or in writing to the municipal administrative authority.

In addition to the application itself, the applicant had to provide:

- information on the apartment;
- *any evidence*, confirming that the applicant or a

member of his/her household had an official right to occupy a socially-owned apartment;

- date of planned return to the apartment (but not later than one year from the date of submission of the application);
- information on the place of residence of the applicant and his/her household members at the time of filing the application.<sup>9</sup>

The applicant had to submit the application within 15 months<sup>10</sup> after the entry into force of this Law, and the competent municipal administrative authority was obliged to examine it within 30 days from the date of receipt. Failure to submit the application within the time limit established by the Law meant the loss of the right to occupy and use the socially-owned apartment.<sup>11</sup>

The Law differentiated the legal consequences for people who occupied abandoned apartments of refugees and IDPs. Thus, if a person has occupied an apartment without legal grounds (without the appropriate permission of the municipality), he/she was subject to immediate eviction without the right to receive alternative housing. Instead, persons who had occupied abandoned apartments legally (in accordance with the procedure in force at the material time) and had no other housing could obtain alternative housing by a decision of the municipal administrative authority at the place of the last residence registration.<sup>12</sup>

The municipal administrative authority, having considered the application of a person who had an official right to occupy a socially-owned apartment in the pre-war period, had to make a decision that was to include:

1. confirmation that the applicant had an official right to occupy the socially-owned apartment;

<sup>8</sup> UN-HABITAT, *supra* note 4, at 39.

<sup>9</sup> *Article 4 of the Law on the Cessation of the Application of the Law on Abandoned Apartments* with further amendments, *supra* note 6.

<sup>10</sup> This time limit has been repeatedly changed by decisions of the High Representative, the official responsible for overseeing the implementation of peace agreements in Bosnia and Herzegovina after the war. By the decision of 1998, the time limit was increased from 6 to 12 months, and by the decision of 1999 - from 12 to 15 months. [Access via the link](#).

<sup>11</sup> *Articles 5–10, 6 of the Law on the Cessation of the Application of the Law on Abandoned Apartments* with further amendments, *supra* note 6.

<sup>12</sup> *Articles 2–3 of the Law on the Cessation of the Application of the Law on Abandoned Apartments* with further amendments, *supra* note 6.

2. the decision to return the socially-owned apartment to the use of the person who had the official right to occupy it in the pre-war period, if the apartment is occupied by a temporary user, is free or occupied without legal grounds;
3. decision to terminate the right of temporary use of the apartment if it is occupied by a temporary user;
4. determination of the time limit for vacating the apartment by a temporary user or other person who occupies it;
5. decision concerning the temporary user's right to housing under the Law on Social Security.

It is significant that this Law contained a direct norm that obliged municipal administrative authorities to comply with the provisions of the Convention for the protection of human rights and fundamental freedoms and its Protocols when considering applications and making decisions.<sup>13</sup>

In addition, Section 14 of the Law on the Cessation of the Application of the Law on Abandoned Apartments provided that both a person who had an official right to occupy a socially-owned apartment and a temporary user (a person who had settled to the abandoned apartment), could have appealed against the decision of the municipal administrative authority to the *Commission for Real Property Claims of Displaced Persons and Refugees*.

The Law on the Cessation of the Application of the Law on the Use of Abandoned Property, adopted by the Republika Srpska, essentially contained similar provisions and procedures for the return of homes both by owners of private property and by persons who had the official right to occupy apartments of socially-owned property.

### 1.5. Commission for Real Property Claims of Displaced Persons and Refugees

Realizing the importance of resolving numerous property conflicts, the Dayton peace agreement provided for

the establishment of a separate institution dealing with property issues: *Commission for Real Property Claims of Displaced Persons and Refugees*, that had an exclusive mandate to restore property rights both for persons who had the official right to occupy apartments of socially-owned property in the pre-war period and for owners of private property.

Article XI of Annex 7 to the Dayton peace agreement provides that

*"The Commission shall receive and decide any claims for real property in Bosnia and Herzegovina, where the property has not voluntarily been sold or otherwise transferred since April 1, 1992, and where the claimant does not now enjoy possession of that property. Claims may be for return of the property or for just compensation in lieu of return."*

Accordingly, the Commission was responsible for establishing the rights of owners or persons who had the official right to occupy apartments of socially-owned property who had been deprived of their property as a result of the war in Bosnia and Herzegovina. The administrative decision of the Commission provided them with official confirmation of their rights in the form of a legally binding instrument, the effect of that must be recognized throughout Bosnia and Herzegovina. Within its mandate, the Commission had the exclusive right of access to all property records to resolve property claims in Bosnia and Herzegovina.<sup>14</sup>

The Commission's decisions had a predominant legal force over the decisions of other authorities regarding the confirmation of property rights. Furthermore, the Commission's decisions could not be appealed against or quashed by any domestic court or other administrative authority. In adopting its rules, the Commission was required to take into account the relevant national laws in respect of property rights.<sup>15</sup>

Given its nature and function, the Commission served as an alternative remedy for Bosnian citizens. The applicants had the right to submit their claims both to the municipal administrative authorities and local courts and to the Commission. While, as already noted, the Commission's decisions were final and could not be quashed by the national courts of Bosnia.

<sup>13</sup> Article 7 of the Law on the Cessation of the Application of the Law on Abandoned Apartments with further amendments, supra note 6.

<sup>14</sup> Article XII, paragraph 1 Annex 7 to the DPA, supra note 2.

<sup>15</sup> Article XV Annex 7 to the DPA, supra note 2.

The Commission's Legal Department consisted of 23 regional offices and their mobile teams that were responsible for all contacts with applicants related to claims (collecting applications, interviewing to correct shortcomings and issuing decision certificates). In late 1999 and early 2000, approximately 200 employees worked in regional offices and mobile teams. The mobile teams provided interaction with the applicants in municipalities where there were no regional offices, but there was a high demand for such services, especially among the elderly people, people with limited mobility or those who did not have the financial capacity to travel long distances.<sup>16</sup>

In the event that the applicants were unable to provide relevant evidence to support their claims, the latter were asked to provide all available information about the claimed property so that the Commission could search for the necessary evidence. To do this, the Commission created its own expanded database that includes the 1991 census showing the actual place of residence of people, as well as cadastral databases for about three-quarters of the territory (many records disappeared or were forged). The Legal Department verified the submitted evidence or information, checking it against the own database. Furthermore, the Commission requested confirmation from local courts that kept registers of immovable property, or from municipal administrations. If necessary, verification officers went to the relevant courts and administrations to obtain the necessary information.<sup>17</sup>

Both the Constitution of Bosnia and Herzegovina and Annex 7 to the Dayton peace agreement provided for the possibility of obtaining compensation for property lost during hostilities that cannot be recovered. Annex 7 provided for the establishment of a Refugees and Displaced Persons Property Fund that was to be managed by the Commission, and the Fund itself was to be located in the Central Bank of Bosnia. Sources of financing for the Fund were to be transactions in the purchase, sale, lease and mortgage of the immovable property, as well as contributions from international donors and direct payments from the parties to the conflict.<sup>18</sup>

Despite the established legal framework, the provided compensation mechanism was never implemented. The Refugees and Displaced Persons Property Fund was not established due to lack of financial resources. The Government of Bosnia has not allocated any funds, and international donors have preferred to finance the restoration of housing and infrastructure rather than compensation.<sup>19</sup>

The procedure for restoring access of refugees and internally displaced persons to their property was completed in 2006. According to various estimates, most of the applications (claims) for the restoration of the rights of refugees and IDPs to return property were considered, which indicates the effectiveness of the mechanisms implemented. Thus, the experience of the Bosnian government may serve as a positive precedent, including for Ukraine.

## 1.6. Conclusions

The experience of Bosnia and Herzegovina presented in this study may be extremely useful for Ukraine, given its common historical affiliation to the countries of the socialist bloc.

In both countries, there was a system of public or state ownership of land, property and housing. This meant that a significant portion of resources and assets were under state control or in collective ownership. In Soviet Ukraine and socialist Yugoslavia, forms of social security were widely practiced, including public housing provided to citizens on a temporary use basis.

After the transition to a market economy, not all citizens of Ukraine, for various, mainly financial, reasons, used their right to privatize previously received housing of state or collective ownership. This may be a source of legal problems related to obtaining compensation for damage caused by the war, similar to those that occurred in Bosnia and Herzegovina.

The key, in the context of this study, is to demonstrate Bosnian practice of recognizing the right to return

<sup>16</sup> International Organization for Migration (IOM), *Property Restitution and Compensation: Practices and Experiences of Claims Programmes*, 2008, p. 43-48. [Access via the link.](#)

<sup>17</sup> HANS van HOUTTE, *Evidence before the Commission for Real Property Claims in Bosnia and Herzegovina*, p. 225-227, 1999. [Access via the link.](#)

<sup>18</sup> Article XIV Annex 7 to the DPA, *supra* note 2.

<sup>19</sup> Paul Prettitore, *supra* note 1, at 14.

to their homes (including to receive compensation, if such a return is not possible) not only for persons who had legal titles of ownership of apartments abandoned as a result of the war, but also users of socially-owned apartments, despite the absence of the latter's powers of the owner of such property.

Special attention should also be paid to the introduction by the Bosnian authorities, with the support of the international community, of an administrative procedure for considering claims for the return of abandoned houses. It is also important that the Commission for Real Property Claims of Displaced Persons and Refugees may independently request

evidence in support of the fact of using or owning apartments abandoned as a result of the war, if it is impossible for applicants to present such evidence. Given that the intensity of military actions during armed conflicts often prevents refugees and IDPs from retaining documents access to those would not be a problem in peacetime, ignoring these realities may create obstacles to ensuring equal and effective access to legal remedies for the persons affected.

This practice is fully consistent with international human rights standards and promotes both the return of refugees and IDPs to their homes and the search for other lasting solutions.

## Section 3

# REVIEW OF NATIONAL LEGISLATION

### 1.1. Regulatory review until 24.02.2022

According to the UN Human Rights Monitoring Mission in Ukraine (HRMMU), as a result of the international armed conflict in Eastern Ukraine in the period from April 2018 to 24 February 2022, more than 40 thousand objects of private property were destroyed or damaged.<sup>1</sup>

During the conflict in the Verkhovna Rada of Ukraine, subjects of the right of legislative initiative registered a number of draft laws<sup>2</sup> aimed at regulating the procedure for recovery of losses for destroyed or damaged private housing for persons affected by military operations. However, none of these draft laws were passed

before the full-scale invasion began.

The main regulatory document on the basis of that affected persons could receive monetary assistance (compensation for destroyed or damaged housing) during the specified period remained Resolution of the Cabinet of Ministers of Ukraine No. 947 dated 18 December 2013. This Resolution approved the Procedure for providing and determining the amount of monetary assistance to persons who suffered from emergency situations and remained in their previous place (hereinafter referred to as the Procedure).<sup>3</sup>

This Procedure has been repeatedly amended and supplemented by Resolutions of the Cabinet of

<sup>1</sup> Office of the United Nations High Commissioner for Human Rights, Report on the Human Rights Situation in Ukraine, 16 May–15 August 2018, page 8–9. [Access via the link.](#)

<sup>2</sup> An overview of some of them will be presented later in the text.

<sup>3</sup> 1) *Procedure for providing and determining the amount of monetary assistance to victims of emergency situations who remained at their previous place of residence* as amended by Resolution of the Cabinet of Ministers of Ukraine No. 623 dated 10.07.2019.

2) *Procedure for providing and determining the amount of monetary assistance to victims of emergency situations and the amount of monetary compensation to victims whose residential buildings (apartments) were destroyed as a result of a military emergency caused by the armed aggression of the Russian Federation* in the latest version of Resolution of the Cabinet of Ministers of Ukraine No. 767 dated 02.09.2020.

Ministers of Ukraine No. 623 dated 10 July 2019, No. 767 dated 2 September 2020, No. 1301 dated 9 December 2021. In the context of the study topic, the review of this Procedure will focus on identifying the subjects (recipients) of compensation.

The original version of the Procedure established a mechanism for providing and determining the amount of monetary assistance to victims of emergency situations who refused to evacuate, resettle and remained at their previous place of residence. At the same time, victims were recognized as persons whose residential buildings (apartments) were damaged as a result of an emergency or work to eliminate its consequences.<sup>4</sup>

Paragraph 8 of the Procedure provided that monetary assistance shall be provided to victims who are owners (co-owners), **tenants of a residential building (apartment)**, within one month from the date of making a decision on its provision.

