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Socio-political discourses on war-related damage to ukrainian citizens: Analysis of public policy in the context of court cases

Суспільно-політичні дискурси про збитки громадянам України, пов'язані з війною: аналіз публічної політики в контексті судових справ

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Written by:

Mariana Khmyz¹<https://orcid.org/0000-0003-3553-8022>**Rostyslav Sopilnyk²**<https://orcid.org/0000-0001-9942-6682>**Vitaliy Hudyma³**<https://orcid.org/0000-0001-6708-3910>**Yurii Semchuk⁴**<https://orcid.org/0000-0001-8862-0172>**Liubomyr Sopilnyk⁵**<https://orcid.org/0000-0002-6256-0121>

Abstract

The purpose of this study is to identify mechanisms based on effective political decisions that will fully impose material damage caused by military actions on the aggressor country. The methodological basis of the work was formed by general theoretical and special scientific methods, which ensured the formation of reliable conclusions and the solution of the tasks. In the course of this study, the author identified the main procedural problems faced by citizens in the process of ensuring the right to compensation for damage caused to them as a result of hostilities. The analysis of the Supreme Court's case law shows that after the start of the full-scale invasion of the Russian Federation, the courts began to take a radically different approach to resolving the issue of compensation in favor of citizens, and in fact deny the immunity of the aggressor state. Authors identify the main political decisions that will be useful in the future for the actual resolution of the issue of compensation for damages. The author analyzes certain legal acts that define the mechanism of compensation for damage. The author assesses the international achievements

Анотація

Метою даного дослідження є визначення механізмів на підставі дієвих політичних рішень, які будуть повністю покласти матеріальну шкоду заподіяну воєнними діями на країну-агресора. При цьому методологічну основу роботи склали загальнотеоретичні та спеціально-наукові методи, що забезпечили формування достовірних висновків та вирішення поставлених завдань. В ході даного дослідження було виокремлено основні процедурні проблеми з якими зіштовхуються громадяни у процесі забезпечення права на відшкодування шкоди завданої їм у результаті воєнних дій. З аналізу судової практики Верховного Суду було встановлено, що після початку повномасштабного вторгнення військ Російської Федерації суди стали застосовувати кардинально інший підхід у вирішенні питання стягнення шкоди на користь громадян, та фактично заперечувати імунітет держави-агресора. Було визначено основні політичні рішення, які у перспективі стануть корисними для реального вирішення питання відшкодування шкоди.

¹ PhD in Law, Associate Professor of the Department of Economic and Legal Disciplines, Lviv University of Business and Law, Ukraine.

² DrSc in Law, Professor, Honored Lawyer of Ukraine, Professor of the Department of Economic and Legal Disciplines, Institution of higher education "Lviv university of business and law", Ukraine.

³ PhD in Law, Associate Professor, Department of Judiciary, Prosecutor's Office and Advocacy, Institution of higher education "Lviv university of business and law", Ukraine.

⁴ PhD in Law, Head of the Department of Economic and Legal Disciplines, Institution of higher education "Lviv university of business and law", Ukraine.

⁵ Graduate student of the Department of Judiciary, Prosecutor's Office and Advocacy, Institution of higher education "Lviv university of business and law", Ukraine.

of Ukraine that will further simplify the procedure for compensation for damages, in particular, international legal acts. In general, the study assessed the real state of affairs in Ukraine regarding compensation for damage to citizens as a result of armed aggression and concluded that effective mechanisms for such compensation have not yet been implemented.

Keywords: citizens, court decision, damage, General Assembly, protection of reparations, war.

Introduction

The full-scale invasion of Ukraine by the Russian Federation was the largest attack in Europe since World War II. The Russian Federation is committing the most serious international crimes that violate fundamental human rights. The aggressor country has caused suffering to millions of Ukrainian citizens who have been forcibly deported to Russian territory or forced to leave their homes due to constant shelling and bombardment and have become internally displaced. People lost their property and the ability to work. In essence, by one cruel decision, millions of citizens were deprived of their constitutional rights, which are enshrined in Article 3 of the Constitution of Ukraine, according to which a person, his or her life and health, honor and dignity, inviolability and security are recognized in Ukraine as the highest social value (Law № 254к/96-ВР, 1996). It is currently difficult to estimate the actual number of war victims. That is why the consequences of the war should be counterbalanced by real actions of the state in combination with international experience and efforts to involve all possible jurisdictions, both national and international.

