

Note

THE FIRST STEPS IN IMPLEMENTING THE UKRAINIAN STRATEGY FOR RESTORING THE RIGHTS OF OWNERS OF CERTAIN CATEGORIES OF REAL ESTATE DAMAGED OR DESTROYED AS A RESULT OF THE ARMED AGGRESSION OF THE RUSSIAN FEDERATION

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ABSTRACT

Background: *In the context of war, the issue of compensation for damages caused by the military aggression of the Russian Federation against Ukraine is of utmost relevance, given the unprecedented scale of damage and the number of affected individuals. This article explores one of the existing methods for compensating damages related to the damage or destruction of certain categories of real estate as a result of hostilities, terrorist acts, and sabotage caused by the armed aggression of the Russian Federation against Ukraine through the state electronic public service “eRecovery”. This article explores the main aspects of the operation of this state service, including its limitations and the conditions for receiving compensation.*

Additionally, the article reviews a civil case involving a Ukrainian citizen against Ukraine for failure to fulfil its positive obligations and against the Russian Federation for the destruction of housing that resulted in material and moral damage. It also highlights the difficulties that may arise in the process of reparations paid by the Russian Federation.

Protecting the rights and freedoms of individuals residing in Ukraine is the state’s duty, and during wartime, this task takes on new significance, becoming complex and extremely important. One way to provide such protection is through compensation for damages caused by the military aggression of the Russian Federation against Ukraine. However, developing a mechanism for such compensation requires the mobilisation of significant resources and additional research across various fields, primarily to ensure justice. It is essential to explore the legal grounds for compensation, criteria for damage assessment, possible methods and means of compensation, and potential cooperation between national and international institutions.

Methods: This study analyses one of the ways to protect the rights of those affected by the Russian-Ukrainian war through obtaining compensation via the state electronic service “eRecovery”. In particular, it examines the following issues: current limitations regarding the objects eligible for compensation, the principles of operation and development prospects of the “eRecovery” state service, and the development and challenges of national court practices in disputes arising from the war. It also explores the state's positive obligations in the field of human rights and the measures Ukraine is taking to protect and restore the rights of the affected individuals. National and international opportunities for developing a compensation mechanism for the affected and the challenges Ukraine faces before receiving reparations from the Russian Federation are analysed.

Results and conclusions: The results of this study highlight the state's ability to provide adequate protection to individuals affected by the Russian-Ukrainian war, particularly through the “eRecovery” electronic public service. The need for further development of the service has been identified to cover a broader scope of damages that Ukraine can compensate prior to receiving reparations from the Russian Federation, including through cooperation with international partners.

1 INTRODUCTION

This research addresses the issue of compensation to property owners for damages whose assets were damaged or destroyed as a result of the armed aggression of the Russian Federation against Ukraine, as well as the analysis of the state mechanism for restoring violated property rights through the “eRecovery” service. Given the extensive damage inflicted by the war in Ukraine, there is a pressing need for effective approaches to handle claims from affected individuals. Some of these claims are already being reviewed by national courts, while others may be addressed by international judicial bodies. Regardless of the chosen method of protecting the rights of the affected individuals, the state must ensure recovery and compensation for the damages caused by the armed aggression of the Russian Federation while adhering to principles of justice, proportionality and adequacy.

In 2023, Ukraine launched a mechanism for the extrajudicial provision of compensation for the restoration of certain categories of real estate damaged due to hostilities, terrorist acts, and sabotage caused by the armed aggression of the Russian Federation, using the “eRecovery” electronic public service.¹

1 Resolution of the Cabinet of Ministers of Ukraine no 381 of 21 April 2023 ‘On the approval of the Procedure for Providing Compensation for the Restoration of Certain Categories of Real Estate Objects Damaged Due to Hostilities, Terrorist Acts, Sabotage, and Armed Aggression by the Russian Federation, Using the Electronic Public Service “eRecovery”’ (amended 16 July 2024) <<https://zakon.rada.gov.ua/laws/show/381-2023-%D0%BF#Text>> accessed 25 July 2024.