In order to receive monetary assistance, affected persons had to submit for consideration by the Council of Ministers of the Autonomous Republic of Crimea, local executive authorities an application, a certificate of establishing the status of a person affected by an emergency, a copy of the passport of a citizen of Ukraine or other identity document, a copy of the taxpayer's card.<sup>5</sup>

In the version of the Procedure updated by Resolution No. 623 dated 10 July 2019, the above criteria for determining persons as victims were detailed. Thus, as victims were recognized persons whose residential buildings (apartments) were:

- *damaged* as a result of an emergency or carrying out work to eliminate its consequences (such victims are provided with *cash assistance*);

- *destroyed* as a result of a military emergency caused by the armed aggression of the Russian Federation (such victims are provided with *monetary compensation*).<sup>6</sup>

The list of documents that affected persons had to submit in order to receive monetary compensation was also supplemented. In addition to the documents, the submission of those was also provided for by the previous version of the Procedure, affected persons were required to submit **documents confirming ownership of housing**, — regarding residential buildings (apartments) that were destroyed as a result of a military emergency caused by the armed aggression of the Russian Federation and the survey report in accordance with the approved form.<sup>7</sup>

Paragraph 8 of the Procedure in the updated version provided that monetary assistance to victims who are owners (co-owners), **tenants of residential building (apartment), damaged** as a result of an emergency or carrying out work to eliminate its consequences, as well as monetary compensation to victims who are **owners** (co-owners) of a residential building (apartment), **destroyed as a result of a military emergency** caused by the armed aggression of the Russian Federation, shall be granted within one month from the date of making a decision on its provision.

The amount of monetary assistance (for damaged housing as a result of an emergency) could range from 3 to 15 subsistence minimums for able-bodied persons. The amount of monetary compensation (for destroyed housing as a result of a full-scale invasion) was determined by indicators of the indirect cost of housing construction in the regions of Ukraine according to the location of residential buildings (apartments) that were destroyed, but not more than UAH 300 thousand.<sup>8</sup>

<sup>4</sup> Paragraphs 1-2 of the *Procedure for providing and determining the amount of monetary assistance to victims of emergency situations who remained at their previous place of residence* approved by Resolution of the Cabinet of Ministers of Ukraine No. 947 dated 18.12.2013.

<sup>5</sup> Paragraph 5 of the *Procedure for providing and determining the amount of monetary assistance to victims of emergency situations who remained at their previous place of residence* approved by Resolution of the Cabinet of Ministers of Ukraine No. 947 dated 18.12.2013.

<sup>6</sup> Paragraph 2 of the *Procedure for providing and determining the amount of monetary assistance to victims of emergency situations who remained at their previous place of residence* as amended by Resolution of the Cabinet of Ministers of Ukraine No. 623 dated 10.07.2019.

<sup>7</sup> Paragraph 5 of the *Procedure for providing and determining the amount of monetary assistance to victims of emergency situations who remained at their previous place of residence* as amended by Resolution of the Cabinet of Ministers of Ukraine No. 623 dated 10.07.2019.

<sup>8</sup> Paragraph 7 of the *Procedure for providing and determining the amount of monetary assistance to victims of emergency situations who remained at their previous place of residence* as amended by Resolution of the Cabinet of Ministers of Ukraine No. 623 dated 10.07.2019.



**Forum "Compensation to legitimate users (non-owners) of damaged/destroyed housing: challenges and prospects", 29 November 2024, Kyiv.**

So, only in July 2019, the Procedure was adapted to the current realities at that time, related to the destruction and damage of housing as a result of the international armed conflict. However, the circle of potential recipients of compensation remained limited exclusively to the owners of destroyed apartments and residential buildings. tenants of apartments and residential buildings were entitled to receive monetary assistance, the amount of which was significantly less than the compensation provided for the owners.

Further versions of the Procedure clarified and detailed the procedure for providing monetary assistance and compensation, but there was no significant expansion of the recipient categories. In particular, paragraph 2 of the Procedure as amended by Resolution No. 1301 dated 09.12.2021 provided that

both citizens of Ukraine and foreigners and stateless persons may be recognized as victims.

Summing up the review of the national compensation mechanism that was in effect before the start of the full-scale invasion, it is worth noting that the Procedure introduced by the Government partially took into account the support of persons who were not owners of damaged housing (tenants). However, such support was significantly limited<sup>9</sup> compared to those victims who were the owners of the destroyed housing. In addition, human rights organizations noted that the payment of monetary assistance for damaged housing (which tenants were also entitled to receive) was of a general nature, since it covered various types of emergencies, such as natural or man-made ones, and was not focused exclusively on cases caused by the armed conflict. In addition, taking into

<sup>9</sup> The amount of monetary assistance was determined in the range from 3 to 15 subsistence minimums for able-bodied persons, which corresponded to the amount from UAH 7,137 to UAH 35,685 as of 30 November 2021. These calculations were based on the provisions of Article 7 of the Law of Ukraine "On the State Budget of Ukraine for 2021". [Access via the link.](#)

account the conditions for providing monetary assistance, a person lost the right to receive it if moved to another locality.<sup>10</sup> Notwithstanding these limitations, this step should be assessed as a positive effort to ensure equal access to mechanisms for recovery for the civilian population as a result of war.

## 1.2. Regulatory review after 24.02.2022

According to the KSE Institute, as of January 2024, 222 thousand private homes, more than 27 thousand apartment buildings and 526 dormitories were damaged or destroyed as a result of military operations.<sup>11</sup>

Given the intensity of the military actions and the scale of the destruction, the legal regulation of relations on recovery for damage caused as a result of the war has changed significantly and expanded after the full-scale invasion.

On 26 March 2022, the Cabinet of Ministers of Ukraine adopted Resolution No. 380 that approved the Procedure for submitting an information notification on damaged and destroyed immovable property as a result of military operations, terrorist acts, sabotage caused by the military aggression of the Russian Federation (hereinafter referred to as the Procedure for submitting an information notification).

Until February 2023, this Resolution remained the only reference point for affected individuals, which made it possible to predict the approaches planned by the Government to the introduction of a national compensation mechanism. It defined the procedure for submitting an information notification about damaged or destroyed immovable property as a result of military operations.

From March 2022 the Procedure for submitting an information notification several times<sup>12</sup> was amended expanding or clarifying the categories of persons who could submit such notifications.

The original version of the Procedure for submitting an information notification applied to citizens of Ukraine who are *owners* of damaged or destroyed immovable property as a result of military operations, terrorist acts, sabotage caused by the military aggression of the Russian Federation, since the introduction of martial law in Ukraine.<sup>13</sup>

According to the current version of the Procedure for submitting an information notification, it applies to individuals and legal entities whose immovable property objects have been destroyed or damaged as a result of military operations, terrorist acts, sabotage caused by the armed aggression of the Russian Federation against Ukraine since *19 February 2014*, namely:

1) individuals who are:

- *owners* of the relevant immovable property or *by customers* of construction for construction projects;
- *members of housing and construction (housing) cooperatives* who bought an apartment or other residential premises of the cooperative, but did not register ownership of it;
- *persons who have invested and financed construction* objects for those the right to perform construction works has been obtained (in particular, objects put into operation that have not been registered as ownership);

<sup>10</sup> The right to protection, "Housing damaged and destroyed as a result of armed aggression: issues of monetary assistance and compensation", 24.06.2021. [Access via the link.](#)

<sup>11</sup> KSE Institute, *The total amount of damage caused to Ukraine's infrastructure has increased to almost 155 billion: KSE Institute assessment as of January 2024.* [Access via the link.](#)

<sup>12</sup> 1) Resolution of the Cabinet of Ministers of Ukraine No. 505 dated 29.04.2022. [Access via the link.](#)

2) Resolution of the Cabinet of Ministers of Ukraine No. 885 dated 09.08.2022. [Access via the link.](#)

3) Resolution of the Cabinet of Ministers of Ukraine No. 624 dated 13.06.2023. [Access via the link.](#)

<sup>13</sup> Paragraph 2 of the *Procedure for submitting an information notification on damaged and destroyed immovable property as a result of military operations, terrorist acts, sabotage caused by the military aggression of the Russian Federation*, as amended by Resolution of the Cabinet of Ministers of Ukraine No. 380 dated 26.03.2022.

- *heirs* of the above mentioned persons;
- 2) legal entities that are:
- *owners (balance holders) of the relevant immovable property or construction customers* in relation to construction objects or for those such property (construction objects) is assigned at the *economic management right or operational management right*;
  - *persons who have invested and financed construction* objects for those the right to perform construction works has been obtained (in particular, objects put into operation that have not been registered as ownership);
  - *associations of co-owners of apartment buildings, managers of apartment buildings, housing and construction (housing) cooperatives* that maintain the corresponding houses;
  - *heirs and legal successors* of the above categories.<sup>14</sup>

A comparison of the original and current versions of the Procedure for submitting an information notification, as the first regulatory act in a series adopted after 24 February 2022, indicates the Government's initial intentions to limit the circle of future recipients of compensation (individuals) exclusively to owners of damaged or destroyed immovable property objects or persons who were in the process of registering their property rights. At the same time, housing users who legally lived in apartments and houses that are currently damaged or destroyed were ignored by government initiatives.

At the same time, it is worth noting the legally provided possibility of submitting information notifications by legal entities that are balance holders of the immovable property. This solution allows to keep records of damaged or destroyed apartments of municipal property that were not privatized before 24 February 2022, but were used by individuals.

On 23 February 2023, the Verkhovna Rada of Ukraine adopted Law of Ukraine No. 2923-IX "On Compensation for Damage and Destruction of Certain Categories of Immovable Property Objects as a Result of Military Operations, Terrorist Acts, 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 Military Operations, Terrorist Acts, Sabotage Caused by the Armed Aggression of the Russian Federation Against Ukraine" (hereinafter referred to as Law No. 2923-IX) that for the first time since the beginning of the armed international conflict in Eastern Ukraine regulated the procedure for granting compensation at the level of the law.

Currently, this Law has been repeatedly amended, in particular by Laws No. 3410-IX dated 5.10.2023, No. 3588-IX dated 22.02.2024, No. 3979-IX dated 18.09.2024, No. 4114-IX dated 4.12.2024. However, none of these laws provided for an expansion of the list of recipients of compensation, in particular in relation to housing users.

Both the first version of Law No. 2923-IX and the current one<sup>15</sup>, determine among recipients of the compensation the following categories:

1. Individuals — citizens of Ukraine who are:
  - *owners* of damaged or destroyed immovable property objects;
  - *construction customers*;
  - *owners of a special property right* for undivided residential objects of unfinished construction, future residential immovable property objects or persons who have paid a partial price of such the object and in whose favour the encumbrance of real rights to such the object is registered in accordance with the Law of Ukraine "On Guaranteeing Real Rights on Immovable Property Objects That Will Be Built in the Future";

<sup>14</sup> Paragraph 2 of the *Procedure for submitting an information notification on damaged and destroyed immovable property as a result of military operations, terrorist acts, sabotage caused by the military aggression of the Russian Federation against Ukraine*, as amended by Resolution of the Cabinet of Ministers of Ukraine No. 624 dated 13.06.2023.

<sup>15</sup> As amended by Law of Ukraine No. 4114-IX dated 04.12.2024.

- persons who have *invested to or financed construction* of the objects regarding those the right to perform construction works was obtained prior to the entry into force of the Law of Ukraine "On Guaranteeing Real Rights on Immovable Property Objects That Will Be Built in the Future";
  - *members of housing and construction (housing) cooperatives* who bought an apartment, other residential premises in the building, a manor-type house, a garden or country house of the cooperative, but did not register ownership right of it;
  - heirs of the above mentioned persons.
2. Associations of co-owners of apartment buildings, managers of apartment buildings, housing and construction (housing) cooperatives that carry out the maintenance of the corresponding houses, persons authorized by co-owners of apartment buildings in accordance with the Law of Ukraine "On the Specifics of the Exercise of Ownership

Rights in an Apartment Building" (if the co-owners independently carry out the maintenance of an apartment building and in this house the association of co-owners of an apartment building is not established, the manager is not appointed, there is no housing and construction (housing) cooperative that carries out its maintenance) — in case of compensation for damaged common property of an apartment building.<sup>16</sup>