After the outbreak of armed aggression, not only state institutions but also the legal system as a whole faced difficult challenges (Kaplina, 2022). Accordingly, the need for adequate lawmaking, taking into account the challenges of war, has become particularly acute.

Since 2014, citizens have been filing lawsuits in search of justice in courts where the Russian Federation is the defendant. An analysis of the established case law on compensation for damage shows that before the full-scale invasion, the courts were somewhat loyal and did not seek real ways to punish the aggressor country. It was only in April 2022 that the vector of the legal

Проаналізовано окремі нормативно-правові акти, які визначають механізм відшкодування шкоди. Дано оцінку міжнародним здобуткам України, які надалі спростять процедуру відшкодування завданих збитків, зокрема було досліджено міжнародні правові акти. Загалом дослідження дало оцінити реальний стан справ в Україні щодо відшкодування шкоди громадянам у результаті збройної агресії, та дійти висновку, що дієві механізми такого відшкодування ще по суті не впроваджені.

Ключові слова: війна, Генеральна Асамблея, завдана шкода, захист громадян, репарації, судове рішення.

position changed dramatically. However, a positive resolution of court cases does not guarantee a real solution to the issue of compensation for damage, as the defendant in these cases is a state that does not respect the same legal values. Therefore, it is important that, along with the judicial resolution of the issue of compensation, citizens have the opportunity to use other mechanisms to help them restore their violated rights. Such mechanisms should be created by the state and ensure the simplified procedure for obtaining compensation by citizens, but at the same time prevent abuse by persons who are not entitled to such compensation.

Thus, the purpose of this work is to systematically analyze the case law of national courts, in particular, the Supreme Court of Ukraine, as well as the legal acts that determine the conditions, procedures, and mechanisms for compensation for damage to citizens. Based on the study, the author proposes effective recommendations for compensation for citizens who suffered from the war started by the Russian Federation.

Literature Review

The topic of war has become particularly acute for all citizens of Ukraine. Researchers also do not stay away from this negative phenomenon. For example, Komnatnyi (2022) paid attention to the issue of inspecting residential properties damaged as a result of the war, in particular, the author investigated the introduction of effective mechanisms for compensation for damage by adopting appropriate regulations. Anisimova (2020) also studied the same issue, but the author conducted her research in the context of the events that took place in the East of Ukraine before the full-scale invasion, but the conclusions

drawn by the author are relevant to this study. The issue of the state immunity of the Russian Federation in court cases on compensation for damages was studied by Cherniak (2022) and Spiesivtsev (2022a), the latter paying special attention to the issue of compensation for damages after the end of the war. The topic of reparations was also reflected in their works: Podupeiko (2022), Mykolenko and Kaminets (2022). Thus, Podupeiko studied the issue of compensation for citizens since 2014, from the beginning of the temporary occupation of certain territories and concluded that Ukraine has taken a number of legal actions to bring the Russian Federation to justice for acts of terrorism and discrimination, and, accordingly, to obtain compensation from the aggressor country. While studying the issue of compensation for damage caused by armed aggression, Mykolenko and Kaminets rightly pointed out the gaps in the national legislation regulating compensation for damaged property. Solomko (2022) assessed the UN General Assembly resolution “Provision of Remedies and Reparations for the Aggression against Ukraine” in her article. The general theoretical topic of legal nihilism, which is also important in the context of this study, was addressed by Rezvorovych (2022).

Methodology

The search for a methodological basis for the study was carried out in the following areas: studying scientific works and summarizing the ideas of well-known scholars who have studied the issue of compensation for damage to citizens; analyzing Ukrainian legislation and the case law of the Supreme Court of Ukraine; conducting research on specific approaches to solving the problem of damage compensation, including through international cooperation, as well as analyzing concepts in this area of scientific and practical activities of Ukrainian scholars and practitioners.