This publication is dedicated to the issues of the Ukrainian strategy for ensuring compensation for damages caused to owners of property damaged or destroyed as a result of the armed aggression of the Russian Federation against Ukraine. It addresses the state's obligation to take all necessary actions to protect the rights of individuals residing on its territory and explores the development of national practices for compensating both material and moral damages caused by the armed aggression. These issues require urgent resolution and are of significant importance for further research into the restoration of justice in Ukraine, ensuring guarantees of the rights of war victims, and ensuring adequate compensation for the damages incurred.

2 THE “eRECOVERY” ELECTRONIC PUBLIC SERVICE: THEORETICAL AND PRACTICAL ASPECTS OF COMPENSATION FOR CERTAIN CATEGORIES OF VICTIMS IN THE RUSSIAN-UKRAINIAN WAR

Compensation for certain categories of real estate damaged due to hostilities, terrorist acts and sabotage caused by the armed aggression of the Russian Federation, as established by the relevant Law of Ukraine,² is not absolute. Specifically, due to the priority directions of state policy and budget deficits, the mechanism includes limitations regarding:

- a) **objects** – exclusively single-family houses, including detached residential houses of manor type, block houses with separate apartments having their entrance from the street, cottages and single-family houses of increased comfort, houses of manor type, dachas and garden houses; apartments (residential premises) in a multi-apartment building (in case where common areas are not damaged, or in case where such common areas were damaged but subsequently repaired);
- b) **individuals** – exclusively citizens of Ukraine: who have reached the age of 18, have submitted the relevant application, are owners (co-owners) of the damaged property, whose property rights have been confirmed; who are not subject to sanctions; who do not have convictions for crimes against the foundations of national security; who are not heirs of the two preceding categories of persons, in case the property of the deceased was damaged during their lifetime;
- c) **location of the object** – territory of Ukraine, excluding territories of active hostilities, territories of active hostilities where state electronic information resources operate, or temporarily occupied territories of Ukraine by the Russian

2 Law of Ukraine no 2923-IX of 23 February 2023 ‘On Compensation for Damage and Destruction of Certain Categories of Real Estate Objects Due to Hostilities, Terrorist Acts, Sabotage, and Armed Aggression by the Russian Federation against Ukraine, and the State Register of Property Damaged and Destroyed as a Result of Hostilities, Terrorist Acts, Sabotage, and Armed Aggression by the Russian Federation against Ukraine’ (amended 15 April 2024) <<https://zakon.rada.gov.ua/laws/show/2923-20#Text>> accessed 25 July 2024.

- Federation, for which as of the date of application submission, the date of cessation of hostilities or temporary occupation has not been determined;
- d) **time** – after the entry into force of the Decree of the President of Ukraine dated 24 February 2022, №64 “On the introduction of martial law in Ukraine”,³ approved by the Law of Ukraine dated 24 February 2022, №2102-IX “On the approval of the Decree of the President of Ukraine “On the introduction of martial law in Ukraine”;⁴
 - e) **intended purpose** – for the purchase of construction products and/or conducting repair works;
 - f) **funds utilisation period** – up to 18 months;
 - g) **compensation amount** – up to 500,000 UAH (~11,168,79 euro according to the official rate of the NBU), depending on the extent of the damage.

The functionality of the state service “eRecovery” continues to expand, particularly regarding assistance in cases where housing has been destroyed and is not subject to restoration. The form of assistance under these conditions differs somewhat and is not limited to a specific amount. Compensation is provided in the form of a certificate, which enables the purchase of a new home, with the amount determined by the relevant commission.⁵ In the future, there will be an opportunity to receive monetary compensation for the reconstruction of destroyed housing, indicating Ukraine’s active efforts towards at least partial restoration of violated rights of the affected before receiving reparations from the aggressor country.

The condition for compensation concerning the location of the property is complicated by the difficulties in assessing the extent of damage and destruction, as temporary occupation or active combat operations hinder the assessment commission’s functions. Unfortunately, “eRecovery” cannot cover all destroyed, damaged, or stolen property throughout Ukraine or that has been taken out of its territory. However, we are seeing initial progress in this process, which will contribute to the creation of an effective mechanism for compensating for the material and moral damage caused by the war.