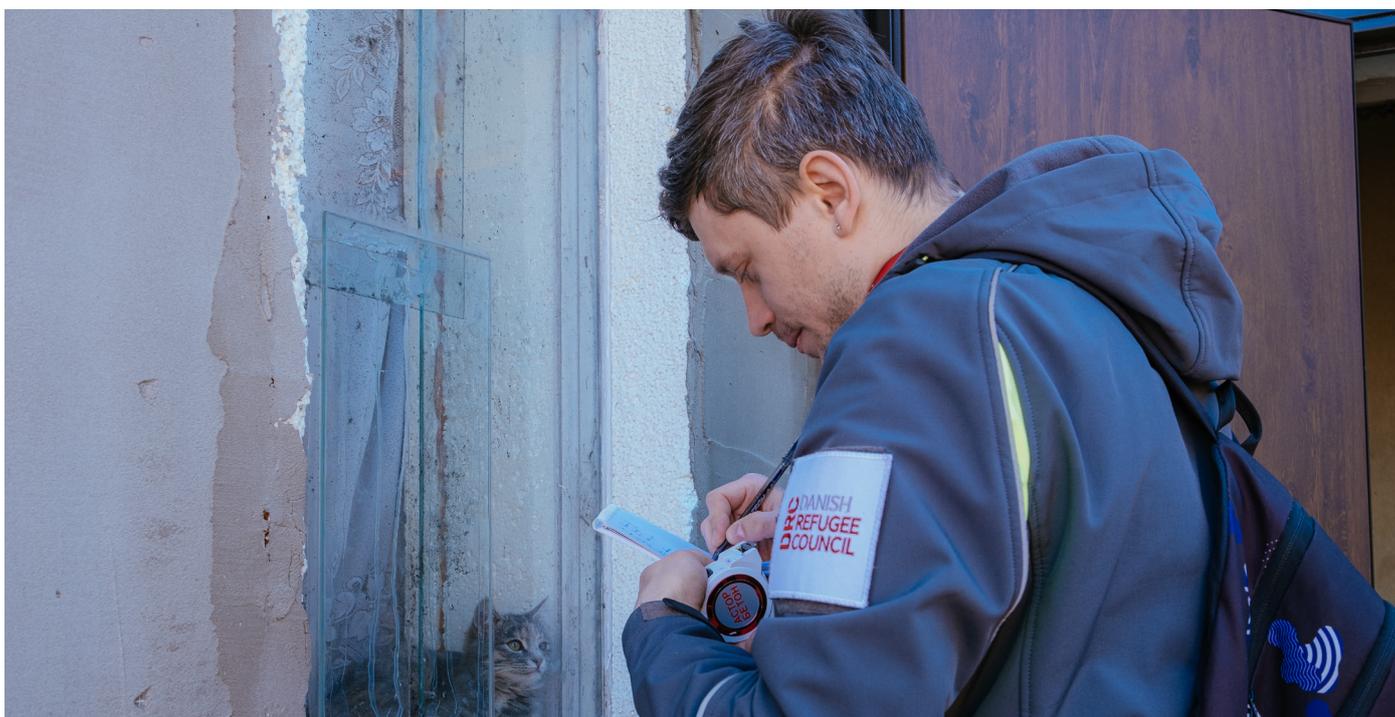
It is noteworthy that with the adoption of the first version of Law No. 2923-IX, the legislator delegated to the Cabinet of Ministers of Ukraine **opportunity to define additional categories of persons** that may be provided with compensation for damaged or destroyed immovable property objects. Despite the fact that this rule remains in force, the Government has never used it.<sup>17</sup>

On 21 April 2023, for the implementation of Law No. 2923-IX, the Cabinet of Ministers of Ukraine adopted Resolution No. 381 that approved the Procedure for

<sup>16</sup> Article 2 of Law of Ukraine No. 2923-IX. [Access via the link.](#)

<sup>17</sup> Article 2 of *Law of Ukraine No. 2923-IX*. [Access via the link.](#)

***A junior specialist in the DRC housing restoration programme conducts a technical inspection of the building affected by the conflict to assess the extent of damage and determine the cost of necessary repairs. ©DRC Ukraine, Cherkasy Lozova, Kharkiv Region, March 2025, Krystyna Pashkina.***



providing compensation for the restoration of certain categories of immovable property objects damaged as a result of military operations, terrorist acts, sabotage caused by the armed aggression of the Russian Federation, using the electronic public service "e-Recovery" (hereinafter referred to as the Procedure for receiving compensation for damaged property).

The above Procedure for receiving compensation for damaged property defines the mechanism for providing compensation for the restoration of certain categories of immovable property objects using the electronic public service "e-Recovery".

Paragraph 3 of the Procedure for receiving compensation for damaged property in the current version<sup>18</sup> stipulates that the recipient of compensation is an individual — citizen of Ukraine who has reached the age of<sup>18</sup> and submitted a claim by means of the Diia portal, in particular using the mobile claim of the Diia portal (Diia) or in any other way provided for in this Procedure, and is the *owner (co-owner)* of a damaged object, whose ownership right has been confirmed.

Like other regulatory legal acts mentioned in this section, the Procedure for receiving compensation for damaged property has been repeatedly amended and supplemented. However, as already noted, the Cabinet of Ministers of Ukraine has not identified any additional categories of persons who could receive compensation.

A similar situation has developed with the Procedure for providing compensation for destroyed immovable property objects that was approved by Resolution of the Cabinet of Ministers of Ukraine No. 600 dated 30 May 2023. Despite numerous amendments and additions, this Procedure remains limited in its effect, applying exclusively to owners of housing destroyed as a result of the war.

The regulations presented in this section are not exhaustive in regulating the provision of compensa-

tion for housing damaged and destroyed as a result of war, but they are key for analysing the subjects who are entitled to receive it.

### 1.3. Accumulation, accounting and storage of data on damaged and destroyed property

On 29 April 2022, the Cabinet of Ministers of Ukraine by Resolution No. 505 amended the Procedure for submitting an information notification on damaged and destroyed immovable property as a result of military operations, terrorist acts, sabotage caused by the military aggression of the Russian Federation (hereinafter referred to as the Register of damaged and destroyed property). The Register is intended for collecting, accumulating, recording, processing, storing and protecting information about damaged and destroyed immovable property.<sup>19</sup>

Article 14 of Law No. 2923-IX also defined the main provisions for the functioning of the Register of damaged and destroyed property.

On 13 June 2023, the Cabinet of Ministers of Ukraine by Resolution No. 624 approved the Procedure for maintaining the State Register of property damaged and destroyed as a result of military operations, terrorist acts, sabotage caused by the armed aggression of the Russian Federation against Ukraine (hereinafter referred to as the Procedure for maintaining the Register). Currently, this Procedure has been amended twice by Resolutions No. 401 dated 9.04.2024 and No. 1430 dated 26.11.2024.

The Procedure for maintaining the Register clarified the purpose of its establishment: formation of a Unified National Geographic Information System for collecting, accumulating, recording, storing and protecting data on property damaged and destroyed as a result of military operations, terrorist acts, sabotage caused by the armed aggression of the Russian Federation against Ukraine. The Register is also called to provide individuals and legal entities, state author-

<sup>18</sup> Procedure for providing compensation for the restoration of certain categories of immovable property objects damaged as a result of military operations, terrorist acts, sabotage caused by the armed aggression of the Russian Federation, using the electronic public service "e-Recovery", as amended by Resolution of the Cabinet of Ministers of Ukraine No. 819 dated 12.07.2024.

<sup>19</sup> 19 Paragraphs 4-50 of the Procedure for submitting an information notification on damaged and destroyed immovable property as a result of military operations, terrorist acts, sabotage caused by the military aggression of the Russian Federation, as amended by Resolution of the Cabinet of Ministers of Ukraine No. 505 dated 29.04.2022.



**A junior specialist in the DRC housing restoration programme registers a person whose home was damaged by shelling to receive monetary assistance for the necessary repairs. ©DRC Ukraine, Cherkasy Lozova, Kharkiv Region, March 2025, Krystyna Pashkina.**

ities, local governments, enterprises, institutions and organizations with reliable information for *national and international* protection of the rights of persons whose property has been damaged.<sup>20</sup>

As noted above, the Procedure for submitting information notification did not limit the possibility of reporting damaged or destroyed property exclusively by individuals. It also provided that the filling of the Register of damaged and destroyed property will be handled by legal entities — owners (balance holders) of the relevant immovable property or construction customers in relation to construction objects, or persons for whom such property (construction objects) is assigned on the right of economic management or

operational management.

Paragraph 18 of the Procedure for maintaining the Register in actual version<sup>21</sup> provides that the objects of the Register of damaged and destroyed property are information (data) and documents, in particular, on:

1. *individuals and legal entities* whose property has been damaged or destroyed;
2. damaged and destroyed property of *all forms of ownership* — objects of movable and immovable property, in particular linear objects of engineering, transport and energy infrastructure, as well as damage of land plots, damage and destruction

<sup>20</sup> Paragraph 1 of the *Procedure for maintaining the State Register of property damaged and destroyed as a result of military operations, terrorist acts, sabotage caused by the armed aggression of the Russian Federation against Ukraine*, as amended by Resolution of the Cabinet of Ministers of Ukraine No. 1430 dated 26.11.2024.

<sup>21</sup> Procedure for maintaining the State Register of property damaged and destroyed as a result of military operations, terrorist acts, *sabotage caused by the armed aggression of the Russian Federation against Ukraine*, as amended by Resolution of the Cabinet of Ministers of Ukraine No. 1430 dated 26.11.2024.

of mineral resources, forest, water and other natural resources, biological diversity *regardless of whether compensation is provided for damage or destruction of such property.*

The Register of damaged and destroyed property provides accumulation and accounting, in particular, of information on: owners of damaged or destroyed objects of private ownership; managers or balance holders of damaged or destroyed objects of state and municipal ownership.<sup>22</sup>

So, despite the possibility of accumulating and recording information about damaged and destroyed residential objects of municipal and state ownership that were used by individuals, the Register of damaged and destroyed property does not cover information about their users. In particular, it is about the residents of social or official housing or non-privatized apartments.

At the same time, one of the goals of creating the Register is to provide individuals with the necessary information for the international protection of their rights. In this regard, the inclusion in the Register of information about such property, together with data on its users, is an important and necessary step for the implementation of the purpose of its creation.

#### 1.4. Analysis of draft laws that were not adopted

As noted earlier, prior to the adoption of Law No. 2923-IX, the Verkhovna Rada of Ukraine registered a number of draft laws aimed at regulating the procedure for receiving compensation for property damage caused to housing to individuals as a result of the war.

Some of the legislative initiatives were aimed at protecting and ensuring the right to receive compensation not only for the title owners of apartments and houses.

One of them is the draft law No. 5177, registered on

1 March 2021, entitled "On the Protection of Ownership Right and Other Property Rights of Persons Affected by Armed Aggression".<sup>23</sup> From the name of this draft law, it follows that its purpose is to protect not only ownership rights, but also other real rights of persons affected by the war.

The draft law established the scope of its operation, which should cover the protection of ownership right and *other real rights to immovable property* (residential building, apartment, other residential premises, building, structure, non-residential premises, land plot, etc.) and movable property, the rights to that were violated as a result of armed aggression. This would have to be achieved through the provision of compensation or restitution.<sup>24</sup>

Affected persons, according to the definition of the draft law, are persons who have suffered property damage in connection with the loss, destruction or damage of property as a result of armed aggression belonging to them by right of ownership or *other property rights* registered in accordance with the procedure established by law.<sup>25</sup>

The Law was to extend to legal relations concerning the protection of the property rights of individuals whose property was destroyed, damaged or lost as a result of armed aggression, as well as to the restoration of ownership right or *other real rights* that were affected as a result of that aggression.<sup>26</sup>

The Draft Law also determined that the Cabinet of Ministers of Ukraine should be responsible for the development and adoption of regulations for the implementation of the Law, including the procedure for applying restitution, granting compensation or subventions, as well as determining the amount of compensation.

Since the draft law was withdrawn from consideration on 3 September 2024, and given the likely details of the categories of recipients of compensation and res-

<sup>22</sup> Sub-paragraphs 3-4 of paragraph 34 of the *Procedure for maintaining the State Register of property damaged and destroyed as a result of military operations, terrorist acts, sabotage caused by the armed aggression of the Russian Federation against Ukraine*, as amended by Resolution of the Cabinet of Ministers of Ukraine No. 1430 dated 26.11.2024.

<sup>23</sup> Draft Law On the Protection of Ownership Right and Other Property Rights of Persons Affected by Armed Aggression No. 5177 dated 1.03.2021. [Access via the link.](#)

<sup>24</sup> Article 2 of Draft Law No. 5177 dated 1.03.2021.

<sup>25</sup> Article 1 of Draft Law No. 5177 dated 1.03.2021.

<sup>26</sup> Part Four of Article 2 of Draft Law No. 5177 dated 1.03.2021.

titution in bylaws, it may not be unequivocally stated that the authors of this initiative provided for the protection of the rights of housing users.

However, the consistent use of the phrase "*other real rights*" probably indicates an intention to expand the categories of recipients of assistance, which differs from those that are currently defined by law.

The next alternative draft law that has not been adopted is Draft Law No. 4301 dated 24.03.2016 "On Recovery for Losses for Destroyed or Damaged Private Housing". This draft law was aimed at establishing the procedure for recovery of losses to individuals for damaged or destroyed objects of private housing stock and private households affected during the anti-terrorist operation in Donetsk and Luhansk regions.<sup>27</sup>

Draft Law No. 4301 did not directly define the categories of persons who will be entitled to compensation. However, it was noted in Article 1 that it regulates legal relations related to compensation for losses to *individuals*<sup>28</sup> for destroyed or damaged individual residential buildings, apartments, as well as residential premises in dormitories. In addition, Article 2 of the draft law that defined the procedure for examining objects, stated that the survey is carried out on the basis of a claim and a document confirming ownership of the object or *fact of living* of property owner in the premise, *tenant of the object* of state or public housing stock (other than official housing), or their family members or legal representatives.

In December 2016, according to the results of voting by people's deputies, draft law No. 4301 was rejected.

Thus, from 2016 until the start of the full-scale invasion, various legislative initiatives were proposed regarding the procedure for obtaining compensation for damaged and destroyed housing. Some of them provided for the possibility of compensation also for persons who occupied this housing legally. However, the main focus was on protecting the rights of owners of damaged and destroyed properties.