In the course of researching the topic of compensation for war-related damage to citizens of Ukraine, various general theoretical, special scientific methods and approaches were used to study the subject matter of the study, which ensured the formation of reliable conclusions and the solution of the tasks set. The following methods were used in the course of the study: formal legal, comparative legal, analytical, synthetic, analogy and generalization.

The theoretical basis of this study was formed by such primary sources as: The Constitution of Ukraine, the Law of Ukraine “On Compensation

for Damage and Destruction of Certain Categories of Real Estate Objects as a Result of Hostilities, 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 Hostilities, terrorist acts, sabotage caused by the armed aggression of the Russian Federation against Ukraine” (Law № 2923-IX, 2023), the Civil Protection Code of Ukraine, the Civil Code of Ukraine, as well as bylaws of the Cabinet of Ministers of Ukraine that define the mechanisms of compensation for damage caused by hostilities. The key role in the topic was played by the Supreme Court rulings, the systematic analysis of which reveals a fundamental modification of the Supreme Court's legal position after the start of the full-scale invasion. Thus, the analysis of the aforementioned case law and legal acts regulating the issue of compensation for damage in the war was carried out using formal legal and analytical methods. In particular, to determine the unified legal position of the Supreme Court, the author used the analytical and synthetic methods by identifying common features and generalizing similar conclusions, which ensured the integrity and structure of the study.

In addition to the methods mentioned above, this paper uses logical, structural-functional, and system analysis methods, as well as other special methods of scientific cognition.

Results and Discussion

The large-scale military actions of the Russian Federation after February 24, 2022, which led to significant losses, damage, and destruction. According to various estimates, the amount of damage ranges from hundreds of billions to a trillion US dollars. Real estimates will be possible only after the war is over. In such circumstances, the issue of protecting the violated rights and interests of the affected persons has become particularly acute. The citizens of Ukraine who lost their loved ones and relatives and who suffered physical suffering, moral harm, property (material) damage from the destruction of and damage to property have suffered enormous damage. The issue of compensation for the damage caused by the aggressive actions of the Russian Federation has been raised since 2014. In this regard, since the beginning of the temporary occupation of certain territories, Ukraine has taken a number of legal actions to obtain compensation from the Russian Federation: five cases are pending in the European Court of Human Rights on Ukraine's

applications against the Russian Federation, and the International Court of Justice is considering Ukraine's claim against the Russian Federation to hold the latter accountable for acts of terrorism and discrimination, and the financing of terrorism (Podupeiko, 2022).

Today, human and civil rights and freedoms should remain a priority for the state, even in the context of martial law throughout Ukraine, which is a difficult phenomenon for our country today, and certainly causes difficulties in the functioning of the mechanism for the protection and enforcement of constitutional rights and freedoms (Savaida & Cherevko, 2022). Violation of individual rights, especially the right to life, honor, dignity, housing, property, security, and a weak mechanism for their legal protection undermine faith in the law, in the ability of the state to ensure order and peace in society and to protect people from criminal attacks. The powerlessness of the law does not generate a positive attitude towards it on the part of the population but only causes irritation, discontent, and protest (Rezvorovich, 2022).

Therefore, the issue of regulatory regulation and practical compensation for losses to the population is particularly acute. Until March 2023, the issue of compensation for damage or destruction of residential real estate caused by hostilities, terrorist acts, sabotage caused by the military aggression of the Russian Federation remained unresolved, and in fact, Ukraine lacked a systematic and structured mechanism for

providing compensation or material assistance to victims of the military aggression of the Russian Federation (Komnatnyi, 2022).

On 23.02.2023, the Verkhovna Rada of Ukraine adopted the Law of Ukraine "On Compensation for Damage and Destruction of Certain Categories of Real Estate as a Result of Hostilities, 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 Hostilities, Terrorist Acts, Sabotage Caused by the Armed Aggression of the Russian Federation against Ukraine" No. 2923-IX. According to the website of the Verkhovna Rada of Ukraine, the law will enter into force on 22.05.2023 (Law № 2923-IX, 2023), and only then will effective mechanisms for compensation for the damaged property be implemented.

