

**REVIEW**

**THE LAW ON COMPENSATION  
FOR DAMAGED AND  
DESTROYED PROPERTY  
AS A RESULT OF RUSSIAN  
INTERVENTION.**

As a result of Russia's full-scale invasion, tens of thousands of private and apartment buildings throughout Ukraine have been destroyed or severely damaged. Many of these buildings have become uninhabitable and are in a state of disrepair. These irreparable damages have serious consequences for the people of Ukraine, who have lost their homes and are forced to look for new places of residence.

According to the Kyiv School of Economics<sup>1</sup>, for a year of war in Ukraine as of February 2023, the total direct documented losses from the destruction of the housing stock are estimated at \$53.6 billion. This is about 153.86 thousand buildings, of which 136 thousand are private (individual) houses; 17.5 thousand are apartment blocks, and 0.3 thousand are dormitories.

This situation has long-reaching consequences for Ukrainian society, the economy and social welfare. Therefore, one of the essential tasks of the Ukrainian authorities is to rebuild the damaged buildings and ensure adequate living conditions for the affected people.

That is why in February 2023, the Parliament of Ukraine adopted the Law of Ukraine *"On Compensation for Damage and Destruction of Certain Categories of Real Estate as a Result of Military Actions, 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 Actions, Terrorist Acts, Sabotage Caused by the Armed Aggression of the Russian Federation against Ukraine"*<sup>2</sup> (hereinafter - the "**Law**"), which took effect on 22 May 2023.

This Law determines the legal and organisational basis for the provision by the state of compensation for damage and destruction of specific categories of real estate as the result of military actions, terrorist acts, sabotage caused by military aggression of the Russian Federation against Ukraine (Russian intervention) starting from 24 February 2022 - from the date of entry into effect of the decree of the President of Ukraine "On the imposition of martial law in Ukraine" No. 64/2022 dated 24 February 2022.

Consequently, possibilities of compensation for damages and destruction of specific categories of real estate stipulated by the Law do not extend to the real estate which, as of 24.02.2022, was located on the temporarily occupied territory of Ukraine as it is specified by the Law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine".

The Law also determines the legal basis for creating and maintaining the State Register of Property Damaged and Destroyed as a result of military actions, terrorist acts, and sabotage caused by military aggression of the Russian Federation against Ukraine.

In this publication, we will provide an overview of the leading general provisions of the Law regarding receiving compensation.

## WHO HAS THE RIGHT TO COMPENSATION?

Article 2 of the Law defines a list of recipients of compensation for damaged/destroyed real estate, namely:

1. Natural persons - citizens of Ukraine:
  - owners of such property;
  - construction customers (in some instances);
  - owners of special property rights to undivided residential construction in progress, future residential real estate (in some instances)
  - persons who have paid a partial price for the property rights to an indivisible housing asset under construction and for whose benefit a lien on the real rights to the such asset has been registered (in some instances)

- investors in construction projects in respect of which the right to perform construction works has been granted before 10.10.2022 (in some instances);
- members of housing co-operatives (housing co-operatives) who (1) purchased a flat or other living accommodation in a building, a homestead house or a detached or country houses of a co-operative, but (2) did not formalise their ownership rights to it (in some instances);
- the heirs of the above-mentioned persons, and

2) Associations of co-owners of apartment buildings, managers of apartment buildings, housing and construction (housing) co-operatives maintaining the respective buildings, persons authorized by co-owners of apartment buildings (i.e. condominiums or other real estate managers) - in case of obtaining compensation for the damaged common property.

The Law does not envisage the possibility for foreign citizens or legal entities to receive compensation. However this list is not exhaustive as the Law empowers the Cabinet of Ministers of Ukraine (hereinafter - "**CMU**") to determine additional categories of persons who could receive compensation for the damaged/destroyed real estate.

The Law also deprives persons included in [the sanctions lists](#) or convicted of crimes against national security, including their heirs.