### 1.5. Restrictions related to the housing privatization procedure as the root cause of lack of access to the compensation

Among the persons who are currently not entitled to receive compensation for damaged or destroyed housing under the national compensation mechanism, users of apartments, single-family houses and dormitories of municipal and state ownership were in the most vulnerable position.

Some of these individuals started the housing privatization process on the eve of a full-scale invasion, but did not have time to complete it, while others did not start this process at all.

Special attention should be paid to the situation that has arisen in the areas of the Anti-Terrorist Operation.

In February 2015, the Verkhovna Rada of Ukraine adopted the Law of Ukraine "On Military-Civil Administrations" (hereinafter referred to as Law No. 141-VIII).<sup>29</sup> According to the explanatory note to the draft law, its adoption was aimed at creating conditions for ensuring life of local communities, solving issues of local significance by establishing a special procedure for exercising certain powers of local governments (village, settlement, city councils, their executive bodies, regional, district councils) in the area of the anti-terrorist operation in the case when the relevant local governments do not exercise such powers or have withdrawn from their implementation.<sup>30</sup>

The draft law provided for the formation of military-civil administrations as temporary state authorities operating as part of the Anti-Terrorist Center under the security service of Ukraine to ensure the operation of the Constitution and Laws of Ukraine, ensure security and normalization of life of the population, law and order, participate in countering sabotage and terrorist acts, and prevent a humanitarian catastrophe in the area of the Anti-Terrorist Operation. Military-civil administrations were formed if necessary by the decision of the President of Ukraine.<sup>31</sup>

<sup>27</sup> Draft Law on recovery of losses for destroyed or damaged private housing to persons whose private housing or private households were damaged (destroyed) during the Anti-Terrorist Operation No. 4301 dated 24.03.2016.

<sup>28</sup> Without reference to the ownership right of such objects.

<sup>29</sup> 29 Law of Ukraine No. 141-VIII dated 3.02.2015 "On Civil-Military Administrations". [Access via the link.](#)

<sup>30</sup> Explanatory note to Draft Law No. 141-VIII dated 3.02.2015. [Access via the link.](#)

<sup>31</sup> Explanatory note to Draft Law No. 141-VIII dated 3.02.2015. [Access via the link.](#)

Paragraph 12 of Part One of Article 4 of Law No. 141-VIII that contained a list of powers of military-civil administrations of settlements, established a ban on the alienation of municipal property, *in particular through privatization* or leasing for a period of more than five years. Exceptions are cases of distribution of such property between territorial communities the territories of those are approved by the Cabinet of Ministers of Ukraine, transfer of property from municipal to state ownership, as well as write-off of municipal property.

Taking into account this norm, housing privatization in certain areas of Donetsk and Luhansk regions has not been possible since 2015. Given that a significant part of such housing is damaged or completely destroyed, privatization is still impossible.

This issue attracted the attention of the media even before the start of full-scale invasion. In particular, on 2 January 2022, the regional TV and radio company Suspilne Donbas published a report stating the need to amend Law No. 141-VIII, in particular, to simplify the privatization procedure. During the interviews with the affected persons, it was shown how the ban on the privatization of municipal property in the settlements of Donetsk and Luhansk regions, where military-civil administrations operated instead of elected local governments, negatively affected local residents.

Special attention should be paid to the story of one of the residents of Vuhledar, who since 2014 tried to get the necessary documents for the privatization of land under his house. However, after all the documents were ready and it remained only to reissue them with a notary, the presidential decree on the creation of the Vuhledar military-civil administration appeared, and the decision of local deputies on privatization ceased to apply due to the introduction of the moratorium. As the affected person noted, he paid more than UAH 100 thousand as an initial payment, but as a result could not complete the process of privatization of the land plot.<sup>32</sup>

In March 2021, the Verkhovna Rada of Ukraine registered a Draft Law on Amendments to Article 4 of the Law of Ukraine "On Military-Civil Administrations" regarding the implementation of the rights of residents of dormitories to privatize residential premises.<sup>33</sup>

As follows from the explanatory note to the Draft Law, its purpose is to resolve the issue of granting permission for housing privatization by residents of dormitories in localities where the functions of local governments are performed by military-civil administrations. At the same time, the reason for its registration in the parliament was the abolition of preferential electricity tariffs for certain categories of consumers. The initiators of the draft law note that the proposed amendments would allow residents of dormitories to privatize the housing in which they live, which, in turn, would allow them to allow to conclude direct contracts, get the right to compensation in future heating seasons, as well as install multi-zone meters with the possibility of using a "night" electricity tariff.

The Draft Law itself consisted of three indents, which should supplement the second sentence of paragraph 12 of Part One of Article 4 of the Law of Ukraine "On Military-Civil Administrations" with the words *"and making a decision on granting permission for the privatization of residential premises in dormitories"*.

On 3 September 2024, this Draft Law was included in the agenda of the IX convocation of the Verkhovna Rada of Ukraine. At the same time, according to information about its status on the official website of the Ukrainian Parliament, on 25 March 2021, the draft was submitted for review to the members of the main committee responsible for its consideration. However, no further consideration took place.

In addition, certain restrictions on privatization are also established by the Law of Ukraine "On Privatization of State Housing Stock". Thus, Part Two of Article 2 of this Law provides that apartments (houses) and residential premises in dormitories are not subject to privatization, in particular, *which are in*

<sup>32</sup> Suspilne Donbas, "Public organization "OPORA" is preparing amendments to the Law on Military-Civil Administrations», 2.01.2022. [Access via the link.](#)

<sup>33</sup> Draft Law on amendments to Article 4 of the Law of Ukraine "On Military-Civil Administrations" concerning the implementation of the rights of residents of dormitories to privatize residential premises No. 3939-IX dated 3.09.2024. [Access via the link.](#)

*disrepair, that is, in which it is impossible to ensure the safe residence of people.*<sup>34</sup>

As a result, users of non-privatized apartments may find themselves in a situation where their housing is so damaged that safe living in it is impossible or it is completely destroyed as a result of military operations. Taking into account the provisions of the current legislation analysed in this section, such persons are deprived of the opportunity not only to privatize their housing and become its owners, but also to claim interim compensation for the restoration of housing (or the purchase of a new one) from the Government.

This encourages reflection on the need to adjust the legislation in order to expand the circle of entities that may receive interim compensation from the Government. Ignoring the above circumstances in the formation of state policy in the field of support for the war-affected population does not correspond to the human-centered approach, the provision of that is a priority today.

## 1.6. Conclusions

Summing up the analysis of national legislation on the provision of interim compensation for housing damaged and destroyed as a result of the war, we may draw the following conclusions.

Since 2014, the Government of Ukraine has focused its efforts on compensation for housing damaged or destroyed as a result of military operations, mainly for persons who had official ownership right of such immovable property. Despite attempts to expand the list of recipients of compensation at the legislative level, even after a full-scale invasion, the right to recovery of expenses for the restoration of damaged housing or the purchase of new ones remains exclusively with the owners of such objects.

Currently, the national compensation mechanism does not provide for the possibility of receiving compensation for damaged and destroyed housing for such categories of persons:

- persons who have lived in apartments and houses legally for a long time, but for some reason have not started or finalized the procedure for their privatization;

- persons who have lived in unauthorized houses for a long time;
- persons who did not accept the inheritance after the death of the testators, but continued to live in apartments and houses, and the local government did not initiate the procedure for recognizing the inheritance as extortionate;
- users of service apartments and social housing;
- persons who have lived in apartments/houses for a long time, but at the time of the conclusion of a contract, have not registered the transfer of ownership right in accordance with the requirements of the legislation.

Special attention should be paid to the categories of persons who for various reasons, did not have time to privatize their housing. This issue is extremely relevant for residents of the districts where the Anti-Terrorist Operation was carried out, since at the level of legislation since 2015, a ban on the privatization of municipal housing in localities where military-civil administrations functioned instead of local governments.

However, this problem is relevant not only for the Donetsk and Luhansk regions. Users of apartments that are in municipal ownership in localities located far from the front line also risk losing the opportunity to privatize their housing in the event of its damage or destruction. At the same time, they are deprived of the right to receive compensation from the government for its renewal or purchase of new housing.

The issue of accounting for persons who are not yet eligible for compensation (housing users) also remains problematic. The existing regulatory framework allows accounting for damaged or destroyed property of municipal and state ownership, but does not include a mechanism for collecting and storing information about users of this property. In certain cases, collecting evidence that a person has used municipal housing may be significantly more difficult. This, in particular, is due to the possible loss of documents confirming the right to live in residential premises, as well as the destruction or lack of access to the archives of local governments and state authorities in the occupied territories.

<sup>34</sup> Law of Ukraine No. 2482-XII dated 19.06.1992 "On Privatization of State Housing Stock". [Access via the link.](#)

## Section 4

# QUANTIFICATION OF VICTIMS

Given the categories of persons identified in the previous section who were legally excluded from participating in the "e-Recovery" programme as a national compensation mechanism, it is worth noting the particular difficulty in determining the exact number of such persons.

This state of affairs is primarily due to:

- **lack of centralized accounting** — accounting of apartments of municipal property or housing stock for social purposes is conducted separately by local governments in the territory where the relevant objects are located; housing with the status of service is accounted for by the relevant body, institution or enterprise on the balance sheet of those such housing is located;
- **lack of accounting as such** — concerns unauthorized buildings or cases of transfer of ownership rights in violation of the procedure established by law;
- **restricted access to information contained in state registers** — regarding the property that was not inherited by the heirs, but was actually in their use.

In addition, the process of collecting information in some cases is complicated or impossible by the loss of access to archival data by local governments or military administrations that have resumed their work outside the occupied territories in the territory controlled by the Ukrainian Government.

To find out the estimated number of persons who are not subject to participation in the government programme "e-Recovery", taking into account pre-defined categories, two series of requests were prepared and sent using the tools provided for by the Law of Ukraine "On Access to Public Information".

The first series of requests was addressed to regional military administrations, which, in the vast majority, redirected them for consideration and response to district administrations and/or local governments.

These requests concerned the provision of information on:

- I. Persons who applied for compensation, but are not owners of damaged or destroyed housing, in particular on persons who have not completed or started privatization, as well as users of service or social housing.
- II. Keeping records of the above persons and obtaining data on the number of persons, if such records exist.
- III. Gaps identified in the processing of appeals from the above persons by the Commissions for consideration of issues related to the provision of compensation.

The second series of requests was sent mainly to the military administrations of the settlements of Donetsk and Luhansk regions, which are currently occupied and/or are on the list of territories of possible and active military operations.

This series of requests included a request for information on:

- I. The number of residential immovable property objects of municipal and state ownership that as of 24.02.2022 were located in the territory of the community being subject of consideration of the request and were used by individuals (service housing, social housing, non-privatized apartments, etc.).
- II. The number of objects specified in paragraph I that were damaged or destroyed as a result of military operations.
- III. The number of families who lived in residential properties specified in paragraph I, as of 24.02.2022.

Analysis of responses to the first series of requests indicates a lack of awareness of local governments and/or military administrations with the essence of the issues raised. This is manifested, in particular, in the provision of information concerning related but distinctive issues, in particular difficulties associated

with the restoration of lost constituent documents by the owners of affected housing, registration of property rights in the State Register of real rights to immovable property, or the need to recognize property rights in court.

At the same time, concerns were confirmed about the unavailability of a significant part of information about the property of municipal property and its users in connection with the occupation of certain settlements.

This is due, in particular, to the failure to take measures to move paper media to the territory controlled by the Government of Ukraine, which was often objectively impossible.

The following responses to requests contain information of interest in the context of the topic under study.

### Zhytomyr City Council

As a result of the use of means of warfare in March 2022 in the city of Zhytomyr apartment buildings located at the following addresses were destroyed: 2, Chumatskyi Shliakh Str., and 1/304, BOS Str.

Most of the destroyed apartments in these buildings (total number of 71) were not privatized and were in state ownership (the functions of the owner were performed by the Ministry of Defense of Ukraine). Citizens lived in these apartments on a rental basis.

According to Part Two of Article 2 of the Law of Ukraine "On Privatization of State Housing Stock", the privatization of residential premises in which it is impossible to ensure safe living is prohibited. Thus, residents of these apartments are deprived of both the opportunity to receive compensation under the government programme "e-Recovery" (since they do not have ownership rights), and the right to privatize the corresponding housing.

According to the local programme of providing targeted social assistance to residents of the Zhytomyr city territorial community, financed from the local

budget, persons who have lost their housing are paid monthly material assistance for renting (leasing) the housing.

Amount of corresponding payments by year:

- 2022 — UAH 4,626.8 thousand;
- 2023 — UAH 8,027.6 thousand;
- 2024 — UAH 4,947.6 thousand.

According to a representative of one of the departments of the local council, these expenses are a significant financial burden for the community.