Additionally, the inadequacy of national compensation methods for losses incurred by victims in the Russian-Ukrainian war will lead victims to seek ways to protect their rights themselves. For instance, in July 2022, a Ukrainian citizen filed a lawsuit against the State of Ukraine, including the Cabinet of Ministers of Ukraine, the State Treasury Service of

3 Decree of the President of Ukraine no 64/2022 of 24 February 2022 ‘On the introduction of Martial Law in Ukraine’ (amended 10 May 2024) <<https://zakon.rada.gov.ua/laws/show/64/2022#Text>> accessed 25 July 2024.

4 Law of Ukraine no 2102-IX of 24 February 2022 ‘On the approval of the Decree of the President of Ukraine “On the Introduction of Martial Law in Ukraine”’ <<https://zakon.rada.gov.ua/laws/show/2102-20#Text>> accessed 25 July 2024.

5 Resolution of the Cabinet of Ministers of Ukraine no 600 of 30 May 2023 ‘On approval of the Procedure for Providing Compensation for Destroyed Real Estate Objects’ (amended 15 June 2024) <<https://zakon.rada.gov.ua/laws/show/600-2023-%D0%BF#Text>> accessed 25 July 2024.

Ukraine, and the Russian Federation, including the government of the Russian Federation, “for the recovery of material and moral damages caused by the military invasion of the Russian Federation”.⁶ The basis of the lawsuit is the destruction of the plaintiff’s house located in the city of Irpin during the temporary occupation. The plaintiff believes that both Ukraine and the Russian Federation are responsible for the material and moral damage caused to him.

In response, the Cabinet of Ministers of Ukraine and the State Treasury Service of Ukraine emphasised in their replies to this lawsuit that the Russian Federation bears full legal responsibility for both property and non-property damage caused to civilian individuals and legal entities as a result of its armed aggression. This includes damage caused by armed formations controlled by Russia, as well as damage caused by armed formations controlled by Ukraine in exercising their legitimate right to self-defence. The replies also stated: “*The state takes all possible actions and measures to protect citizens and their property from unlawful encroachments by the aggressor state. Furthermore, after gaining access to assets and property of the Russian Federation blocked abroad, individuals will have the opportunity to fully exercise their right to compensation for the damage caused to their property.*”⁷

Indeed, in early March 2022, the United Nations General Assembly recognised the military actions of the Russian Federation against Ukraine as illegal and called on both parties to adhere to their obligations under international humanitarian law to protect civilian populations and civilian objects.⁸ In particular, such an obligation is provided for by the Geneva Convention on the Protection of Civilian Persons in Time of War,⁹ according to Article 53, of which any destruction by the occupying state of movable or immovable property belonging individually or collectively to private persons, states, or other public institutions or social or cooperative organisations is prohibited, except where such destruction is rendered absolutely necessary by military operations.

It is widely known that the Russian Federation has been attacking civilian objects that are in no way involved in military operations, leading to additional casualties among civilians. During the occupation of the Irpin territorial community, military forces destroyed or damaged nearly every building and claimed hundreds of lives.¹⁰ Therefore, shifting responsibility for war crimes committed by the Russian Federation onto Ukraine

6 Case no 757/16790/22-ц (Pecherskyi District Court of Kyiv, 26 April 2023) <<https://reyestr.court.gov.ua/Review/110981890>> accessed 25 July 2024.

7 *ibid.*

8 ‘General Assembly Overwhelmingly Adopts Resolution Demanding Russian Federation Immediately End Illegal Use of Force in Ukraine, Withdraw All Troops: GA/12407’ (United Nations, 2 March 2022) <<https://press.un.org/en/2022/ga12407.doc.htm>> accessed 25 July 2024.

9 Geneva Convention Relative to the Protection of Civilian Persons in Time of War (adopted 12 August 1949) <<https://www.refworld.org/legal/agreements/icrc/1949/en/32227>> accessed 25 July 2024.

