

Centre for  
Defence  
Strategies



CRIMEA  
PLATFORM

# Compensation as an Important Part of the Policy of Deoccupation of Crimea

March 2022







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# INTRODUCTION

Russia's armed aggression against Ukraine began on February 20, 2014. One of the consequences of Russia's brutal violation of international law was the occupation of Ukraine's Crimean Peninsula.

This resulted in the breakdown of the system of World order and security, based on recognition of sovereignty and territorial integrity as well as non-interference in domestic affairs of states; tens of thousands of people having been forced to leave their homes, after losing their family ties and property; persecution, tortures, illegal reprisals, and imprisonment, bans on peaceful assemblies and expression of opinion, mass violations of property and non-property human rights. In addition, the state has lost real access to the subsoil on the shelf and deposits of gas and other minerals, as well as private companies that have lost property, profits, and the ability to do business. According to the most modest estimates, the losses caused by the occupation of Crimea amount to tens of billions of dollars, and this amount is seeing a steady upward trend due to the ongoing occupation.

International law knows various ways to bring the offending state to justice. Sanctions, reparations, retaliation, satisfaction, and other means of redress constitute examples hereof.

To prevent and avoid significant disregard for the rules of international law, violators must be brought to justice and effective mechanisms must be provided for compensating for damage caused by illegal acts and occupation. Russia, as a state, must pay a high price for the damage caused, and the representatives of the Russian political and military leadership must be held accountable for violating the norms of international humanitarian law.

Another act of Russia's aggressive war against Ukraine, demonstrated by a full-scale invasion of February 24, 2022, in particular from the occupied Crimea, proves that the civilized world must not delay the most severe sanctions and must use all available means to hold the Russian state accountable for brutal disregard for international norms. Compensation is one such way, and seizure of Russian assets and property around the world creates additional mechanisms to restore rights and justice for those in Ukraine who have suffered from Russian aggression and occupation.

Moreover, it should be noted that today the significant weakening of Russia's economy and its deprivation of relevant resources is an effective tool for ending a full-scale war in Ukraine and saving millions of lives. Assets of the Russian Federation should be aimed at compensating for the damage caused by its criminal actions, but so far, the Russian government is spending its resources on weapons, including those prohibited by international humanitarian law, to be used in Ukraine.

This study analyses human rights violations, losses and damages of the state and state-owned enterprises, private business and citizens caused by the Russian occupation of Crimea; the state strategy and directions aimed at compensation recovery; further steps and recommendations the state should take to increase efficiency and speed up work to recover the damage caused by the Russian Federation with respect to the occupation of Crimea.



Armed Russian soldiers at a Ukrainian military base © Mirror

# CHAPTER 1.

## CONSEQUENCES OF THE OCCUPATION OF THE AUTONOMOUS REPUBLIC OF CRIMEA AND THE CITY OF SEVASTOPOL AND LOSSES CAUSED BY THE ARMED AGGRESSION OF THE RUSSIAN FEDERATION AGAINST UKRAINE

### 1. Human casualties and the humanitarian dimension of consequences of the occupation

**From its very beginning, the occupation of the Autonomous Republic of Crimea and the city of Sevastopol by the Russian Federation was accompanied by large-scale human rights violations having caused direct and indirect harm to victims hereof. Those responsible for such violations are not held accountable, and none of the victims have received adequate compensation for the damage caused by Russia's actions in Crimea.**

Within the first weeks of the operation to seize the peninsula, the Russian authorities resorted to the most serious types of violations, such as **forced disappearances, extrajudicial detentions and murders**. The UN Human Rights Monitoring Mission, which has been working in Ukraine since 2014, has documented 43 such disappearances, of which 11 people remain missing.<sup>1</sup> Among these disappearances is the abduction of Reshat Ametov, which

was the first documented case of enforced disappearance in Crimea. He was abducted on March 3, 2014, during a single picket against the occupation in the central square of Simferopol, and on March 15 his body was found bearing marks of brutal torture. Even though the persons involved in this extrajudicial execution have been identified, no one has yet been brought to justice. The Office of the UN High Commissioner for Human Rights marks the abduction dated May 23, 2018 as one of the latest documented facts. In 30 cases, victims were released but did not receive any compensation for their imprisonment or torture.<sup>2</sup> Among such released Ukrainian citizens were Andrii Shchekun, coordinator of the Euromaidan-Crimea movement, and Anatolii Kovalskyi.