The local council attached to the response to the request copies of its appeals to the Ministry of Community Development, Territories and Infrastructure of Ukraine. These appeals contain a description of the problem and a proposal to amend the legislation in order to ensure access for users of destroyed apartments either to compensation under the "e-Recovery" programme or the privatization procedure.

The Ministry of Development of Communities, Territories and Infrastructure of Ukraine, in response to one of the appeals, reported that the proposals of the Zhytomyr City Council "will be considered in accordance with the established procedure when preparing the draft amendments to the Law". The Ministry's response is dated 22 November 2023.

### Donetsk Region

#### DONETSK REGIONAL MILITARY ADMINISTRATION

The Donetsk regional military administration received two appeals<sup>1</sup> from citizens regarding the possibility of obtaining compensation for damaged and destroyed immovable property in cases where the applicants are not its owners.

These appeals were provided with comprehensive explanations in accordance with the current legislation.

<sup>1</sup> As of 23 October 2024.

### Mariupol City Council

- The number of residential immovable property objects of municipal ownership in the territory of the community is 6,973 non-privatized apartments.
- All apartments were used by individuals.
- *No other information requested was provided.*

### Pokrovskiy district

#### Mariinska city military administration of the Pokrovskiy district of Donetsk region

In the municipal ownership of the Mariinska city territorial community there are three five-story dormitories located at the following addresses: 14, Administrativna Str.; 18, Yaroslava Mudroho Str. and 20, Yaroslava Mudroho Str. in Krasnohorivka of the Pokrovskiy district of Donetsk region.

The balance holder of these objects is the municipal enterprise Krasnohorivskiy city combine of municipal enterprises "Vita".

In connection with the formation in March 2015 of the Krasnohorivska military-civil administration, as well as taking into account Paragraph 12 of Part One of Article 4 of the Law of Ukraine "On Military-Civil Administrations" that established a ban on the alienation of municipal property, in particular through privatization, the process of privatization of apartments in the community was completely stopped. This also applies to apartments located in these dormitories.

Thus, starting from March 2015, users of apartments in these dormitories are deprived of the opportunity to acquire ownership of housing through privatization, and therefore — the right to receive compensation for its destruction under the "eRecovery" programme.

- The number of residential immovable property objects of state and municipal ownership in the territory of the community is 221, of which:
  - > 8 apartments — service housing;

- > 189 non-privatized apartments in dormitories;
- > 24 non-privatized apartments in apartment buildings.
- The number of families living in these properties is 221.
- *All the above objects were damaged or destroyed.*

#### Dobropilska city military administration of the Pokrovskiy district of Donetsk region

As of the response date<sup>2</sup> the Commission on granting compensation received 33 claims from persons who are not owners of housing for compensation for its damage.

At the same time, 28 persons use apartments owned by the Dobropilska city territorial community.

The administration considers it appropriate to regulate the issue of providing compensation to urban communities and persons who are not homeowners, provided that they have a certificate of opening an inheritance case, a will or an inheritance contract concluded in their name.

- The number of residential immovable property objects of state and municipal ownership in the territory of the community is 1,383.
- All such objects were used by individuals.
- The number of state-owned and municipal residential immovable property objects that were damaged is 221.

#### Kurakhivska city military administration of the Pokrovskiy district of Donetsk region

- The number of residential immovable property objects of municipal ownership in the territory of the community is 820, of which:
  - > 3 residential premises — from the social housing fund;

<sup>2</sup> As of 29 October 2024



**Forum "Compensation to legitimate users (non-owners) of damaged/destroyed housing: challenges and prospects", 29 November 2024, Kyiv.**

- > 817 — non-privatized apartments.
- The number of residential immovable property objects of state ownership in the territory of the community is 14, of which:
  - > 5 — service apartments owned by the State Tax Service of Ukraine;
  - > 9 — service apartments owned by the Territorial Office of the State Judicial Administration of Ukraine in the Donetsk region.
- The number of families living in these facilities is 815, which is 1,916 persons.
- The number of municipal and state-owned residential immovable property objects that were damaged or destroyed is 24, of which:
  - > destroyed — 24 residential premises;
  - > damaged — the exact number has not been established, approximately, at least partially, each

of the residential premises was damaged.

**Myrnohradka city military administration of the Pokrovskiy district of Donetsk region**

- The number of residential immovable property objects of municipal or state ownership in the territory of the community is 7, of which:
  - > 2 apartments — housing from the social fund;
  - > 5 apartments — service housing.
- *No other information requested was provided.*

**Ocheretynska settlement military administration of the Pokrovskiy district of Donetsk region**

- The number of residential immovable property objects of municipal ownership in the territory of the community is 139 apartment buildings.

- The number of residential immovable property objects of municipal ownership that were damaged or destroyed is 127 apartment buildings.
- *No other information requested was provided.*

#### **Pokrovska city military administration of the Pokrovskiy district of Donetsk region**

- The number of residential immovable property objects of municipal ownership in the territory of the community is 737 apartments.
- The number of residential immovable property objects of municipal ownership that were damaged or destroyed is 534 apartments.<sup>3</sup>

#### **Novohrodivska city military administration of the Pokrovskiy district of Donetsk region**

- The number of residential immovable property objects of municipal and state ownership in the territory of the community is 17, of which:
  - > 1 apartment — service housing;
  - > 16 apartments in a two-storey residential building — social housing stock.
- The number of families living in these properties is 17.
- The number of residential immovable property objects of municipal ownership that were damaged or destroyed is 1 (a two-story residential building was damaged).

#### **Hrodivska settlement military administration of the Pokrovskiy district of Donetsk region**

- The number of residential immovable property objects of municipal and state ownership in the territory of the community is 10.
- The number of families living in these objects is 10.

- The number of municipal and state-owned residential immovable property objects that were damaged or destroyed is 7, of which:
  - > damaged — 4;
  - > destroyed — 3.

#### **Avdiivska city military administration of the Pokrovskiy district of Donetsk region**

- The number of residential immovable property objects of municipal ownership in the territory of the community is 218, of which:
  - > 6 apartments in 6 buildings — fund of housing intended for temporary residence of IDPs;
  - > 4 apartments in 3 buildings — social housing fund (for orphaned children).
- The number of families living in these objects is 10.
- *There is no exact information about damage or destruction of these objects.*

#### **Kramatorskiy district**

#### **Mykolaivska city military administration of the Kramatorskiy district of Donetsk region**

- The number of residential immovable property objects of municipal ownership in the territory of the community is 455, of which:
  - > 111 apartments in 3 apartment buildings;
  - > 160 rooms in dormitories;
  - > 184 apartments in apartment buildings.
- The number of families living in these properties is 349.
- The number of municipal residential immovable property objects that were damaged or destroyed is 30, of which:

<sup>3</sup> As of 31 December 2024.

- > destroyed — 5 non-privatized apartments in 5 buildings;
- > damaged — 116 non-privatized apartments in 23 buildings, a dormitory and one apartment building.

#### **Illinivska rural military administration of the Kramatorskyi district of Donetsk region**

- The number of residential immovable property objects of municipal ownership in the territory of the community is 18 non-privatized apartments.
- The number of families living in these properties is 9.
- *None* of these objects were damaged or destroyed.

#### **Kostiantynivska city military administration of the Kramatorskyi district of Donetsk region**

- The number of residential immovable property objects of municipal ownership in the territory of the community is 2,186, of which:
  - > 9 apartments — service housing;
  - > 3 apartments — housing from the social fund;
  - > 2,174 — non-privatized apartments.
- The number of residential immovable property objects of municipal ownership that were damaged or destroyed is 35.

#### **Slovianska city military administration of the Kramatorskyi district of Donetsk region**

- The number of residential immovable property objects of municipal ownership in the territory of the community is 3,146, of which:
  - > 2680 non-privatized apartments;
  - > 265 non-privatized rooms in 9 dormitories;
  - > 164 residential premises — service housing;
  - > 37 residential premises — housing from the temporary housing fund for IDPs.
- The number of residential immovable property

objects of municipal ownership that were damaged or destroyed is 155, of which:

- > damaged — 140 non-privatized apartments, 5 dormitories, 4 residential premises from among the service housing, 5 apartments from the temporary housing fund for IDPs;
- > destroyed — 1 apartment from the temporary housing fund for IDPs.

#### **Andriivska rural military administration of the Kramatorskyi district of Donetsk region**

- The number of residential immovable property objects of municipal ownership in the territory of the community is 44 houses.
- The number of families living in these properties is 33.
- *None* of these objects were damaged or destroyed.

#### **Lymanska city military administration of the Kramatorskyi district of Donetsk region**

- The number of residential immovable property objects of municipal ownership in the territory of the community is 13, of which:
  - > 2 residential premises — social housing stock;
  - > 11 residential premises — service housing.
- All of the above residential immovable property objects were damaged.
- *No other information requested was provided.*

#### **Bakhmutskyi district**

#### **Soledarska city military administration of the Bakhmutskyi district of Donetsk region**

Users (non-owners) of damaged and destroyed housing addressed to the administration by phone for advice on compensation issues. In particular, the issues related to the impossibility of implementing the procedure for privatizing housing located in the temporarily occupied territory, as well as the loss of documents (settlement orders, technical passports, etc.).

The response did not contain information about the number of such requests.

- The number of residential immovable property objects of municipal ownership in the territory of the community is 800, of which:
  - > 6 apartments — service housing;
  - > 680 non-privatized apartments;
  - > 114 non-privatized rooms in 3 dormitories.
- *There is no information about the number of damaged and destroyed objects and the number of families who lived in these objects.*

#### **Toretska city military administration of the Bakhmutskyi district of Donetsk region**

- The number of residential immovable property objects of municipal ownership in the territory of the community is 3,534, of which:

- > 1 apartment — service housing;
- > 8 apartments — social housing;
- > 3,525 non-privatized apartments.
- The estimated number of families who lived in these objects is 3,270, which is 6,540 persons.
- According to *operational data of the administration*, **the entire housing stock** of the community was damaged.

#### **Chasovoyarska city military administration of the Bakhmutskyi district of Donetsk region**

- The number of residential immovable property objects of municipal and state ownership in the territory of the community is 675 (non-privatized apartments).
- The number of families living in these properties is 1175.
- *No other information requested was provided.*

***Inspection of the roof repair of a house in the village of Cherkaske, Donetsk region, carried out with the support of DRC for compliance with standards. ©DRC Ukraine, Cherkaske, Donetsk region, March 2025, Krystyna Pashkina.***



### **Bakhmutska city military administration of the Bakhmutskyi district of Donetsk region**

- The number of residential immovable property objects of municipal ownership in the territory of the community is 250, of which:
  - > 3 dormitories;
  - > 247 non-privatized apartments.
- The number of families living in these properties is 417.
- All objects were damaged or destroyed.

### **Volnovaskyi district**

#### **Velykonovosilkivska settlement military administration of the Volnovaskyi district of Donetsk region**

The community reported on the existing cases of appeals to the Commission on housing survey from persons who are not its owners.

Additionally, it is specified that as of the date of submission of the response<sup>4</sup> the Commission was contacted by 11 persons who are users (non-owners) of the affected housing, who needed to obtain a survey report. In particular:

- 2 persons purchased houses without properly executing purchase and sale agreements;
- 3 persons do not have an entry in the State Register of Real Rights (SRRR);
- 6 persons are the heirs of the owner of the affected housing.<sup>5</sup>

In addition, it follows from the response received that persons who have not drawn up contracts for the purchase and sale of houses in accordance with the procedure established by law, due to the death of their legal owners, are deprived of the opportunity to complete the procedure for registration of ownership

rights. At the same time, they applied to the court with claims for recognition of ownership right of the relevant property, but their claims were dismissed.

- The number of residential immovable property objects of municipal ownership in the territory of the community is 125, of which:
  - > 30 non-privatized apartments;
  - > 95 residential buildings.
- The number of families living in these objects is 125.
- *All of the above residential immovable property objects were destroyed.*

#### **Vuhledarska city military administration of the Volnovaskyi district of Donetsk region**

- The number of residential immovable property objects of municipal and state ownership in the territory of the community is 582, of which:
  - > 2 apartments — service housing;
  - > 5 apartments and 1 residential building — housing from the social fund;
  - > 473 non-privatized apartments;
  - > 101 non-privatized rooms in dormitories.
- The number of families living in these properties is 178.
- *All of the above residential immovable property objects were destroyed.*

#### **Olhynska settlement military administration of the Volnovaskyi district of Donetsk region**

- The number of residential immovable property objects of municipal ownership in the territory of the community is 10, of which:

<sup>4</sup> As of 28 October 2024.

<sup>5</sup> Probably, in these cases, it is about another problem related to the need to recognize the right of ownership of housing in court in order to register the right of ownership in the SRRR.

- > 1 dormitory — social housing stock;
- > 8 residential buildings — social housing stock;
- > 1 apartment — service housing.
- *No other information requested was provided.*

*community due to the fact that the archives of executive authorities are located in the occupied territory.*

- The number of residential immovable property objects of municipal ownership that were damaged or destroyed is 532.