It should be emphasized that the above draft law was submitted to the Verkhovna Rada of Ukraine in March 2022. In fact, during the year of the war, the issue of determining the legal and organizational framework for compensation for damage and destruction of certain categories of real estate was not regulated by law, and the mechanisms, procedures, conditions for the payment of monetary compensation and other compensation for damage caused by hostilities were regulated by special bylaws approved by the Cabinet of Ministers of Ukraine, as shown in Table 1.

Table 1.

Resolutions of the Cabinet of Ministers of Ukraine that determined the specifics and mechanisms of compensation for damage caused as a result of hostilities

No.	Resolution of the Cabinet of Ministers of Ukraine	Basic mechanisms and procedures
1	Procedure for submitting an information report on damaged and destroyed real estate as a result of hostilities, terrorist acts, sabotage caused by the military aggression of the Russian Federation of March 26, 2022 No. 380 (Order № 380, 2022)	defines the conditions, mechanism, and procedure for filing applications for damaged and destroyed real estate as a result of hostilities.
2	The Procedure for Determining Damage and Losses Caused to Ukraine as a Result of the Armed Aggression of the Russian Federation of March 20, 2022 No. 326 (Decree №326, 2022)	establishes the procedure for determining damage and losses by the competent authorities.
3	The Procedure for Performing Urgent Work to Eliminate the Consequences of the Armed Aggression of the Russian Federation Related to Damage to Buildings and Structures No. 473 of April 19, 2022 (Resolution № 473, 2022)	establishes a mechanism for recording damage to buildings and structures of various forms of ownership caused by the armed aggression of the Russian Federation
4	The Procedure for Providing and Determining the Amount of Financial Assistance to Victims of Emergency Situations and the Amount of Financial 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 No. 947 of December 18, 2013 (Law № 947, 2013)	establishes a mechanism for providing and determining the amount of financial assistance to victims of emergencies and the amount of financial 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.

Source: Authors' elaboration based on the Resolutions of the Cabinet of Ministers of Ukraine (Order № 380, 2022; Decree № 326, 2022; Resolution № 473, 2022; Law № 947, 2013)

The above acts do not cover the entire problem but essentially define a certain procedure for determining damage, the specifics of filing applications, and the procedure for recording damage to property.

Analyzing Procedure No. 326, we can identify the main areas of damage determination, which are shown in Table 2.

Table 2.
Areas of damage and loss determination

No.	Directions
1	Human losses and related social costs
2	Economic losses associated with human losses
3	Military losses
4	Losses associated with ensuring public safety and order
5	Social protection of war veterans
6	Loss of housing stock and amenities
7	Loss of public buildings
8	Loss of housing and communal facilities
9	Damage to land resources
10	Loss of subsoil
11	Damage to water resources
12	Damage caused to the atmosphere
13	Losses of the forest fund
14	Damage to the nature reserve fund
15	Loss of transportation infrastructure and electronic communication network infrastructure (including physical)
16	Loss of energy infrastructure;
17	Losses of cultural heritage; 18) (except for defense industry enterprises
18	Economic losses of enterprises, including business entities
19	Losses of institutions and organizations (except for institutions and organizations of the defense industry)
20	Economic losses of defense industry enterprises (including business entities);
21	Losses of institutions and organizations of the defense industry

Source: authors' development based on the analysis (Decree № 326, 2022)

In the context of this study, we consider the issue of damage to citizens, in particular in connection with the loss of housing stock and human losses, and related social costs.

At present, in the midst of the war in Ukraine, the general principles of compensation and reimbursement of damage to victims of emergencies (including military operations) are essentially in place and are enshrined in the Civil Code of Ukraine (Articles 22, 225 and 1166 - compensation for damage caused by violation of civil rights) (Civil Code of Ukraine № 435-IV, 2003) and Art. 89 of the Civil Protection Code of Ukraine, which refers to the provision of housing to victims whose housing has become uninhabitable as a result of an emergency, and in our case, armed aggression (Civil Protection Code of Ukraine № 5403-VI, 2012).

