

Thematic Legislative Update

UNHCR Thematic Update: Law of Ukraine on Compensation for Destroyed and Damaged Property, and the State Registry of Damaged and Destroyed Property¹

On February 23, 2023, the Parliament of Ukraine adopted the **Law of Ukraine on Compensation for Destroyed and Damaged Property and the State Registry of Damaged and Destroyed Property** (*simplified name*), which regulates the compensation process for destroyed and damaged housing caused by the war in Ukraine. The law aims to establish an overall framework for the provision of compensation for damaged or destroyed housing, including different compensation mechanisms, a list of eligible applicants, establishing terminology and definitions, roles and responsibilities of authorities, as well as the requirements for documentation to be submitted.

This document aims to provide a summary of the scope of the Law and its key provisions.

Which types of housing are covered by the Law?

<p>Damaged housing refers to housing objects that have been damaged as a result of hostilities, terrorist acts, or sabotage caused during the war and that can be repaired, reconstructed or restored if this is economically expedient.</p>	<p>Destroyed housing refers to housing objects that have become uninhabitable due to hostilities, terrorist acts, or sabotage caused during the war and where the repair, reconstruction, restoration is impossible or not economically expedient.</p>
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- Immovable property that can be determined as "damaged/destroyed housing"
 - Apartments, other habitable premises in multi-story buildings, stand-alone houses such as private houses (including garden houses and so-called "dachas");
 - Housing under unfinished construction. For unfinished constructions to qualify, bearing and enclosing structures must be completed, and construction permits must have been obtained;
 - Common areas of multi-story apartment buildings can qualify only in terms of compensation for damaged housing.
- Compensation will be provided exclusively (i) for damaged or destroyed housing located on territory that was under the control of the Government of Ukraine on or before 24 February 2022 and (ii) if damage/ destruction happened on or after this date.

Who is eligible to receive compensation?

- Under the Law, compensation can be provided to citizens of Ukraine who fall under any of the following categories:
 - Owners of damaged/destroyed housing;

¹The text is available via the [link](#) (in Ukrainian)

- People who legally initiated construction works on the housing (e.g., received construction permits in their name), but the construction works have not been completed. This includes owners of objects under unfinished construction, owner-builders, etc.;
 - People who invested money into the construction of housing objects;
 - Members of housing cooperatives who have bought the housing, but have not yet registered ownership rights;
 - Inheritors of any of the above-mentioned categories.
- Homeowner associations may be eligible for compensation only for common areas of multi-story apartment buildings.
 - Applicants must possess properly documented ownership (property) rights.
 - The following categories are **not eligible for compensation**:
 - Citizens of Ukraine listed in Ukrainian sanction legislation;
 - Persons convicted of crimes against the foundations of national security;²
 - Inheritors of any of the above-mentioned ineligible categories.³

Which types of compensation are envisaged by the Law?

The Law envisages different types of compensation for destroyed and damaged housing as follows:

Destroyed housing:

- Housing certificate (also known as “housing voucher”) – an electronic document that guarantees funding for the purchase of residential property, including future construction or investment, up to the monetary amount specified in the document. For owners of destroyed apartments, other habitable premises in multi-story buildings, or unfinished housing construction may receive compensation only in the form of a housing certificate.
- Financial compensation - monetary compensation by transferring funds to the recipient’s bank account with a special usage regime. Money on this account can be used exclusively for funding construction works.
- Individuals with destroyed stand-alone houses, such as private houses (including garden houses and so-called “dachas”) or such objects under unfinished construction may choose to receive either a housing certificate or financial compensation.

Damaged housing:

- Restoration works – performing construction work to restore the damaged housing and/or providing building materials/project documentation for such work. This type of compensation envisages no fund transfer to recipients.

Would a person who received humanitarian assistance remain eligible for compensation?

- Based on the provisions of the Law, there are no limitations for recipients of humanitarian assistance to also receive compensation provided by the State, including for those whose houses were repaired by humanitarian actors. However, it is possible that the corresponding by-laws governing the compensation mechanisms to be adopted within two months after the

² Crimes, envisaged in Chapter I, Special Part of Crime Code of Ukraine.

³ This provision does not comply with the principle of individual legal responsibility.

law enters into force could be narrow or expand the categories of those eligible for State compensation.

- Compensation for damaged housing will only be provided in the form of restoration works (no monetary value). Therefore, it remains unclear how the compensation process could work for those whose homes have already been repaired/ restored by humanitarian actors. It is expected that this will be covered by the corresponding by-laws to be adopted.

How to receive compensation?

