

TEMPORARY SPECIAL COMMISSION
on the protection of property and non-property
rights of internally displaced persons and other
persons affected by the armed aggression of the
Russian Federation against Ukraine

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DECISION

On the implementation of the state program "eRestoration" and prospects of compensation for destroyed housing during the period from 2014 to 2022 and housing in temporarily occupied territory

The large-scale aggression of the Russian Federation, which began on February 24, 2022, as a result of the armed aggression initiated by the Russian Federation in February 2014, has led to an unprecedented humanitarian crisis in Ukraine, becoming a resonant challenge in the field of human rights.

According to estimates by the World Bank, the Government of Ukraine, the European Union, and the United Nations (RDNA3), since the invasion, millions of Ukrainians have lost their homes. The total area of objects damaged or destroyed by shelling is 88.9 million square meters, which is 8.6% of Ukraine's total housing stock. Thus, approximately 1.4 million households (about 3.4 million people) have been affected. Preliminary estimates put the losses of residential buildings at \$58.94 billion, which is more than a third of the total losses in Ukraine as of January 2024.

Law of Ukraine No. 2923-IX of February 23, 2023, defined the legal and organizational principles for providing compensation for damage and destruction of certain categories of real estate caused by the armed aggression of the Russian Federation against Ukraine since February 24, 2022, as well as the legal framework for the creation and maintenance of the State Register of Property Damaged and Destroyed as a Result of Hostilities, Terrorist Acts, and Diversions Caused by the Armed Aggression of the Russian Federation against Ukraine. It was also established that this Law, in terms of providing compensation for damage and destruction of certain categories of real estate, does not apply to real estate located on the temporarily occupied territory of Ukraine as of February 24, 2022, as defined by the Law of Ukraine "On ensuring the rights and freedoms of citizens and the legal regime in temporarily occupied territory of Ukraine".

According to the Ministry of Development of Communities and Territories and Infrastructure of Ukraine (hereinafter - the Ministry of Infrastructure) in accordance with Law No. 2923-IX of February 23, 2023, and the Procedure for providing compensation for the restoration of certain categories of real estate damaged as a result of hostilities, terrorist acts, diversions caused by the armed aggression of the Russian

Federation, using the "eRestoration" electronic public service, approved by the Cabinet of Ministers of Ukraine on April 21, 2023, citizens are provided with compensation for damaged housing for:

- performing repair work necessary to restore the damaged real estate object, category A (up to 200,000 hryvnias);
- performing repair work necessary to restore the damaged real estate object, category B (from 200,000 to 500,000 hryvnias).

To ensure payment of compensation for damaged housing in 2023, the Government allocated 5.9 billion hryvnias from the fund for liquidation of the consequences of armed aggression, including: 4.4 billion hryvnias for repairs of category A worth up to 200,000 hryvnias (Cabinet of Ministers Resolution of May 16, 2023, No. 493) and 1.5 billion hryvnias for repairs of category B worth from 200,000 to 500,000 hryvnias (Cabinet of Ministers Resolution of November 3, 2023, No. 1145).

As of April 30, 2024, citizens have submitted 87,151 applications for compensation for damaged housing, commissions have awarded compensation for repairs of category A in the total amount of 3.5 billion hryvnias to 47,056 applicants, and compensation for repairs of category B in the total amount of 2.1 billion hryvnias has been awarded to 6,124 applicants.

Payment of compensation in category A has been made to 45,002 citizens for 3.4 billion hryvnias, and in category B - to 4,366 citizens for 1 billion hryvnias (the first part of the awarded compensation), with an additional 0.5 billion hryvnias reserved for the payment of the second part of the compensation.

Due to insufficient budgetary funds, the payment of compensation for repairs in category B has currently been suspended (except for the payment of the second part of the compensation).

To ensure the payment of compensation for destroyed housing, the Cabinet of Ministers of Ukraine allocated 5.8 billion hryvnias by resolution No. 1145 of November 3, 2023. These funds are used to provide compensation for destroyed housing using a housing certificate.

As of April 30, 2024, 13,082 applications have been submitted for compensation for destroyed housing using a housing certificate, resulting in the issuance of 5,374 housing certificates totaling 10.4 billion hryvnias. Citizens have used 2,584 housing certificates to purchase housing totaling 5.2 billion hryvnias.

Local self-government commissions are reviewing applications for compensation for destroyed housing by providing financial assistance for the construction of a house of country, garden, or cottage type. In total, as of April 30, 2024, 1,048 applications have been submitted for this type of compensation, with compensation awarded to 542 applicants totaling 1.5 billion hryvnias. Payment of compensation in this direction is currently not being made due to lack of funding.

Thus, the effectiveness of further implementation of programs for providing compensation for damaged and destroyed housing will directly depend on their financial support.