Mykolenko and Kaminets (2022), in their study of the issue of compensation for damage caused by armed aggression, rightly noted that the

above-mentioned provisions of the Civil Protection Code do not oblige the Ukrainian state to compensate all victims. They require the state to help only one category of victims - those who lost their homes. At the same time, monetary compensation to such victims is only one of the possible ways the state can provide them with assistance. The state pays monetary compensation to victims of housing loss provided that the victims voluntarily hand over their destroyed or damaged housing to the state, and the amount of compensation is not determined by the actual value of the houses destroyed or damaged. In this case, the principle of subsidiarity of the European Union would be effective, but at this stage, Ukraine is deprived of such a mechanism, as it is not a member of the said Union (Kumar, 2021).

At the same time, there is a need for special regulation of compensation for victims. Anisimova (2020) studied the issue of compensation for damages, even before the full-

scale invasion of Ukraine by the Russian Federation troops and identified the main areas of the state's proper response to the challenges faced by citizens in the context of armed conflict. In particular, the author correctly emphasized the need to create a special legislative framework that would regulate the mechanism of compensation for damages to the population whose housing was damaged or destroyed. It is necessary to take into account the significant scale of the damage and the need to provide housing for citizens who have lost their homes. In today's context, we can state that the author's forecasts have begun to be realized through the adoption of Law No. 2923-IX (Law № 2923-IX, 2023).

Since the existing mechanisms of compensation for damage do not give the desired result, citizens are looking for ways to solve the problem on their own, including by filing a lawsuit against another guilty party for compensation for material and moral damage. In our case, the guilty party for the damage caused by the war is the Russian Federation.

Analyzing the case law of the Supreme Court, which was formed even before the full-scale invasion of the Russian Federation, in particular: the decision of 03.06.2020 in case No. 357/13182/18 (Resolution 357/13182/18, 2020); the decision of 13.05.2020 in case No. 711/17/19 (Resolution 711/17/19, 2020); resolution of 24.06.2020 in case No. 711/16/19, (Resolution 711/16/19, 2020), one can safely trace one negative trend that national courts dismissed such claims, referring to the provisions of Art. 79 of the Law of Ukraine "On Private International Law", which stipulates that filing a claim against a foreign state, involving a foreign state as a defendant or third party, seizing property owned by a foreign state and located on the territory of Ukraine, applying other means of securing a claim to such property and foreclosing on the such property may be allowed only with the consent of the competent authorities of the relevant state, unless otherwise provided by an international treaty of Ukraine or the law of Ukraine. The Law of Ukraine "About Private International Law" essentially provided an opportunity to avoid liability for damages (Law № 2709-IV, 2005).

In particular, national courts dismissed claims on the grounds that the Russian Federation cannot be a defendant in a case without the consent of their embassy in Ukraine. The courts also suspended proceedings until they received responses to the Russian Embassy's consent or

non-consent to the Ukrainian court's consideration of a particular case. Even in the justice systems that we consider to be the most perfect, dispute resolution usually takes a long time and is expensive, and no one but lawyers understand this process (Melnychenko, 2021). Similarly, in the case of the above cases, they were delayed, and citizens did not receive the desired result.

Legal scholars have proposed a solution to the judicial immunity of the Russian Federation in Ukrainian courts, in particular by deviating from the rule of judicial immunity, guided by the principles of reasonableness and fairness (Spiesivtsev, 2022a).

However, the vector of negative judicial practice on the protection of the rights of citizens affected by the armed aggression of the Russian Federation has changed dramatically after the Supreme Court adopted a ruling of 14.04.2022 in case No. 308/9708/19, which overturned previous court decisions in this case (Resolution 308/9708/19, 2022).

According to the case, the woman filed a lawsuit against the Russian Federation for compensation for non-pecuniary damage suffered by her and her children in connection with the death of her husband and the father of her children as a result of the Russian armed aggression in Ukraine. In justifying its decision, the Supreme Court referred to the European Convention on the Immunity of States of 16.05.1972 (Article 11) and the UN Convention on Jurisdictional Immunities of States and Their Property of 02.12.2004 (Article 12).