10 Zhanna Bezpiatchuk, ‘Irpin: Russia’s reign of terror in a quiet neighborhood near Kyiv’ (BBC, 8 June 2022) <<https://www.bbc.com/news/world-europe-61667500>> accessed 25 July 2024.

contradicts international law, which places the obligation to compensate for such damage squarely on the aggressor.¹¹

In turn, the national court, in its decision to dismiss the claims against Ukraine, emphasised that recent relevant legislative acts facilitate and standardise the documentation and assessment of property damage suffered by individuals due to the Russian Federation's armed aggression, thus rendering the plaintiff's arguments regarding the absence of a compensation mechanism unfounded.

The mechanism for compensating damage caused by military aggression cannot be swift and easy; Ukraine needs not only to gather sufficient evidence and conduct necessary expertise but also to secure the required funding. The Russian Federation has not yet paid reparations, and it is unknown how they will be paid in the future, prompting Ukraine to seek additional funding sources for the "eRecovery" service. These include funds from the state (including the Property and Infrastructure Restoration Fund, the Fund for the Elimination of Consequences of Armed Aggression) and local budgets; funds from international financial organisations, other creditors, and investors; international technical and/or financial assistance, whether repayable or non-repayable; reparations or other recoveries from the Russian Federation; and other sources not prohibited by Ukrainian law.¹² This will allow owners of damaged or destroyed property not to wait unreasonably long for funds from Russia but to receive compensation as quickly as possible. Currently, all state efforts are directed towards fighting for freedom and ensuring the maximum possible well-being for citizens and individuals residing in Ukraine during these times. Therefore, the establishment and development of the "eRecovery" service indicates, firstly, the absence of government inaction and, secondly, the state's firm commitment to obtaining fair compensation and presenting evidence of Russian war crimes in Ukraine to the world.

When granting the claims against the Russian Federation, the national court referenced Article 48 of the Additional Protocol to the Geneva Conventions of 12 August 1949, which mandates that parties in conflict must always distinguish between civilian populations and combatants, as well as civilian and military objects, and accordingly direct their actions solely against military objectives.¹³ It is evident that Russia ignores these provisions. Property damage incurred under these circumstances must be fully compensated, as the absence of accountability for violations of international humanitarian law undermines its very existence.

11 Responsibility of States for Internationally Wrongful Acts (2001) <https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_6_2001.pdf> accessed 25 July 2024.

12 Law of Ukraine no 2923-IX (n 2) art 13.

13 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol 1) (adopted 08 June 1977) <<https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-additional-geneva-conventions-12-august-1949-and>> accessed 25 July 2024.

Regarding moral damage, national practice is well-established.¹⁴ According to the general principles of civil liability, the mandatory considerations in resolving disputes concerning compensation for moral (non-pecuniary) damage include the existence of such damage, the unlawfulness of the actions causing it, the causal link between the damage and the unlawful actions of the perpetrator, and the fault of the latter in causing it. The court, in particular, must clarify how the fact of causing the plaintiff moral or physical suffering or non-pecuniary loss is substantiated, under what circumstances or by what actions (or inaction) they were caused, in what monetary amount or material form the plaintiff assesses the damage inflicted upon them, and other circumstances relevant to resolving the dispute.¹⁵ Thus, the legal basis for civil liability for compensation for damage caused by decisions, actions, or inaction includes a violation of rights, which encompasses damage, unlawful actions of the person who caused it, and the causal connection between them. At the same time, the burden of proving the existence of damage, unlawfulness of actions, and causal relationship lies with the plaintiff. The absence of any component of civil liability serves as grounds for dismissing the claim.

Therefore, pivotal in resolving such disputes is proving all elements of tort liability based on which the court establishes the fact of causing moral damage to the plaintiff precisely through those actions (inactions) as determined by the court (judge).¹⁶

Furthermore, in determining the compensation for moral damage, the court must adhere to principles of reasonableness, balance, and fairness. Assessing the amount of compensation is complex due to the specific nature of non-pecuniary damage, where criteria for its monetary equivalent are absent. Thus, the assessed amount can only be approximate and probable. The loss of housing undoubtedly results in moral damage, as the owner is compelled to expend resources to restore their situation. The most crucial aspect in this matter is determining a sufficient compensation amount to compensate the victim for the non-pecuniary losses.