## LUHANSK REGION

### Sievierodonetskyi district

#### Sievierodonetska city military administration of the Sievierodonetskyi district of Luhansk region

When processing information notifications of community residents about damage or destruction of immovable property objects by responsible officials of the administration, cases of submitting such notifications by persons who do not have proper legal grounds for this are identified. In particular, it is about:

- > heirs who did not accept the inheritance and did not even initiate the procedure for its registration;
- > persons who use, but have not privatized, apartments that are in the municipal ownership of the territorial community;
- > related persons to the owner who are not co-owners of housing;
- > persons living in service apartments.
- The number of residential immovable property objects of municipal and state ownership in the territory of the community is about 3,500.
- The number of families living in these objects is approximately 3,500.
- The number of municipal and state-owned residential immovable property objects that were damaged or destroyed is 3,091.

#### Lysychanska city military administration of the Sievierodonetskyi district of Luhansk region

- *It is not possible to provide information on the number of residential immovable property objects of municipal and state ownership in the territory of the*

#### Popasnianska city military administration of the Sievierodonetskyi district of Luhansk region

As a result of the military actions, the housing stock and infrastructure of the Popasnianska city territorial community were destroyed by 90%.

Documents and archives containing information about residential immovable property objects of municipal and state ownership, which as of 24.02.2022 were located in the territory of the community and were used by individuals, were not evacuated. Now they remain in the temporarily occupied territory, there is no access to them, and their condition is unknown.

In the State Register of property damaged and destroyed as a result of military operations, terrorist acts, sabotage caused by the armed aggression of the Russian Federation against Ukraine, information notifications were registered about damage or destruction of 6 apartments of municipal property from the housing stock intended for temporary residence of IDPs, and 4 apartments from among the service ones.

#### Kreminska city military administration of the Sievierodonetskyi district of Luhansk region

- The number of residential immovable property objects of municipal ownership in the territory of the community is 4 apartments.
- The number of families living in these properties is 4.
- *No other information requested was provided.*

### Svativskyi district

#### Kolomyichyska rural military administration of the Svativskyi district of Luhansk region

When providing consultations to affected persons, the

local administration identified a number of problematic issues that make it impossible to participate in the "eRecovery" programme. In particular, cases were recorded in the territory of the community when the owner of a residential property died, the heir did not accept the inheritance in accordance with the procedure established by law, but sold the housing to a third party, transferring the constituent documents and drawing up a receipt for receiving funds. At the same time, the constituent documents remain issued to the deceased person (testator).

In addition, the rural administration noted that, according to unconfirmed information, about **35-40% of households in the community were used by persons without properly registered ownership rights** on the immovable property.

## ZAPORIZHZHIA REGION

### Polohivskiy district

#### Huliaipilska city military administration of the Polohivskiy district of Zaporizhzhia region

As of the response date the administration<sup>6</sup> was contacted by two persons who have been using residential buildings for a long time, but did not draw up purchase and sale agreements in accordance with the procedure established by law at the time of the transaction.

According to the administration, the reason for improper execution of such agreements was the lack of necessary funds at the time of purchasing housing. At the same time, it is noted that **the practice of buying and selling immovable property without proper legal registration is quite common** among residents of rural regions. This is due to the low level of material well-being of the population, as well as the fact that **the cost of purchased housing was often lower than the cost of notarizing the agreement and paying state fees.**

The administration also noted that the only legal mechanism for resolving such situations is to apply

to the court with a claim for recognition of ownership right of property under the statute of limitations or recognition of the transaction as concluded orally. At the same time, citizens who find themselves in such situations do not have the financial opportunity to pay the court fee and the services of a lawyer. In addition, judicial practice is heterogeneous, and based on the results of consideration of cases on such claims, decisions are often made to dismiss them.

- The number of residential immovable property objects of municipal ownership in the territory of the community is 5.
- The number of families living in these properties is 5.
- All of the above residential immovable property objects were damaged.

#### Preobrazhenska rural military administration of the Polohivskiy district of Zaporizhzhia region

The administration of the locality receives appeals from persons who apply with questions about receiving compensation for damaged or destroyed housing, without being its owners. This is due to the fact that they did not accept the inheritance after the death of the testators, but continued to use the relevant apartments or houses without re-registering ownership right for themselves.

As of the response date<sup>7</sup> **123 such requests are recorded.** The main problem that makes it impossible to register inheritance rights and further participate in the compensation program is the high cost of notarial services.

### Berdianskiy district

#### Berestivska rural military administration of the Berdianskiy district of Zaporizhzhia region

As of the response date<sup>8</sup> the administration has registered two persons who have submitted an information notification about damaged or destroyed property.

<sup>6</sup> As of 31 October 2024.

<sup>7</sup> As of 1 November 2024.

<sup>8</sup> As of 1 November 2024.

When providing consultations, it was established that these persons did not initiate the procedure for registration of real rights to housing.

objects of municipal ownership that were damaged or destroyed is 46 houses and dormitories (approximately 1,900 apartments and residential premises)

## KHERSON REGION

### Kherson City Council

- The number of residential immovable property objects of municipal ownership in the territory of the community is 184, of which:
  - > 3,540 living premises in 39 dormitories;
  - > 974 apartments in 14 apartment buildings of "flexible" design scheme;
  - > 47 apartments in 2 apartment buildings;
  - > 38 non-privatized apartments;
  - > 24 residential premises of the social purpose fund (social housing for orphans, children deprived of parental care);
  - > 67 service apartments.
- The number of families living in these properties is 4690.
- The number of residential immovable property

### Beryslavskiy district

#### Velykooleksandrivska settlement military administration of the Beryslavskiy district of Kherson region

- The number of residential immovable property objects of municipal ownership in the territory of the community is 6, of which:
  - > 2 apartments — service housing;
  - > 4 non-privatized apartments and/or houses.
- The number of families living in these properties is 6.
- The number of municipal and state-owned residential immovable property objects that were damaged or destroyed is 3, of which:
  - > damaged — 1;
  - > destroyed — 2.

Nº	Community	Number of objects <sup>1</sup>	of which damaged	of which destroyed	Number of users <sup>4</sup>
<b>Donetsk Region</b>					
<b>Pokrovskiy district</b>					
1	Mariinska	221	221 <sup>2</sup>		221
2	Dobropilska	1383	221	0	1383
3	Kurakhivska	834	?	24	1916
4	Myrnohradka	7	?		
5	Ocheretynska	139	127 <sup>2</sup>		?
6	Pokrovska	737	534 <sup>2</sup>		?
7	Novohrodivska	17	1	0	17
8	Hrodivska	10	4	3	10
9	Avdiivska	218	?		10
<b>Kramatorskiy district</b>					
10	Mykolaivska	455	116	5	349
11	Illinivska	18	0	0	9
12	Kostiantynivska	2186	35 <sup>2</sup>		?
13	Slovianska	3146	154	1	?
14	Andriivska	44	0	0	33
15	Lymanska	13	13 <sup>2</sup>		?
<b>Bakhmutskiy district</b>					
16	Soledarska	800	?		
17	Toretska	3534	3534 <sup>2</sup>		6540
18	Chasovoyarska	675	?		1175
19	Bakhmutska	250	250 <sup>2</sup>		417
<b>Volnovaskiy district</b>					
20	Velykonovosilkivska	125	0	125	125
21	Vuhledarska	582	0	582	178
22	Olhynska	10	?		
<b>Mariupolskiy district</b>					
23	Mariupolska	6973	?		6973
<b>Luhansk region</b>					
<b>Sievierodonetskiy district</b>					
24	Sievierodonetska	3500	3091 <sup>2</sup>		3500
25	Lysychanska	?	532 <sup>2</sup>		?
26	Kreminska	4	?		4

<sup>1</sup> Objects mean residential premises of municipal and state ownership that are located in the territory of the relevant community, and are/were used by individuals; while, based on the information provided in the responses to the request, this number may include both individual apartments and houses with an unknown number of apartments (rooms, residential premises, etc.). As of 1 November 2024.

<sup>2</sup> There is no more accurate information about how much is damaged and how much is destroyed.

<sup>3</sup> The exact quantity has not been determined or information has not been provided in response to the request.

<sup>4</sup> It refers to persons who use(d) residential premises of municipal and state ownership in accordance with the information received in response to requests.

Nº	Community	Number of objects <sup>1</sup>	of which damaged	of which destroyed	Number of users <sup>4</sup>
<b>Zaporizhzhia region</b>					
<b>Polohivskyi district</b>					
27	Huliaipilska	5	5	0	5
<b>Kherson region</b>					
<b>Khersonskyi district</b>					
28	Kherson City	4690	1900 <sup>2</sup>		4690
<b>Beryslavskyi district</b>					
29	Velykooleksandrivska	6	2	1	6
<b>Total number:</b>		<b>30582</b>	<b>11481</b>		<b>27561</b>

<sup>1</sup> Objects mean residential premises of municipal and state ownership that are located in the territory of the relevant community, and are/were used by individuals; At the same time, based on the information provided in the responses to the request, this number may include both individual apartments and houses with an unknown number of apartments (rooms, residential premises, etc.). As of 1 November 2024.

<sup>2</sup> There is no more accurate information about how much is damaged and how much is destroyed.

<sup>4</sup> It refers to persons who use(d) residential premises of municipal and state ownership in accordance with the information received in response to requests.

The information collected and summarized in this study on the number of persons who are currently unable to participate in the Government's "eRecovery" programme is not exhaustive, but serves as an indicator for assessing the scale of the problem. The study mainly covered the communities of Donetsk and Luhansk regions, but the problem is also relevant for other regions of Ukraine that as confirmed, in particular, by the example of the city of Zhytomyr.

Furthermore, local governments and military administrations objectively do not have the opportunity to provide accurate answers to the questions raised. Accordingly, the statistics provided by them are indicative in nature.

It should also be taken into account that the number of users (non-owners) of damaged and destroyed housing who are excluded from the "eRecovery" programme will grow in proportion to the intensification of military operations.

## Section 5

# INTERNATIONAL COMPENSATION MECHANISM

### 1.1. General provisions

The only mechanism that currently exists that allows users of damaged or destroyed housing as a result of the war in Ukraine to claim compensation in the future, is a Register of Damage caused by the aggression of the Russian Federation against Ukraine (hereinafter referred to as the Register of Damage, the Register of Damage for Ukraine or RD4U).

As stated in the Charter of the Register of Damage, it should become the first component of the future international compensation mechanism, which will be created as a separate international instrument and will include the commission for reviewing claims and the compensation fund, authorized to consider claims, make decisions and/or pay compensation for losses, expenses or damages caused by internationally wrongful actions of the Russian Federation in Ukraine or against Ukraine.<sup>1</sup>

On 21 March 2024, the Council of the Register of Damage adopted Categories of claims that may be entered in the Register of Damage of Ukraine. These categories were approved by the Conference of participants on 26 March 2024.<sup>2</sup>

Claims to be entered in the Register of Damage are classified into three main categories: A, B, and C, depending on the subject of filing. Category A covers claims of individuals, category B — claims filed by the state of Ukraine, and category C — claims of legal entities, with the exception of those belonging to category B. Each of these categories, in turn, is divided

into subcategories according to the type of losses, expenses or damage caused by the war.<sup>3</sup>

In light of the purpose of this study, further analysis will focus on categories of claims directly or indirectly related to users of housing damaged or destroyed as a result of war. The categories are:

- **A3.1** Damage or destruction of residential immovable property;
- **A3.6** Loss of access or control over immovable property on a temporary basis at occupied territories;
- **A3.3** Loss of a home or place of residence;
- **B1.3** and **C1.3** Damage or destruction of residential immovable property — residential premises

### 1.2. Category of claims A3.1 Damage or destruction of residential immovable property

The first category of claims that has become available for submission to the Register of Damage is category A3.1 that concerns losses related to damage or destruction of residential immovable property. Starting from April 2024, individuals have the opportunity to submit claims in this category.<sup>4</sup>

The conditions for submitting claims in this category are defined in the claim Form and rules adopted by

<sup>1</sup> Committee of Ministers of the Council of Europe. Annex to Resolution CM/Res(2023)3 "On the establishment of Extended partial agreement on the Register of Damage caused by the aggression of the Russian Federation against Ukraine" — *Charter of the Register of Damage caused by the aggression of the Russian Federation against Ukraine, paragraph 2.5*. [Access via the link](#).

<sup>2</sup> Register of Damage for Ukraine. Categories of claims that may be entered in the Register of Damage for Ukraine. [Access via the link](#).

<sup>3</sup> Register of Damage for Ukraine. Categories of claims that may be entered in the Register of Damage for Ukraine. [Access via the link](#).

<sup>4</sup> Register of Damage for Ukraine. The Register of Damage for Ukraine starts accepting claims for recovery for losses caused by Russian aggression — news on the official website dated 2 April 2024. [Access via the link](#).

the Council of the Register of Damage on 21 March 2024 (revised on 14 June 2024) and approved by the Conference of the participants on 26 March 2024 (revised on 8 July 2024).<sup>5</sup>

Subparagraph "a" of paragraph 3 of the claim Form and rules for the category of claims A3.1 provides that "*claims in category A3.1 may be submitted by or on behalf of individuals, **who are the owners of residential immovable property** in the territory of Ukraine within its internationally defined borders, including its territorial waters, that was damaged or destroyed on or after 24 February 2022, by internationally wrongful actions of the Russian Federation in Ukraine or against Ukraine*".