The fact that deserves attention in the context of the above case is that Ukraine is not a party to any of these conventions, which the Supreme Court referred to in its decision. The European Convention on the Immunity of States of 1972 (Council of Europe, 1972) has not been widely used - it has entered into force only in 8 states: Austria, Belgium, Cyprus, Great Britain, Luxembourg, the Netherlands, Germany, and Switzerland. The 2004 UN Convention on Jurisdictional Immunities of States and Their Property (Liga 360, 2002) has not yet entered into force, as only 22 states out of 30 signatory states have ratified it (Austria, Czech Republic, Equatorial Guinea, Finland, France, the Islamic Republic of Iran, Iraq, Spain, Italy, Japan, Kazakhstan, Latvia, Lebanon, Liechtenstein, Mexico, Norway, Portugal, Romania, Saudi Arabia, Slovakia, Sweden, Switzerland, and Spain). At the same time, these conventions are

certainly worthy of attention, primarily because they reflect the trend in international law to recognize that there are limits to which a foreign state has the right to claim immunity in civil proceedings (Cherniak, 2022).

The court substantiated the application of conventions not ratified by Ukraine by the fact that the rules formulated in them and relating to the limits of damage, inadmissibility of invoking judicial immunity (in case a state crosses the “red line”), must be observed by absolutely all states, because these rules are *Jus Cogens* (rules of international law binding on all participants in the civilized world).

In addition, the Supreme Court in its decision No. 308/9708/19 stated the following: “Given the fact that the Russian Federation has been carrying out armed aggression against Ukraine since 2014 and continues to do so as of the date of this decision, there is no need to send requests to the Russian Embassy in Ukraine for the Russian Federation's consent to be a defendant in cases of compensation for damage in connection with the Russian Federation's armed aggression against Ukraine and its disregard for the sovereignty and territorial integrity of the Ukrainian state. And starting from February 24, 2022, such a request will not be possible due to the severance of diplomatic relations between Ukraine and the Russian Federation”. The judge's inner conviction probably played a significant role in making this decision.

The currently effective Civil Procedure Code of Ukraine provides that when selecting and applying a rule of law to a disputed legal relationship, the court shall take into account the conclusions on the application of the relevant rules of law set forth in the rulings of the Supreme Court (Civil Procedure Code of Ukraine № 1618-IV, 2004). At the same time, the risks that could arise as a result of the consideration of the above case cannot be dismissed, since the court's reference to the Conventions not ratified by Ukraine could result in the transfer of such a case to the Grand Chamber of the Supreme Court, which, if there were grounds, could deviate from the legal position expressed in the decision of 14.04.2022.

It is worth noting that case No. 308/9708/19 concerned the recovery of non-pecuniary damage, but its conclusions were later applied to the recovery of pecuniary damage. Thus, and in accordance with the requirements of Part 4 of Article 263 of the Civil Procedure Code of Ukraine, the Supreme Court's decision

No. 308/9708/19 of 14.04.2022 became the basis for further decisions in similar legal relations. Thus, the Supreme Court issued the following rulings:

- 18.05.2022 in the case No. 7428/11673/19 (Resolution No. 7428/11673/19, 2022);
- 08.06.2022 in the case No. 490/9551/19 (Resolution No. 490/9551/19, 2022);
- 22.06.2022 in the case No. 311/498/20 (Resolution No. 311/498/20, 2022).

In these decisions, the Supreme Court concluded that maintaining the judicial immunity of the Russian Federation is incompatible with Ukraine's international legal obligations in the field of counterterrorism. After all, a prerequisite for compliance with the principle of international law on judicial immunity is the mutual recognition of state sovereignty by another country. A similar conclusion was reached by Spiesivtsev (2022b) in his study.