- Applications for compensation must be submitted during the period of martial law and up to one year after it is lifted. If the housing is damaged/destroyed due to mines and/or explosive devices, the term of application will be extended up to 3 years after the lifting of martial law.
- Applications can be submitted:
 - Online through the Diia-Portal;
 - In paper through Centers of Administrative Services/Social Services/notaries
 - Anywhere in Ukraine irrespective of applicant's place of residence registration or location of the destroyed/damaged object.
- Applications for compensation for destroyed housing are automatically transferred to the relevant local Commissions, which are special bodies established by each local council or military administration. If an application is missing any required documents (if the documents are lost or damaged), the Commission may request those documents from any relevant state authorities, local bodies, enterprises, institutions, and organizations regardless of ownership to supplement the application. It is not necessary to submit documents that are already in State registers.
- The Commission has 30 days to consider the application, which may be extended for another 30 days if the housing is located in areas of active fighting or areas outside the control of the Government of Ukraine. Once the Commission has reviewed and decided on the application, the local council or military administration should approve the decision within 5 days. The Law envisages other timeframes for specific scenarios (e.g. lost documentation, application by inheritors, etc.).
- If an applicant disagrees with the Commission's decision, s/he has the right to challenge it in court.
- The procedure for considering applications on compensation for damaged housing as well as the responsible state institution have yet to be established and require further by-law regulation.

Will the first compensation decisions be made soon?

- Implementation of the law depends on the work of the Cabinet of Ministers to adopt detailed by-laws. While the Law provides a general compensation framework, including definitions, procedures, eligibility and documentation requirements, the detailed regulations and procedures must be established by the Cabinet of Ministers. The Cabinet has been given a two-month timeframe to adopt these.

What is the amount of compensation?

- The Law has no minimum or maximum levels. The compensation amount will be calculated on a case-by-case basis by multiplying the square of the damaged or destroyed housing by the value

of one square meter. Calculation for the value of one square meter shall be determined by the corresponding by-laws.

Is there prioritization among eligible applicants?

Compensation for destroyed housing	Compensation for damaged housing
<ul style="list-style-type: none"> ■ Persons who are (were) participants in hostilities (including mobilized for military service); ■ Persons with disabilities caused by war; ■ Persons with disabilities (I and II groups of disability); ■ Families with three and more children. 	<ul style="list-style-type: none"> ■ No priority groups identified, but this could be changed with the adoption of the corresponding by-laws

How will the housing certificate modality work?

- The recipient may use the housing certificate to purchase new housing on the market or invest in housing under construction.
- The recipient independently chooses suitable housing that is located beyond areas of active fighting or territories outside the control of the Government of Ukraine.
- Once the housing is selected, the recipient must apply to the state agency assigned by the Cabinet of Ministers of Ukraine, which has 10 days to consider the application. This agency may freeze the application consideration period if there are no funds available.
- Once the application is approved, the person signs a contract to purchase housing with the use of the housing certificate.
- Housing purchased with housing certificates cannot be disposed of for five (5) years.
- The housing certificate is valid for five (5) years after issuance; this document should be used personally; it cannot be of, disposed of, gifted, exchanged etc. (but it can be inherited).
- Successors (heirs) can exercise their right to inheritance at any stage of the compensation procedure, from the right to file a compensation claim to the possibility of inheriting the housing certificate itself. After successors exercise their inheritance rights and receives the housing certificate, a prohibition on further transferrin, gifting, exchanging, or otherwise disposing of the certificate is imposed. This prohibition remains in effect for a period of five years from the date on which the certificate is issued.
- If the price of the selected housing is higher than the value of the housing certificate, the recipient must cover the additional cost him/herself.
 If the price of the selected housing is lower than the value of the housing certificate, the recipient will receive the difference from funds received from the Russian Federation. The procedure to compensate the difference is not yet established.

How will the financial compensation for destroyed housing work?

- The law provides that the corresponding by-laws will outline the procedure for financial compensation for destroyed housing. Therefore, the exact mechanism is yet to be defined.

How will compensation through restoration for damaged housing work?

- The law provides that the corresponding by-laws will outline the procedure for compensation through restoration for damaged housing. Therefore, the exact mechanism is yet to be defined.

Are there any provisions regarding the Registry of Damaged and Destroyed Property?

- The Law stipulates that the Registry of Damaged and Destroyed Property must be established and shall contain the following information:
 - Details of individuals whose property has been damaged or destroyed;
 - Information about the damaged or destroyed property, regardless of whether compensation is envisaged for this type of property or not;
 - Estimates of the financial loss caused by the damage or destruction;
 - Information about the decision on compensation and its provision.
- The procedure for governing and maintaining the Registry will be determined by a separate by-law act issued by the Cabinet of Ministers of Ukraine. The Ministry for Communities, Territories and Infrastructure Development of Ukraine will be responsible for maintaining the Register, and access to it will be granted only to the institutions and agencies specified in the Law.

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