In addition, citizens who have already received cash certificates are addressing the Temporary Special Commission of the Verkhovna Rada of Ukraine on the Protection of Property and Non-Property Rights of Internally Displaced and Other Persons Affected by the Armed Aggression of the Russian Federation against Ukraine (hereinafter - the Commission) with complaints about the lack of state funding for repairs in category B and the implementation of housing certificates, as well as the uncertainty regarding the timing of fund disbursement.

Regarding compensation for destroyed property from 2014 to 2022.

The procedure 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 state of emergency of a military nature caused by the armed aggression of the Russian Federation is approved by Cabinet of Ministers Resolution No. 947 of December 18, 2013 (as amended).

The Ministry for the Reintegration of Temporarily Occupied Territories of Ukraine (hereinafter - the Ministry of Reintegration) has been responsible for distributing budgetary funds proportionally among the regions based on the budgetary allocation for the respective year, according to the received and agreed submission from regional social protection authorities. The Ministry of Reintegration, Donetsk and Luhansk Regional State Administrations, as well as local self-government bodies, or military-civilian administrations of settlements in their absence, were to ensure informing the population about the procedure for receiving financial compensation, including by posting information on the official websites of the respective authorities, social media pages, posting announcements and informational materials on bulletin boards, or any other possible means.

According to the government resolution of December 18, 2013, No. 947 (with amendments), there is the possibility of submitting applications for property damaged or destroyed since the beginning of the Russian armed aggression against Ukraine, starting from 2014, as well as providing financial compensation to victims whose residential buildings (apartments) were destroyed as a result of a state of emergency of a military nature caused by armed aggression in the Donetsk and Luhansk regions since February 19, 2014, although the corresponding funding is currently not provided, and such payments are not actually being made.

Also missing is the recording of damage inflicted by February 24, 2024, in the State Register of property damaged and destroyed as a result of hostilities, terrorist acts, sabotage, caused by the military aggression of the Russian Federation.

The Ministry of Infrastructure regarding compensation for housing located in temporarily occupied territories has reported the absence of a legal mechanism, primarily due to the lack of a mechanism for recording damage to such objects.

However, under the coordination of the Ministry of Infrastructure, an experimental project was implemented according to the Cabinet of Ministers Resolution of October 27, 2023, No. 1185, aimed at conducting surveys of destroyed specific categories of real estate objects, including using remote sensing Earth information products, establishing the fact of destruction of corresponding objects, and providing compensation to their owners according to the Procedure for providing compensation for destroyed real estate objects approved by the Cabinet of Ministers Resolution of May 30, 2023, No. 600. By the decision of the executive committee of the Melitopol City Council of Zaporizhzhia region dated November 15, 2023, a Commission was formed to conduct surveys of destroyed specific categories of real estate objects, and the Regulations on its work were approved.

To provide the Commission with convenient access to high-resolution satellite images for detecting and accounting for destroyed residential objects in Melitopol, a prototype module on the ArcGIS Online platform was developed by the United Nations Development Programme (UNDP).

The cartographic component of the module contains interactive maps of Melitopol city demonstrating the level of destruction before and after February 24, 2022, markings of damaged objects, as well as two satellite images.

The United Nations Development Programme in Ukraine (UNDP) provided authorised representatives of the Ministry of Infrastructure and the Commission for the Survey of Destroyed Certain Categories of Real Estate, established by the decision of the Executive Committee of the Melitopol City Council, three-month access with the 'View Only' function to the created Cartographic component of the module with interactive maps of the city of Melitopol showing the level of destruction before and after 24 February 2022, marking of damaged objects, satellite images and the results of preliminary assessment.

According to the information provided by the executive committee of the Melitopol City Council during the implementation period of the experimental project, four applications for compensation for destroyed real estate objects were considered, which were registered in 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 until February 14, 2024. Based on the results of the examination of satellite images, as well as photo materials of the damage to objects contained in the information messages submitted in accordance with the Procedure for submitting an information message about damaged and destroyed real estate due to hostilities, terrorist acts, sabotage, caused by the armed aggression of the Russian Federation against Ukraine, approved by the Cabinet of Ministers Resolution of March 26, 2022, No. 380 (as amended by the Cabinet of Ministers Resolution of June 13, 2023, No. 624), the Commission formed by the decision of the executive committee of the Melitopol City Council concluded:

- to suspend the surveys using Earth remote sensing information products due to the impossibility of accurately determining whether residential buildings are destroyed at two sites;
- to establish the fact of destruction of two residential buildings.

Accordingly, housing certificates have been issued in accordance with the Procedure for providing compensation to owners of residential buildings, the destruction of which has been established.

Therefore, as a result of the implementation of the experimental project, the possibility of establishing the fact of destruction of specific categories of real estate objects using Earth remote sensing information products and providing compensation to their owners has been identified.