Analyzing the judicial practice that has developed since April 14, 2022, we can trace a positive trend, namely, the unity of the judiciary with the people of Ukraine in the fight against the aggressor state. At the same time, it is important that judges have knowledge of military law since when considering disputes about damage caused by military actions, they should have special knowledge (Horinov & Mereniuk, 2022).

Having passed the first judicial stage of resolving the issue of compensation for damage, society faces new challenges in the actual enforcement of such decisions. As a general rule, court decisions can be enforced by seizing the property of the Russian Federation located in Ukraine, as well as by applying to foreign courts for recognition of the court decision and its enforcement in the country of application where the property of the Russian Federation is located. In addition, for the compensation mechanism to work, assistance must come from the state through effective political decisions, including through international cooperation.

For example, By the Decree of the President of Ukraine of May 18, 2022, No. 346/2022, a working group was established to develop and implement international legal mechanisms for compensation for damage caused to Ukraine as a result of the armed aggression of the Russian Federation. Paragraph 2 of this order obliged the working group to develop and submit proposals for means and legal instruments for compensation for damage and losses caused to Ukraine as a result of the armed aggression of the

Russian Federation, including reparations, confiscation, contributions, as well as steps to implement them, taking into account international legal mechanisms, international experience, and judicial practice (Decree № 346/2022, 2022).

In early November 2022, Minister of Justice of Ukraine Maliuska D. met with Ambassador Extraordinary and Plenipotentiary of Japan to Ukraine Kuninori Matsuda. The meeting was also attended by Deputy Minister of Justice Mudra I. and Third Secretary of the Embassy of Japan in Ukraine Koga Masayuki. The main focus of the meeting was to discuss the creation of a special compensation mechanism for compensation of losses to Ukraine and Ukrainians caused by the aggression of the Russian Federation. The participants also noted that the international treaty on the establishment of a mechanism for compensation for damages caused by Russian aggression is important in the Ukrainian concept of a compensation mechanism. This is a treaty that can be joined by countries that have a large share of the frozen assets of the Russian Federation (Ministry of Justice of Ukraine, 2022).

A historic event on the way to real recovery of damages from the aggressor country occurred on

November 14. At its 11th emergency special session, the UN General Assembly voted in favor of the resolution “Provision of Remedies and Reparations for the Aggression against Ukraine”, which aims to create mechanisms to compensate Ukraine for the damage caused by the full-scale Russian aggression. 94 countries supported the adoption of the document, 73 abstained, and only 14 voted against. Among the countries that did not support the resolution, in addition to Russia, Belarus, Syria, the DPRK, Nicaragua, Iran, and China. The draft resolution was initiated by Ukraine, Canada, Guatemala, and the Netherlands. Before the vote, 56 countries signed the document as co-sponsors (Solomko, 2022).

Returning to the above-mentioned Law No. 2923-IX, which was adopted by the Verkhovna Rada, it can be unequivocally stated that after its entry into force, it will be the main regulatory document that will determine the legal and organizational framework for providing compensation for damage and destruction of certain real estate objects. Considering Art. 2 of Law No. 2923-IX, we can identify the recipients of compensation, as shown in Figure 1, and Figure 2 identifies the persons who cannot be such recipients.