The reviewed case is under consideration by the Supreme Court, and a final decision regarding the plaintiff's claims has not yet been made.¹⁷ Given the extensive destruction or damage to property in the Russian-Ukrainian war, not limited to housing, similar judicial

14 Iryna Izarova, Oksana Uhrynovska and Yuliia Hartman, 'Compensation for War Damages: A Study of the Issue Using the Example of the Armed Aggression of the Russian Federation Against Ukraine' (2023) 126(2) *Bulletin of Taras Shevchenko National University of Kyiv, Legal Studies* 34, doi:10.17721/1728-2195/2023/2.126-5.

15 Resolution of the Plenum of the Supreme Court of Ukraine no 4 of 31 March 1995 'On Judicial Practice in Cases of Compensation for Moral (Non-Pecuniary) Damage' (amended 27 February 2009) <<https://zakon.rada.gov.ua/laws/show/v0004700-95#Text>> accessed 25 July 2024.

16 Case no 686/13212/19 (Civil Cassation Court of the Supreme Court, 19 March 2020) <<https://reyestr.court.gov.ua/Review/88337542>> accessed 25 July 2024.

17 Case no 757/16790/22-ц (Civil Cassation Court of the Supreme Court, 27 May 2024) <<https://reyestr.court.gov.ua/Review/119419598>> accessed 25 July 2024.

disputes will continue to be brought before both national and international courts. Such cases take considerable time to resolve, and court decisions may remain unenforced for years, thereby causing additional moral harm.

Currently, there is no single mechanism for compensating material and moral damage caused by the aggression of the Russian Federation against Ukraine that would fully cover the claims of the affected parties. This necessitates comprehensive approaches to recording and compensating for damages. For example, in addition to “eRecovery”, there is a *Register of Damages Caused by the Aggression of the Russian Federation against Ukraine*, which provides victims with the opportunity to claim compensation not covered by the state¹⁸ by submitting applications in accordance with the Rules Governing the Submission, Processing and Recording of Claims.¹⁹ Claims that can be submitted to the Registry of Damages are divided into categories A, B, and C, as follows:

- A – *claims from individuals* related to forced displacement, violation of personal integrity, loss of property, income, or means of subsistence, and loss of access to public services;
- B – *claims from the State of Ukraine* related to damage or destruction of property, loss of historical, cultural, and religious heritage, environmental damage and natural resources, state humanitarian expenses to support the affected population in Ukraine, and demining and clearance of unexploded ordnance;
- C – *claims from legal entities (excluding those in category B)* related to damage or destruction of property, loss of historical, cultural, and religious heritage, business losses, other economic losses, and humanitarian expenses.²⁰

The ability to submit claims online through the state portal “Diia” facilitates the processing of claims, thereby accelerating the recording of damages and subsequent verification.

The most common method of protecting their rights among the affected parties remains the judicial method, predominantly through national courts, by filing claims against the government of the Russian Federation in civil or commercial proceedings, depending on the affected party, and by filing civil claims within criminal proceedings. This method is

18 Andrii Shvadchak, ‘International Register of Damage: Addition to eRecovery or Alternative?’ (*Transparency International Ukraine*, 31 May 2024) <<https://ti-ukraine.org/en/news/international-register-of-damage-addition-to-erecovery-or-alternative/>> accessed 25 July 2024.

19 Register of Damage Caused by the Aggression of the Russian Federation Against Ukraine: Rules Governing the Submission, Processing and Recording of Claims (“Claims Rules”) RD4U-Board(2024)04-final-EN (adopted 21 March 2024) <<https://rd4u.coe.int/documents/358068/386726/RD4U-Board%282024%2904-final-EN+-+Claims+Rules.pdf/46892730-ba99-c1ec-fa98-44082a2e0f25?t=1711545756013>> accessed 25 July 2024.