However, according to the provisions of Ukrainian Law No. 2923-IX dated February 23, 2023, the Government was required to, within two months from the date of its publication (i.e., by May 22, 2023), ensure the determination of the features of surveying damaged and destroyed real estate objects located in the territories of territorial communities situated in the area of hostilities or under temporary occupation. Additionally, the Government, in collaboration with local self-government bodies, was supposed to establish and ensure the functioning of commissions to consider issues related to compensation in the respective areas, which was not actually fulfilled.

After considering the issue, the Commission **d e c i d e d**:

1. To recognize the successful mechanism of providing compensation for the restoration of specific categories of real estate damaged or destroyed as a result of Russian aggression, using the electronic public service "eRestoration" . As of May 15, 2024, a total of 4.7 billion UAH has been transferred to 51.6 thousand Ukrainian families for repair and restoration works in damaged housing, and 6.7 thousand housing certificates have been issued for the purchase/reconstruction of destroyed housing.

2. To propose to the Cabinet of Ministers of Ukraine:

1) In accordance with subparagraph five of subparagraph 2 of Article 15 of Ukrainian Law No. 2923-IX *"On Compensation for Damage and Destruction of Certain Categories of Immovable Property as a Result of Hostilities, Terrorist Acts, Sabotage, Caused by 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 Armed Aggression of the Russian Federation against Ukraine,"* to promptly ensure the determination of the features of surveying damaged and destroyed real estate objects located in the territories of territorial communities situated in the area of hostilities or under temporary occupation,

surrounded (blocked), in accordance with the list approved by the central executive body that ensures the formation and implementation of state policy on temporarily occupied territories (including using Earth remote sensing information products, including satellite imagery);

2) To inform the Commission about the number of applications submitted, the results of their consideration, the volumes of monetary compensation (if any) provided to the affected persons, whose residential buildings (apartments) were destroyed as a result of the emergency situation of a military nature caused by armed aggression in Donetsk and Luhansk regions since February 19, 2014, in accordance with the resolution of the Cabinet of Ministers of Ukraine dated December 18, 2013, No. 947 (as amended by the resolution of September 2, 2020, No. 767), as well as about the executive authorities responsible for the implementation of this resolution of the Cabinet of Ministers;

3) To develop and submit to the Verkhovna Rada of Ukraine a draft law amending the legislative acts of Ukraine to improve and expand the mechanism for compensating for housing destroyed by Russian aggression since 2014, which is located in temporarily occupied territory or in areas of active hostilities, including using Earth remote sensing information products, including satellite imagery, and taking into account the results of the experimental project for surveying destroyed categories of real estate in the city of Melitopol, according to the resolution of the Cabinet of Ministers of Ukraine dated October 27, 2023, No. 1185;

4) To analyze the possibility of providing compensation to Ukrainian citizens who own real estate located in temporarily occupied territory of Ukraine or in areas of active hostilities, after legally relinquishing ownership rights to such property in favor of the state of Ukraine, including through consultations and negotiations with international partners of Ukraine regarding the recognition of relevant legal acts and the prospects for finding financial resources for such payments;

5) To urgently implement and launch a system for accounting and preserving evidence confirming the destruction by Russian aggression of real estate objects located in temporarily occupied territory of Ukraine or in areas of active hostilities, to create a proper evidentiary base and the possibility of compensation for the damage caused within the framework of the international compensation mechanism and reparations.

3. To address the Prime Minister of Ukraine requesting measures to mobilize the financial resources necessary to ensure uninterrupted compensation payments for the restoration of specific categories of real estate damaged/destroyed due to Russian aggression, specifically to avoid accumulating arrears, queues of applicants, and delays between the decision to compensate for damaged real estate objects (Category

B) and the actual disbursement of such compensation, as well as to enable payments for already issued housing certificates or for approved decisions regarding the allocation of funds for the reconstruction of destroyed houses.

4. To the Ministry of Community Development, Territories, and Infrastructure of Ukraine within one month:

1) To inform Ukrainian citizens whose housing has been destroyed, including those who have already submitted an informational report on this fact using the electronic public service "eRestoration", about the necessity to submit a separate application to receive housing certificates or funds for the restoration of the destroyed house;

2) To provide clarification to housing certificate recipients regarding the procedure for its implementation, including the need to receive confirmation of financing availability for housing purchase using the housing certificate and to reserve the corresponding funds before any notarial actions are taken (including preliminary agreements and sale-purchase contracts for housing).

5. The Commission's decision is to be sent to the Prime Minister of Ukraine, the Ministry of Community Development, Territories, and Infrastructure of Ukraine, and the Ministry of Reintegration of Temporarily Occupied Territories of Ukraine, with a request to report to the Commission on the results of implementing this decision within one month.

Chairman of the Commission

P. Frolov

Secretary of the Commission

S. Velmozhnyi