## WHAT KIND OF REAL ESTATE CAN UKRAINIANS RECEIVE COMPENSATION FOR?

Compensation is provided for specific categories of real estate that have been damaged or destroyed. The Law itself does not define such a concept as "**specific categories of real estate**", but by analysing it, we can conclude that the legislator understands them as follows:

- apartment and other residential premises in a building;
- **homestead house** - a residential house (including a cottage, a semi-detached house) located on a garden plot, consisting of residential and auxiliary (non-residential) premises;
- detached and country houses;
- **objects of construction** (homestead houses, detached and country houses), where at the time of destruction, bearing and external envelope structures (except for translucent structures and filling doorways) were erected, in respect of which the right to carry out construction works was obtained;
- **constituent parts of construction objects** (apartments, other residential premises in a building) which, after commissioning, are independent real estate objects, provided that at the moment of destruction, bearing and external envelope structures (except for translucent structures and filling doorways) were erected, in respect of which the right to carry out construction works was obtained;
- **common property of the apartment building** (common use premises, plumbing, electrical and other equipment) other than the land plot.

## WHAT ARE THE POSSIBILITIES FOR COMPENSATION?

According to the Law, the damage caused by the military intervention of the Russian Federation against Ukraine may be compensated for the *destroyed* or *damaged* houses of the Ukrainians. The Law intentionally distinguishes between these two concepts because there are different approaches to compensating them.

**Destroyed real estate objects** are real estate objects located in Ukraine which became unusable for their intended purpose as a result of military actions, terrorist acts, sabotage caused by the armed aggression of the Russian Federation against Ukraine and which can not be restored by current or capital repairs, reconstruction, restoration or are economically inexpedient.

**Damaged real estate objects** is real estate located in Ukraine and damaged as a result of military actions, terrorist acts, sabotage caused by the armed aggression of the Russian Federation against Ukraine and which can be restored by current or capital repairs, reconstruction or restoration, the restoration of which is economically expedient.

The Law provides for three types of compensation depending on the condition of the real estate:

Type of compensation	Destroyed real estate object	Damaged real estate object
Performance of construction works on the damaged real estate object for the purposes of its restoration it and/or provision of construction products for such works		✓
Provision of funds by transferring them to the recipient's designated current account for specific use to finance construction	✓	
Financing the purchase of a house by utilizing a housing certificate.	✓	

Thus, if the house is destroyed, depending on the categories of real estate object, the recipient can expect either the provision of funds in a special account or the financing of the house purchase with a housing certificate.

To better understand when a particular type of compensation for the destruction of real estate is used, we have prepared the following table:

Specific categories of real estate	Provision of funds to a specially designated account	Financing with a housing certificate
apartment		✓
other residential premises in a building		✓
constituent parts of objects of construction (apartments, other residential premises in the building) which, after commissioning, are independent real estate objects		✓
homestead house	✓	✓
detached and country houses	✓	✓
construction objects (homestead houses, detached and country houses)	✓	✓

As can be seen from the table, the primary means of compensation in the case of total destruction is the housing certificate, which can be obtained by all owners of destroyed real estate. However, private homeowners have the choice to opt for a housing certificate or receive funds at a specially designated account.

**The housing certificate** is an electronic document that guarantees that the state will finance the future acquisition or construction of a new residential property in an amount equal to the sum of money specified in the certificate.

The housing certificate has certain features that must be taken into account, namely:

- The housing certificate may only be used by its holder or heir (without the right to dispose of it to third parties) within five years after its issue.
- If the value of the new housing exceeds the amount of money stated on the housing certificate, the difference should be paid by the recipient.
- One or more housing certificates belonging to one or more citizens of Ukraine may be used for the purchase of the new house.
- The recipient of compensation is deprived of the right to dispose of the object of residential real estate acquired with the use of the housing certificate for a period of five years.