20 Register of Damage Caused by the Aggression of the Russian Federation Against Ukraine: Categories of Claims Eligible for Recording, RD4U-Board(2024)07-final-EN (adopted 21 March 2024) <<https://rd4u.coe.int/documents/358068/386726/RD4U-Board%282024%2907-final-EN+-+Categories+of+Claims.pdf/3f375b28-5466-0c2e-90b6-55d23c4f7a49?t=1711546048763>> accessed 25 July 2024.

currently the most comprehensible as a court decision is an official document confirming the rights and obligations of the parties and, in general, creates legal certainty for the victims. It is unlikely that the prejudicial effect of such a court decision will have any legal force in the future unified reparations mechanism, even considering its international nature. Furthermore, this method allows for the immediate assessment of moral damage caused by the Russian-Ukrainian war.

Regarding the European Court of Human Rights, its jurisdiction does not extend to human rights violations committed by the Russian Federation after its membership in the Council of Europe was terminated on 16 September 2022.²¹ Thus, this method of protection is currently the least universal, especially if the human rights violation is ongoing and began before this date. The recognition of damage at the international level is a crucial element since, after the establishment of the Registry of Damages, the international nature of the future reparations mechanism has become evident, involving all willing countries of the world and international institutions, ensuring its maximum possible effectiveness. Therefore, regardless of the chosen method of protection, Ukraine's task will be the subsequent consolidation of all decisions, conclusions, facts, and evidence comprehensively obtained by the victims and their inclusion in the future unified mechanism. Of course, there is no easy path, and this process requires significant resource expenditure. However, the protection of the rights of the victims is an obligation, not a right.

The “eRecovery” service, although in its developmental stage, provides an opportunity for victims to receive compensation expediently without waiting for years in line for reparations. It should be emphasised separately that a court decision in favour of the victim regarding compensation for material losses should preclude further claims through the “eRecovery” service and vice versa, as Ukraine effectively gains the right to claim compensation from the Russian Federation on behalf of the victim. Double liability cannot arise for the same action; thus, this issue will require additional oversight. The culpable party must compensate for moral damage, and Ukraine cannot currently undertake such an obligation. Moreover, efforts must be directed towards verifying potential duplication, as the victim may have sought protection of their rights through various institutions. Therefore, during the subsequent unification of the confirmed damages for the future reparations mechanism, this issue must be subject to enhanced scrutiny.

Positive obligations of the state in the field of human rights require the application of necessary and adequate measures to guarantee them, which Ukraine implements with the support of the international community. Unfortunately, in times of war, it is impossible to avoid violations of human rights and freedoms; however, the harm caused as a result of their violation must be properly compensated.

21 Resolution CM/Res(2022)3 On Legal and Financial Consequences of the Cessation of Membership of the Russian Federation in the Council of Europe (adopted 23 March 2022) <<https://rm.coe.int/resolution-cm-res-2022-3-legal-and-financial-consequences-cessation-membership/1680a5ee99>> accessed 25 July 2024.

3 CONCLUSIONS

The comprehensive mechanism for compensating damage caused by the armed aggression of the Russian Federation against Ukraine is still under development. Given that the actual receipt of reparations may take years, Ukraine has implemented the state program “eRecovery” to provide immediate compensation for specific categories of real estate damaged or destroyed in the Russian-Ukrainian war. While currently limited, the electronic public service “eRecovery” serves as an effective tool for assisting victims. It centralises the submission and processing of claims, significantly reducing bureaucratic processes and ensuring prompt initiation of compensation and information verification. Expanding its capabilities with the support of the international community will help protect or restore the rights of more individuals both during and after the wartime period.

National mechanisms for compensating damage cannot cover all losses incurred during the Russian-Ukrainian war, encouraging victims to seek avenues for protecting their rights through national and international courts. Regardless of the method of protection chosen, ensuring fairness in the amount of compensation objectively sufficient to compensate for material and moral damage should remain a priority. This creates a comprehensive approach to restoring the rights of victims and expands their options in choosing a method of protection until the full-fledged mechanism for compensating for damage caused by the Russian Federation's armed aggression against Ukraine is launched.