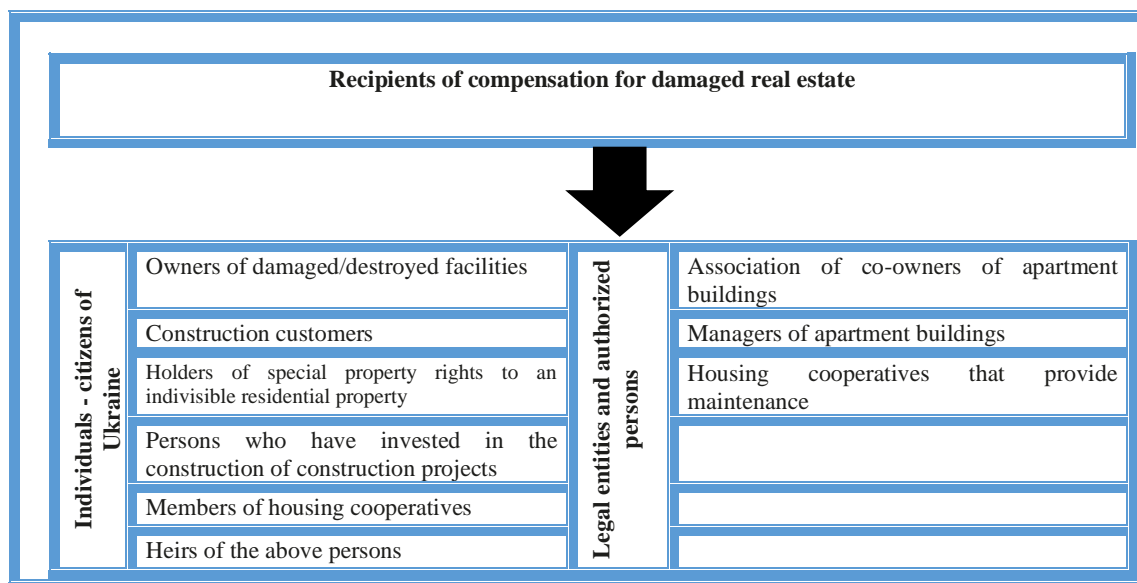


Figure 1. Recipients of compensation for damaged property
Source: (Law № 2923-IX, 2023)

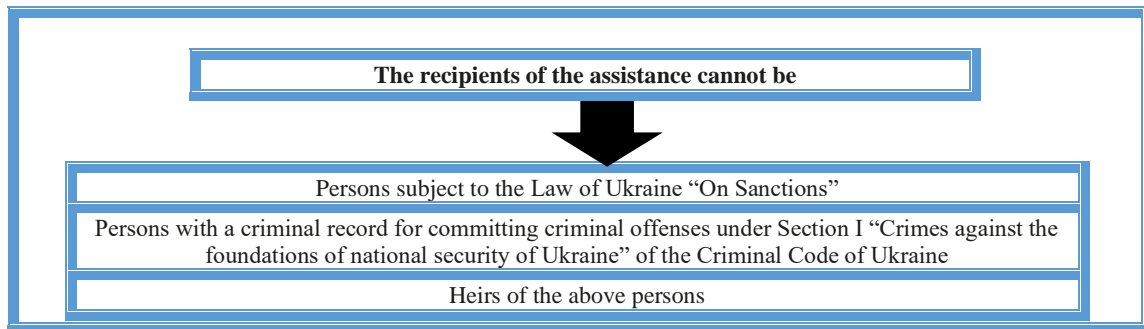


Figure 2. Persons who cannot receive compensation for damaged property

Source: (Law № 2923-IX, 2023)

Based on the systematic analysis of the above law, it appears that compensation will be provided to the citizens referred to in part 1 of Article 2 of Law No. 2923-IX in the order of priority and on the basis of submitted applications. Despite the fact that the said law does not provide for a direct obligation to provide a court decision for the award of compensation, the availability of such a decision will greatly simplify the procedure for obtaining compensation, since the fact and extent of the damage will already be established by the court.

Conclusions

Summarizing the above, we can confidently state that the right to judicial protection is one of the fundamental human rights, this right is guaranteed by the Constitution of Ukraine and enshrined in a number of legal acts. It is worth noting that even under martial law, this constitutional right of Ukraine is not suspended or limited. However, in addition to the possibility of access to justice, it is important for citizens to receive real results from these lawsuits in the form of compensation for damage. The study found that the Verkhovna Rada of Ukraine has already adopted a law that will provide for compensation, but the implementation of this law requires material support, which is a significant problem for a country at war. In such circumstances, for the mechanism of compensation to work, national legislation should fully impose material damage caused by the hostilities on the aggressor country. At the same time, the property of the Russian Federation located in the territory of third countries should be used unscrupulously to compensate for damages, and Ukraine, in turn, should direct such funds to compensate its citizens. Such a mechanism cannot ensure justice, because along with the damaged property, we have the disfigured lives of millions of Ukrainian citizens, but it will ensure a fair

material balance and consolidation of international unity against the aggressor country.

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