In the case of damaged housing, there are only two compensation mechanisms that can be applied together or separately:

- perform construction work on the damaged real estate in order to restore it (including the development of the project documentation for construction, conducting its expertise, performing the construction work), and/or
- provision of construction products for the performance of such works.

The Law does not independently establish the procedure for the application of such a mechanism and indicates the need for the CMU to determine this procedure.

The CMU approved *The Procedure for Providing Compensation for the Restoration of Specific Categories of Real Estate Damaged as a Result of Military Actions, Terrorist Acts, Sabotage Caused by Military Aggression of the Russian Federation Using the Electronic State Public Service "yeVidnovlennia"*<sup>3</sup> (in Ukrainian - "єВідновлення") No 381 dated 21 April 2023, provides a compensation mechanism for restoration of the real estate damaged as a result of the Russian interference.

This procedure provides, among other things, a list of construction products that can be purchased by the recipient with compensation funds and a list of works with an indicator of the average cost per unit volume. According to the procedure, the amount of compensation for one damaged real estate object can not exceed UAH 500,000.

## SOURCES OF FINANCING

Sources of funding for compensation for damaged and destroyed real estate are:

- funds from state budgets (including the Property Restoration and Destroyed Infrastructure Fund and the Armed Aggression Relief Fund);
- funds from local budgets
- funds from international financial institutions;
- international technical financial assistance;
- reparations or other recoveries from the Russian Federation;
- other sources not prohibited by the legislation of Ukraine;

- local funds established for the purpose of providing compensation and reconstruction of damaged and destroyed real estate.

The transitional provisions to the Law explicitly provide that compensation for damaged/destroyed real estate shall be provided within the budgetary allocations.

## REGISTER OF DAMAGED AND DESTROYED PROPERTIES

The establishment of Register of Damaged and Destroyed Property is to collect, record and protect information about persons whose property is damaged or destroyed as well as information about the damaged and destroyed property. The Register also includes information on the extent of damages and decisions on compensation for damaged and destroyed property, as well as financing of its restoration.

Access to the Register of Damaged and Destroyed Property is free of charge through the electronic user account or other state information and communication system integrated with the Register.

The Ministry of Infrastructure of Ukraine is the custodian of this registry, and the state-owned enterprise “Diia” is the administrator.

## OUR COMMENTS

This Law is of great importance to Ukraine in the context of post-conflict reconstruction and justice for affected citizens. It provides a legal basis for establishing compensation mechanisms for owners of housing damaged as a result of military actions and contributes to the stabilisation of the situation in the country. In addition, the Register of Damaged and Destroyed Property prescribed helps to systematise and effectively manage the compensation process.

However, the Law also has significant gaps that require attention and improvement. For example, it does not provide the possibility for compensation to persons who have lived on the territory of Ukraine for a long time and who are owners of dwellings damaged or destroyed after February 24th 2022, but are not citizens of Ukraine. The Law also leaves many questions unanswered about its actual implementation, as much will depend on the by-laws adopted and the work of the relevant commissions that will consider compensation issues.

Consequently, while the Law is a step towards fairness and reconstruction, it needs further improvement, especially in broadening the categories of persons entitled to compensation and ensuring a transparent and efficient implementation process. This will help ensure that survivors receive the necessary support and compensation to restore their housing conditions and rebuild their lives after a traumatic conflict.

### FOOTNOTES:

1. [https://kse.ua/wp-content/uploads/2023/03/UKR\\_Feb23\\_FINAL\\_Damages-Report-1.pdf](https://kse.ua/wp-content/uploads/2023/03/UKR_Feb23_FINAL_Damages-Report-1.pdf)
2. <https://zakon.rada.gov.ua/laws/show/2923-20#Text>
3. <https://www.kmu.gov.ua/npas/pro-zatverdzhennia-poriadku-nadannia-kompensatsii-dlia-vidnovlennia-okremykh-katehorii-s381-210423>

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