This rule restricts users (tenants) of housing that was damaged or destroyed as a result of military operations in Ukraine in submitting claims under category A3.1, focusing only on the owners of the relevant immovable property objects. In addition, owners of damaged housing will not be able to apply for this category until 24 February 2022.

### 1.3. Category of claims A3.6 Loss of access or control over immovable property on a temporary basis at occupied territories

The conditions for submitting claims are detailed in the Form and rules for submitting claims in category A3.6, that were adopted by the Council of the Register of Damage on 6 September 2024, and approved by the Conference of the participants on 6 November 2024.<sup>6</sup>

From paragraph 3 of the claim Form and rules for this category, it may be seen that "*claims in category A3.6 may be submitted by individuals or on behalf of individuals, **who are the owners of immovable property** in the territory of Ukraine within its internationally recognised borders, including its territorial waters, which lost access to or control over such property on or after 24 February 2022 as a result of the temporary occupa-*

*tion of the territory where such property is located, as a result of internationally wrongful actions of the Russian Federation in Ukraine or against Ukraine*".

This category of claims, like category A3.1, applies exclusively to owners of the relevant immovable property objects. At the same time, it covers cases when the owner of property has completely or significantly lost access, the ability to use, own or dispose of it, believes that it was damaged or destroyed, but may not prove this fact.

Currently, this category is not yet open for filing claims.<sup>7</sup>

### 1.4. Category of claims A3.3 Loss of housing or residence

The most interesting category for potential applicants who are users (non-owners) of damaged or destroyed housing may be the category of claims A3.3, that concerns the loss of housing or place of residence. At the moment, this category of claims is not yet open for filing claims.<sup>8</sup>

The Form and rules for filing claims in this category were adopted by the Council of the Register of Damage on 6 September 2024, and approved by the Conference of the participants on 6 November 2024.<sup>9</sup>

Paragraph 3 of the claim Form and rules for the category of claims A3.3 states that claims "*can be submitted by or on behalf of individuals who have lost their **housing** or residence in the territory of Ukraine within its internationally recognised borders, extending to its territorial waters, on or after 24 February 2022 as a result of internationally wrongful acts of the Russian Federation in or against Ukraine*".

However, for the purposes of this category, "housing or place of residence" is defined as "*the place that is home to the applicant*".

<sup>5</sup> Register of Damage for Ukraine. *Claim form and rules. Category of claims A3.1 Damage or destruction of residential immovable property.* [Access via the link.](#)

<sup>6</sup> Register of Damage for Ukraine. *Claim form and rules. Category of claims A3.6 Loss of access or control over immovable property on a temporary basis at occupied territories.* [Access via the link.](#)

<sup>7</sup> As per March 2025.

<sup>8</sup> As per March 2025.

<sup>9</sup> Register of Damage for Ukraine. *Claim form and rules. Category of claims A3.3 Loss of housing or residence.* [Access via the link.](#)

Furthermore, subparagraph 3.4 of the Form and rules contains a reservation that "*claims for damage or destruction of residential immovable property submitted by the owners of such property in category A3.1 – Damage or destruction of residential immovable property*".

As stated in the Declaration of the informal conference of Ministers of Justice of the Council of Europe (Riga principles) dated 11 September 2023<sup>10</sup>, "*the international legitimacy and authoritative nature of the Register as a tool for reviewing mass claims should be strengthened, in particular by taking due account of the practice of the ECtHR and other norms of international law*". Accordingly, the term "home" used in the category of claims A3.3 should be interpreted taking into account the norms of international human rights law, in particular the ECHR and decisions of the ECtHR, that specify this concept.

Consequently, users of, including damaged or destroyed housing as a result of the war, will be able to submit claims and claim recovery for the corresponding losses through the category of claims A3.3. The Rules also provide that within this category, claims may cover facts related to the loss of ordinary personal belongings, as well as expenses incurred to secure a new home or place of residence, including relocation costs (except for items of exceptional value or rarity that may be submitted in category A3.7).<sup>11</sup>

As is provided for other categories of claims that may be entered in the Register of Damage, applicants in the category of claims A3.3 should submit "*certain information and evidence in support of their claims*".<sup>12</sup>

The table below contains a list of information to be provided with the claim in accordance with the requirements set out in the A3.3 claim Form and rules.

<sup>10</sup> Declaration of the Informal Conference of Ministers of Justice of the Council of Europe, 11 September 2023, Riga, Latvia. [Access at link.](#)

<sup>11</sup> Paragraphs 3.3, 3.4 of the claim Form and rules. claim category A3.3 Loss of a home or place of residence.

<sup>12</sup> Paragraph 8 of Reservations, information and instructions for Applicants, Category A3.3, set out in the claim Form and rules. Category of claims A3.3. Loss of housing or residence.

Nº	Information that should be specified in the claim or submitted together with it
1	Language of Claim submission (Ukrainian or English)
2	Category of Claim
<b>I. Claimant Identification</b>	
3	Full name
4	Gender
5	Date of Birth
6	Nationality
7	ID document/Passport number
8	Ukrainian Tax ID number
9	Ukrainian Demographic Register Entry number
10	Claimant's Registered Address
11	Claimant's Current Address
12	Contact phone number(s)

13	Email address
14	Claimant Sub-Group (such as member of the military, territorial defence, law enforcement, emergency/utilities/critical infrastructure worker, medical personnel)
15	Has the Claimant been convicted of a crime in relation to Russian aggression against Ukraine
16	Is the Claimant subject to sanctions or other equivalent restrictive measures imposed by a government or an international organisation
17	If the Claim is submitted through a Representative, equivalent ID information about such Representative
18	If the Claim is submitted through a Centre for Provision of Administrative Services in Ukraine, information required under Article 7 of the Rules on the Use of Representatives
<b>II. Identification of the Lost Housing or Residence</b>	
19	Type of housing or residence (Apartment/House/Other)
20	Address of the housing or residence
21	Geographical coordinates of the housing or residence
22	<b>Surface area</b>
23	<b>Number of rooms</b>
24	<b>Floor of the housing</b> or residence (for apartments)
25	Number of persons residing
26	<b>Information about the building/facility</b>
<b>III. Resident status</b>	
27	<b>Legal basis of Claimant's residence</b> (i.e. ownership title to the property, rental agreement or other)
28	Is/Was the Claimant registered at the lost housing or residence
29	Date of taking up residence
30	Information about co-residents (identity, relationship with co-residents etc.)
31	Evidence of residence
32	Information about the ownership title from the State Registry of Immovable Property Rights in Ukraine (if applicable)
<b>IV. Event(s) that caused Loss of Housing or Residence</b>	
33	Type of event(s)
34	Date of event(s)
35	Description of event(s)
36	Proof of the loss of housing or residence
<b>V. Residence after relocation</b>	
37	Address of new residence after relocation if different from current address
38	Geographical coordinates of the new housing or residence
<b>VI. Amount of the Claim</b>	
39	Estimated amount of Claim
40	Itemisation of estimated amount of Claim
41	Amount and evidence of relocation expenses (if applicable)

42	Amount and evidence of expenses for new housing or residence (if applicable)
43	Amount of compensation assessed by Ukrainian authorities for the loss of housing
44	Amount of compensation payments received from Ukrainian authorities for the loss of housing
<b>VII. Other Legal Proceedings</b>	
45	Information about relevant court cases or law enforcement investigations (if applicable)
<b>VIII. Additional Evidence</b>	
46	Additional evidence with respect to Claimant's identity
47	Additional evidence with respect to the resident status
48	Additional evidence with respect to event(s) that caused the loss of housing or residence
49	Additional evidence with respect to the loss of housing or residence
50	Additional evidence with respect to other aspects of the Claim
<b>IX. Check and submission</b>	
51	Check and confirmation of data
52	Verification of identity prior to submission
53	Agreement to transmit personal data
54	Submission of the Claim

For some applicants, sections II and III of the A3.3 claim Form may be particularly difficult, requiring the provision of information that will allow identifying lost housing or place of residence, as well as determining the applicant's residence status.

Such difficulties are primarily related to possible physical loss, during displacement or as a result of the use of means of warfare against housing infrastructure, of the documents *confirming the legal basis of residence and technical characteristics of the property*. Restricted access to archival documents of local governments or state authorities located in the occupied territory, as well as their physical destruction due to the consequences of the war, significantly complicate the possibility of restoring lost information and documents.

For example, according to the Luhansk regional military administration in response to a request for public information, no Bureau of technical inventory of the Luhansk region has moved paper media to the territories controlled by the Ukrainian Government, which makes it impossible to access this information.<sup>13</sup> In some cases, this information was available only in paper form and has no electronic or other versions. Some communities of Donetsk region also informed about this state of affairs, Zaporizhzhia and Kherson regions.

Furthermore, in Ukraine, the practice of living "not by registration" is quite common, that is, in a place other than the officially registered (declared) place of residence. Therefore, the reference to a "residence registration" in itself as proof of the existence of sufficient

<sup>13</sup> Response of the Luhansk regional military administration No. 08/02-12/2262 dated 18.10.2023.

and continuous links with lost housing is likely to be considered minimal sufficient evidence, but in some cases additional evidence may be required.

Due to these circumstances, some Claimants will not be able to provide the necessary documents to support their claims and will be forced to rely on witness statements as the only source of evidence.

Although there is no specific or indicative list of evidence in the A3.3 claim Form and rules, a general approach to acceptable types of evidence may be found in similar rules for A2.1 related to the death of a close family member. Thus, the following may be considered as evidence (documents) confirming the Claimant's civil partnership with the deceased person: court decisions, inheritance certificates, wills, cohabitation documents, financial documents (common bank accounts, common credit card statements, mortgage agreements, bank guarantees, common bills, evidence of common expenses), correspondence addressed to both persons at the same address (letters, parcels, official documents), social networks and digital activity (public digital activity as a couple, for example, common social media accounts, common photos, status updates or online interaction), photos, videos, medical and insurance records (indicating as emergency contact persons, beneficiaries or dependent persons), documents confirming eligibility for a pension or benefit in connection with loss of the breadwinner **etc.**<sup>14 15</sup>

It is worth noting that the responsibility for providing sufficient evidence to support their claims is assigned to the Claimants. The applicable regulations governing the operation of the Register of Damage do not provide for its direct obligations to support Claimants in each individual case in respect of collecting evidence or providing advice, as has been the case, for example, in the activities of the Commission for Real Property Claims of Displaced Persons and Refugees of Bosnia and Herzegovina (CRPC). Therefore, the support of Claimants at the stage of collecting evidence in

the most difficult cases should be expected from the Government of Ukraine, in particular through the system of free legal assistance.

### 1.5. Category of claims B1.3 and C1.3 Damage or destruction of residential immovable property – residential premises

As mentioned above, category B claims include claims that may be submitted by the state of Ukraine, including its regional and local authorities, as well as state-owned or controlled institutions.

On 2 July 2024, the Council of the Register of Damage adopted the Form and rules for filing claims in the categories of claims B1.3 and C1.3, Damage or destruction of residential immovable property – residential premises, that were approved by the Conference of the participants on 8 July 2024.<sup>16</sup> At the moment, this category of claims is not yet open for filing claims.<sup>17</sup>

As defined in the approved rules, legal entities and institutions that are owned or under the control of Ukraine (including its regional or local authorities), including those that have the right of full economic management or the right of operational management of residential premises may file claims for appropriate damage within category B1.3 or C1.3.<sup>18</sup>

This category of claims has an indirect impact on users of housing destroyed or damaged during the armed conflict, since such housing could belong to territorial communities (be in municipal ownership) or the state, and individuals used it as official, social or non-privatized housing.

Given the absence of special reservations, the International compensation mechanism differs the damage or losses caused, depending on the category of affected subjects. This means that in relation to the same immovable property object, for

<sup>14</sup> Register of Damage for Ukraine. *Claim form and rules. Category of claims A2.1 Death of a close family member.* [Access via the link.](#)

<sup>15</sup> Register of Damage for Ukraine. *Frequently asked questions and answers on category of claims A3.1 Damage or destruction of residential immovable property.* [Access via the link.](#)

<sup>16</sup> Register of Damage for Ukraine. *Claim form and rules. Categories of claims B1.3 and C1.3 Damage or destruction of residential immovable property – residential premises.* [Access via the link.](#)

<sup>17</sup> As per March 2025.

<sup>18</sup> Paragraph 4.2 *claim Form and rules. Categories of claims B1.3 and C1.3 Damage or destruction of residential immovable property – residential premises.*

example, a service apartment, both its user — an individual (within the category of claims A3.3) and the state of Ukraine represented by the relevant authority performing the functions of the owner

(within the category of claims B1.3), may claim the recovery.