Since 2014, the Russian occupation authorities in Crimea have been gradually developing a **system of political**

**persecution of journalists, human rights activists, civil activists, politicians and residents of the peninsula** who oppose the occupation of Crimea or the preservation of Crimean Tatar and Ukrainian identity. This system includes the entire vertical of the occupying power, namely investigative bodies, special services, courts, prosecutor's offices, etc., depriving people of effective means of protection of their rights. As of February 2022, at least 120 Ukrainian citizens are in places of detention on fabricated politically motivated cases. In addition to being illegally imprisoned, they are also victims of other serious human rights violations. It is common practice to torture detainees to force them to give evidence required by the Federal Security Service (the FSS) and to falsify a criminal case. However, these crimes remain not investigated, and those guilty of crimes remain unpunished. This is confirmed by the analysis of the sentences of the Crimean "courts" carried out by the Crimean Human Rights Group in June 2020. "Judges" and "investigative bodies" do not issue sentences that provide for actual imprisonment in respect of law enforcement officers of the Russian Federation but decide to apply minimum or less than the minimum terms as punishment. No criminal case was found against FSS officers on websites of Crimean "courts", although most applicants alleging torture in politically motivated persecution accused FSS officers hereof.<sup>3</sup>

Moreover, in places of detention, other forms of violence and degrading treatment are used against Ukrainian citizens during detentions, namely detention in conditions threatening life and health, detention in places of imprisonment of persons with medical contraindications hereto and refusal to provide the necessary medical care.

All these actions of the Russian authorities lead to irreparable damage to the health of Ukrainian citizens, both those who are detained for political reasons and other prisoners detained for or convicted of general crimes. Under Russian occupation, they obviously have no chance of receiving compensation for unlawful deprivation of liberty, torturing and other violations of rights, damage to health and moral harm.

The media and journalists who refused to work for the occupation authorities have suffered heavy losses. In March 2014, broadcasting of Ukrainian TV and radio stations was stopped, and their frequencies were seized by Russian TV and radio companies. Editorial offices of many Crimean media outlets were attacked, intimidated and persecuted, forcing them to leave the peninsula and all their professional equipment, premises, studios, etc. In addition, other local media outlets were unable to continue their work due to the illegal and non-transparent system of "re-registration" under Russian law, as a result of which they lost their frequencies. According to international organizations, in 2015, after this so-called "re-registration" Crimean media became 13 times less (a total of 232) than before the occupation (a total of 3,000). In recent years, the occupying authorities in Crimea have been constantly blocking websites of Ukraine's leading news media outlets and the FM signal of Ukrainian radio stations, seizing these frequencies and broadcasting Russian-controlled Crimean broadcasters.

In February–March 2014, dozens of Crimean journalists were attacked and beaten, and their personal professional equipment was also damaged or destroyed. Subsequently, the occupation authorities of the Russian Federation began to imprison journalists





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within fabricated criminal cases. Currently, at least 12 Ukrainian citizens are behind bars for their journalistic work.

The occupation of Crimea has also led to systemic violations of the right to freedom of opinion, conscience and religion and damage to religious communities and organizations. Mandatory registration of communities as religious organizations under Russian law has led to liquidation of many organizations. Failure to comply with the registration requirements leads to liquidation of an organization.

The so-called Russian “anti-extremist” and “anti-terrorist” legislation is used to persecute entire population groups on religious grounds. The most widespread is the persecution of Muslims based on accusations of participation in Hizb ut-Tahrir, recognized in Russia as a terrorist organization by the decision of the

Supreme Court of the Russian Federation of February 11, 2003. Hizb ut-Tahrir is not banned in Ukraine, and its activities in Crimea were not limited before the occupation. At the beginning of 2022, 79 Muslims, most of them Crimean Tatars, are in detention, three more are under surveillance and cannot leave the occupied territory, and two are under house arrest. Another religious group persecuted by the Russian occupation authorities is members of the religious organization Jehovah’s Witnesses, which has been on the list of “extremist organizations” in Russia since 2017. At the beginning of 2022, five people were imprisoned solely for their religious beliefs, another nine were restricted in their rights: seven were under house arrest and two were under travel restrictions.