REFERENCES

1. Izarova I, Uhrynovska O and Hartman Yu, ‘Compensation for War Damages: A Study of the Issue Using the Example of the Armed Aggression of the Russian Federation Against Ukraine’ (2023) 126(2) Bulletin of Taras Shevchenko National University of Kyiv, Legal Studies 34, doi:10.17721/1728-2195/2023/2.126-5.
2. Shvadchak A, ‘International Register of Damage: Addition to eRecovery or Alternative?’ (*Transparency International Ukraine*, 31 May 2024) <<https://ti-ukraine.org/en/news/international-register-of-damage-addition-to-erecovery-or-alternative/>> accessed 25 July 2024.

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Keywords: *compensation for destroyed housing, reparations, Russian-Ukrainian war, electronic public service “eRecovery”, positive obligations, protection of civil rights during the war.*

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АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Примітка

ПЕРШІ КРОКИ В РЕАЛІЗАЦІЇ УКРАЇНСЬКОЇ СТРАТЕГІЇ ЩОДО ВІДНОВЛЕННЯ ПРАВ ВЛАСНИКІВ ОКРЕМИХ КАТЕГОРІЙ НЕРУХОМОГО МАЙНА, ПОШКОДЖЕНОГО АБО ЗРУЙНОВАНОГО ВНАСЛІДОК ЗБРОЙНОЇ АГРЕСІЇ РОСІЙСЬКОЇ ФЕДЕРАЦІЇ

Вікторія Іванова

АНОТАЦІЯ

Вступ. В умовах війни питання відшкодування шкоди, завданої воєнною агресією Російської Федерації проти України, є надзвичайно актуальним з огляду на безпрецедентні масштаби шкоди та кількість постраждалих. У статті досліджено один із наявних способів відшкодування збитків, пов'язаних із пошкодженням або знищенням окремих категорій нерухомого майна внаслідок воєнних дій, терористичних актів, диверсій, спричинених збройною агресією Російської Федерації проти України, за допомогою державної електронної публічної послуги «Відновлення». У статті було досліджено основні аспекти функціонування цієї державної програми, зокрема її обмеження та умови отримання компенсації.

Крім того, у статті розглядається адміністративна справа за позовом громадянина України проти України за невиконання позитивних зобов'язань та проти Російської Федерації за знищення житла, що спричинило матеріальну та моральну шкоду. Також було наголошено на труднощах, які можуть виникнути в процесі виплати Російською Федерацією репарацій.

Захист прав і свобод громадян, які проживають в Україні, є обов'язком держави, а у воєнний час це завдання набуває нового значення, стає складним і надзвичайно важливим. Одним із способів забезпечення такого захисту є відшкодування шкоди, завданої воєнною агресією Російської Федерації проти України. Однак розробка механізму такої компенсації потребує мобілізації значних ресурсів і додаткових досліджень у різних сферах, насамперед для забезпечення справедливості. Важливо вивчити правові підстави для компенсації, критерії оцінки шкоди, можливі методи та засоби компенсації, а також потенційну співпрацю між національними та міжнародними установами.

Методи. У цьому дослідженні аналізується один із способів захисту прав постраждалих внаслідок російсько-української війни через отримання компенсації за допомогою державного електронного сервісу «Відновлення». Зокрема, розглядаються наступні питання: поточні обмеження щодо об'єктів, які підлягають компенсації, принципи функціонування та перспективи розвитку державної програми «Відновлення», а також розвиток та виклики національної судової практики у спорах, що виникають внаслідок війни. Також досліджуються позитивні зобов'язання держави у сфері прав

людини та заходи, яких вживає Україна для захисту та відновлення прав постраждалих осіб. Проаналізовано національні та міжнародні можливості розвитку механізму компенсації постраждалим та виклики, з якими стикається Україна до отримання репарацій від Російської Федерації.

Результати та висновки. Результати цього дослідження підкреслюють здатність держави забезпечити належний захист особам, які постраждали внаслідок російсько-української війни, зокрема через електронний державний сервіс «єВідновлення». Визначено необхідність подальшого розвитку сервісу для охоплення ширшого кола видів шкоди, які Україна може відшкодувати до отримання репарацій від Російської Федерації, зокрема через співпрацю з міжнародними партнерами.

Ключові слова: компенсація за зруйноване житло, репарації, російсько-українська війна, електронний державний сервіс «єВідновлення», позитивні зобов'язання, захист громадянських прав під час війни.