### 1.6. Correlation of claim categories A3.1, A3.6, A3.3 and B1.3

Cat.	Name of the category	Claimant		Damage/expenses/losses
<b>A3.1</b>	Damage or destruction of residential immovable property	<b>Homeowner</b>	<b>Individual</b>	regarding the value of destroyed property or repair or restoration of damaged property
<b>A3.6</b>	Loss of access or control of immovable property in the temporarily occupied territories	<b>Homeowner</b>	<b>Individual</b>	regarding the value of immovable property
<b>A3.3</b>	Loss of a home or place of residence	<b>Homeowner</b> (if this housing is the applicant's home) <b>Housing user</b>	<b>Private individuals</b>	in respect of the loss of housing or place of residence, including the related loss of ordinary personal belongings, as well as the costs incurred to secure a new housing or place of residence, including the cost of moving
<b>B1.3</b>	Damage or destruction of residential immovable property — residential premises	<b>Owner (balance holder)</b>	<b>Legal entity</b>	regarding the value of destroyed property or cost of repair or restoration of damaged property

As follows from the above analysis, the owner of damaged or destroyed housing may submit claims for one property in both category A3.1 and category A3.3, if this housing was for him/her "a place that is home". At the same time, if the owner lived in another place, and the damaged or destroyed housing was used by another person (for example, the tenant), for the owner the relevant category will be A3.1, while the user may submit claim in category A3.3.

Similar to the above, in cases of use of housing that is in municipal or state ownership (official or social housing, non-privatized apartments) by individuals, the owner (for example, territorial community may apply in category B1.3, while the user of such housing may apply in category A3.3.

In addition, "loss of housing or residence" in the sense of the category of claims A3.3 does not necessarily imply physical damage or destruction of residential premises, but also includes cases of loss of the opportunity to use such property. Similarly, owners of residential premises will be able to submit claims both for physical damage or destruction of their property (category of claims A3.1), for loss of ownership, use or disposal of it (category of claims A3.6), and for loss of housing or place of residence in which they lived (category of claims A3.3).

The approach of the international compensation mechanism, based on the differentiation of damage, damage or loss depending on the category of affected entities, prevents "competition" between potential claimants — owners and users of the same property in respect of the right to compensation.

## 1.7. Electronic information interaction of the Register of Damage and state registers/databases

As indicated on the official website, guided by the Riga principles,<sup>19</sup> the Register of Damage is determined to follow in its activities *a victim-centered approach*.

The claim of this approach, in particular, implies that the Register of Damage pays considerable attention to ensuring that the necessary evidence is available to the affected persons. This is implemented by integrating various registries and databases with the Diia platform and implementing automated information transfer. At the same time, this mechanism does not limit the right of affected persons to independently submit any evidence they deem necessary to substantiate their claims for compensation and to state their own history of losses.<sup>20</sup>

Article 5 of the Rules for filing, processing and submitting claims adopted by the Council of the Register of Damage on 12 March 2024 and approved by the Conference of participants on 26 March 2024 is devoted to the interaction of the Register of Damage with the Diia platform, as well as with other Ukrainian registers and databases.<sup>21</sup>

Thus, the Register of Damage cooperates with national and international partners to coordinate and facilitate the collection of evidence of damage, losses or damage caused as a result of internationally wrongful actions of the Russian Federation in or against Ukraine. The Register of Damage is expected to make every effort to provide technical assistance to applicants, in particular by providing access to relevant evidence. This may be done through the Diia platform or other available mechanisms.

In addition, the cooperation of the Register of Damage with the Government of Ukraine involves, among

other things, providing applicants with appropriate access to potentially relevant information and evidence contained in state registers and databases by integrating them with "Diia" or other digital tools.<sup>22</sup>

At the national level, the issue of filing claims to the Register of Damage and interaction of state bodies with it is regulated by Resolution of the Cabinet of Ministers of Ukraine No. 365 dated 29 March 2024. This regulatory act approved the Procedure for submitting claims for losses, expenses or damage caused by the aggression of the Russian Federation against Ukraine to the Register of Damage caused by the aggression of the Russian Federation against Ukraine by means of the Unified state web portal of electronic services (hereinafter referred to as the Procedure for submitting claims).<sup>23</sup>

Paragraph 15 of the Procedure for submitting claims provides that electronic information interaction, defined by in this Procedure, shall be carried out through the means of electronic interaction systems of state electronic information resources "Trembita". In the case of the absence of the technical possibility of data transmission by using this system, electronic information interaction between subjects may be carried out through other information and communication systems.

Paragraph 7 of the Procedure for submitting claims states that information for forming a claim shall be entered to the Diia Portal by the applicant, in particular by receiving/confirmation of information required for its formation, by electronic information interaction with information and communication systems and public electronic registers state authorities.

When creating a claim using the Diia Portal the following information shall be received/confirmed:

<sup>19</sup> Declaration of the Informal Conference of Ministers of Justice of the Council of Europe, *On the Path to Justice for Ukraine: Advancing Accountability, Reuniting Children with Their Families, and Supporting the Resilience of its Justice System*, 11 September 2023, Riga, Latvia. [Access via the link.](#)

<sup>20</sup> Register of Damage for Ukraine. *Victim-centered approach* — publication on the official website. [Access via the link.](#)

<sup>21</sup> Register of Damage for Ukraine. *Rules for filing, processing, and submitting claims.* [Access via the link.](#)

<sup>22</sup> supra note, 17.

<sup>23</sup> *Procedure for submitting claims for compensation for losses, expenses or damage caused by the aggression of the Russian Federation against Ukraine to the Register of Damage caused by the aggression of the Russian Federation against Ukraine by means of the Unified state web portal of electronic services*, approved by Resolution of the Cabinet of Ministers of Ukraine No. 365 dated 29.03.2024, as amended by Resolution No. 1325 dated 22.11.2024. [Access via the link.](#)

Nº	Name of the register/database	Information received or confirmed
1	State Register of Rights to Immovable Property	ownership right of residential immovable property objects
2	State Register of property damaged and destroyed as a result of military operations, terrorist acts, sabotage caused by military aggression of the Russian Federation	destruction/damage of a residential immovable property object
3	State Register of Acts of Civil Status of the citizens	birth records (in respect of the applicant and the person in whose interests the applicant submits the claim), death records (in respect of the deceased close family member) and marriage records (in respect of the applicant)
4	Unified information database on internally displaced persons	number (if any) and date of issue of the certificate of registration of an internally displaced person, address of the actual place of residence (if any), information about family members who were displaced together with the applicant (surname, first name, patronymic (if any), gender, registration number of the taxpayer's registration card) in relation to the applicant and the person in whose interests the applicant submits the claim
5	Unified Register of persons missing under special circumstances	about a person who went missing under special circumstances

So, despite the fact that the mandate of the Register of Damage does not cover the provision of direct assistance to potential applicants for the collection of evidence, the Register of losses, in cooperation with the relevant state authorities seeks to avoid additional difficulties for the applicants, in particular repeated appeals to state authorities and institutions for obtaining the necessary information for submitting a claim. It is expected that with the gradual expansion of claim categories for submission the Register of Damage will continue to develop information interaction with other national registers and databases relevant for each category of claims.

This approach further confirms the measure considerations described in the previous sections of this study on the need to implement registration of users (non-owners) of the damaged and destroyed housing with reference to the corresponding immovable property object. This may be done, for example, using the capabilities of the State Register of property damaged and destroyed as a result of military operations, terrorist acts, sabotage, caused by military aggression of the Russian Federation. Such an initiative will contribute to simplify the process of submission of evidence by applicants in the category of claims A3.3.

## 1.8. Conclusions

Register of Damage is currently one of the solutions to the problem of obtaining compensation for damaged and destroyed housing by users (non-owners) of such housing in Ukraine.

By introducing the category of claims A3.3 concerning damage and losses caused by the loss of housing or residence, the Register of Damage does not limit the possibility of obtaining compensation by the owners of such housing, regardless of whether they are individuals, or the state, or territorial communities represented by the relevant authorities. This approach prevents "competition" between potential applicants (owners and users of affected housing) and thus ensures inclusivity and fairness in the process of restoring the rights of war-affected individuals.

The Register of Damage, as the first component of the international compensation mechanism, is an international authority, so its activities are regulated primarily by international law. Given this, direct (individual) assistance to potential applicants should not be

expected in collecting evidence, determining its sufficiency, affiliation, or other aspects related to the confirmation of claims.

Individual A3.3 claimants, whose exact number is currently difficult to determine, are likely to face difficulties in collecting evidence in support of their claims. This is due to the loss of documents, difficulties in restoring them due to the occupation of some settlements, and in some cases — the physical destruction of single information carriers containing information necessary for submitting claims. In such cases, in accordance with international standards on internal

displacement, the responsibility for supporting such persons should be assumed by the Government of Ukraine in partnership with international and national humanitarian and human rights organizations.

Government support, among other things, may include the introduction of registration of users (non-owners) of damaged and destroyed housing — potential applicants under the category of claims A3.3, using the existing resources of the State Register of property damaged and destroyed as a result of military operations, terrorist acts, sabotage caused by the military aggression of the Russian Federation.

## Section 6

# RECOMMENDATIONS

Consequently, the current national compensation mechanism implemented through the eRecovery programme is mainly focused on homeowners or individuals who were in the process of registering their property rights. At the same time, a significant part of citizens who used housing legally remained outside the program.

But the International compensation mechanism, which today is represented only by its first component — the Register of Damage caused by the aggression of the Russian Federation against Ukraine, provides for the possibility of obtaining reparations not only by homeowners, but also by persons who have lost their place of residence. At the same time, the key challenge for potential applicants remains the need to document the losses caused. This requires the State to take additional measures to ensure the collection, preservation and proper verification of the evidence base, which will be an important element of the future recovery mechanism.

### Recommendations

#### The Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine:

1. **To start working on improving public policy** in the field of support for persons affected by war, in order to ensure equal access of all victims to compensation for damage, expenses and losses, including users (non-owners) of damaged and destroyed housing, in compliance with relevant international standards. This work may include:
  - 1.1 **Creation of an interdepartmental working group** with the participation of representatives of responsible state authorities and local governments, the Office of the Verkhovna Rada Commissioner for Human Rights, International and national humanitarian and human rights organizations, associations of internally displaced persons and other stakeholders.
2. **As the first steps, introduce accounting for individuals who are users (non-owners) of damaged and destroyed housing**, which should provide for:
  - 2.1 **Use of available resources** in particular, the State Register of property damaged and destroyed as a result of military operations, terrorist acts, sabotage caused by the armed aggression of the Russian Federation against Ukraine, as well as Commissions on the provision of compensation under local governments and military administrations.
  - 2.2 **Applying a flexible approach to assess evidence** provided by affected persons to confirm a sufficient and continuous links with lost home, taking into account the practice of the European Court of Human Rights and the objective circumstances of the loss of documents or difficulties with their restoration due to occupation and lack of access to archival data.
  - 2.3 **Electronic information interaction** between the components of the State Register of property
- 1.1 **Expanding the circle of recipients of compensation under the "eRecovery" programme**, with the inclusion of housing users, in particular non-privatized apartments, service and social housing.
- 1.2 **Introduction of a separate programme to support users (non-owners) of damaged and destroyed housing**, by analogy with the "eRecovery" programme.
- 1.3 **Launch of programmes to support certain categories of applicants in the Register of Damage caused by the aggression of the Russian Federation against Ukraine**, which will provide assistance in the process of collecting evidence to support claims in difficult cases of loss of documents, difficulties in restoring them due to occupation or lack of access to archival data.

damaged and destroyed as a result of military operations, terrorist acts, sabotage caused by armed aggression of the Russian Federation against Ukraine, devoted to users (non-owners), and the Register of Damage caused by the aggression of the Russian Federation against Ukraine, for the purpose of further use of the accumulated information during the consideration of claims under category A3.3.

- 2.4 **Providing the necessary legal support to users (non-owners) of damaged and destroyed housing** to collect evidence of the existence of sufficient links with lost housing in complex cases of loss of documents and the inability to restore them due to occupation or lack of archival data.
3. **During the improvement of the state policy in the field of support for the affected population** pay special attention to the situation in the areas of the Anti-Terrorist Operation, where, due to the legislative ban on the privatization of communal property, citizens were deprived of the opportunity to acquire ownership of housing, and now they are deprived of access to compensation under the "eRecovery" programme.

4. **Start conducting an all-Ukrainian information campaign**, aimed at explaining to the public the importance of housing privatization and potential negative consequences in case if it is damaged or destroyed, if the person does not have the right of ownership.

**The public sector:**

5. **Join the work on improving public policy** in the field of support for affected persons in order to ensure equal access to compensation for damage, expenses and losses caused, in particular for users (non-owners) of damaged and destroyed housing.
6. **Support the Government of Ukraine in conducting an all-Ukrainian information campaign** aimed at explaining to the public the importance of housing privatization and the risks related to the lack of ownership rights in the context of compensation programmes.
7. **Step up efforts to raise awareness of problems and possible solutions** outlined in this study, among affected persons, as well as representatives of local governments and military administrations.

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