In March 2014, the Orthodox Church of Ukraine was one of the centers of resistance to the occupation and support

of the Armed Forces of Ukraine. This led to the systematic persecution of the church and its gradual destruction. Churches and religious buildings of the church were seized by the occupying authorities, which led to a significant reduction in the number of communities – at the beginning of 2014 there were 45 religious communities in Crimea, and in 2018 their number decreased to 11 communities operating in eight churches. The occupying authorities purposefully seized the main temple of the church, namely the Cathedral of the Holy Apostolic Princes Volodymyr and Olga. “The Arbitration Court” of Crimea has decided to terminate the lease agreement for the premises where the Cathedral of the Holy Apostolic Princes Volodymyr and Olga, the main cathedral for the Orthodox Church of Ukraine, was located. After that, practically all the church utensils of the diocesan administration were stolen from this cathedral under the guise of building renovation. In 2020, the Supreme Court of the Russian Federation refused to reconsider the decision to evict the community of the Orthodox Church of Ukraine from the cathedral, which meant the actual liquidation of the community of the Orthodox Church of Ukraine in Crimea. Then a decision was made to demolish the church in Yevpatoriia, and in 2021 the police persecuted the priest of the monastery of St. Demetrius of Thessaloniki for the ceremony had taken place in a room not having been registered under Russian law as a religious building.

In addition, representatives of almost all religious communities and organizations – Muslims, Protestants, Baptists, Jews, Scientologists and Krishnas, except for the Russian Orthodox Church of the Moscow Patriarchate – are subject to administrative persecution for the so-called “missionary

activity.” Worshippers are persecuted for observance outside the premises or in premises not registered under Russian law as religious buildings. Fines are most often used as punishment. According to the Crimean Human Rights Group, at least RUB 1,823,500 of such fines have been imposed on residents in Crimea during the occupation.

The property of most public associations that did not come under the control of the occupying power of the Russian Federation, as well as the property of the Majlis of the Crimean Tatar people was seized and appropriated by the occupying authorities or organizations under its control.

Apart from systemic violations of civil and political rights, Crimean residents repeatedly face violations of property rights. Thus, information on 3,952 victims of property violations in Crimea, prepared by the Prosecutor’s Office of the Autonomous Republic of Crimea and the Regional Center for Human Rights, was submitted to the International Criminal Court.<sup>4</sup> A total of 250 victims were identified whose real estate was demolished (192 - in the ARC and 58 – in Sevastopol). Among 3,702 people, the Russian authorities confiscated land plots with a total area of at least 355 hectares (170 and 3,532 in the Autonomous Republic of Crimea and the city of Sevastopol, respectively).<sup>5</sup>

The militarization of the peninsula leads not only to military and economic losses of Ukraine. Crimean residents also fall victim to Russian war crimes, namely, conscription of Ukrainian citizens into the armed forces of the occupying state, constituting a violation of international humanitarian law. During the occupation, Russia conducted 14 conscription campaigns in Crimea, in which



34,000 Crimean citizens were forcibly drafted into the Russian armed forces. The occupying power uses criminal prosecution of those who refuse to perform such service as a means of coercion.

Threats to the militarization of Crimea have been repeatedly emphasized in UN General Assembly resolutions “Problem of the Militarization of the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, as well as parts of the Black Sea and the Sea of Azov” 73/194 of December 17, 2018,<sup>6</sup> 74/17 of December 9, 2019,<sup>7</sup> 75/29 of December 7, 2020,<sup>8</sup> and 76/29 of December 9, 2021.<sup>9</sup>

At the same time, such actions of the Russian occupation authorities on the peninsula constitute a violation of Article 45 of the Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land stipulating that it is forbidden to compel the inhabitants of occupied territory to swear allegiance to the hostile power.<sup>10</sup>

Fear and terror reign in the occupied territories, the occupying power acts via repressive methods and intimidation, and systematically and massively violates human rights and freedoms. The human rights crisis in the occupied Crimea was condemned by UN General Assembly resolutions “Situation of Human Rights in the Autonomous Republic of Crimea and the City of Sevastopol, Ukraine” 71/205 of 19 December 2016,<sup>11</sup> 72/190 of 19 December 2017,<sup>12</sup> 73/263 of December 22, 2018,<sup>13</sup> 74/168 of December 18, 2019,<sup>14</sup> 75/192 of December 16, 2020,<sup>15</sup> 76/179 of December 16, 2021.<sup>16</sup>

In general, the basic rules and principles of international humanitarian law governing

the protection of civilians who appeared to be under control of a belligerent party in their territory or occupied territory are set out in Articles 27 to 34 of the Fourth Geneva Convention and Articles 72 to 79 of Additional Protocol I. Today, most of these provisions are recognized as having acquired the status of customary law.<sup>17</sup>

As can be seen from the foregoing, almost all the rules of international law provided for in such cases are violated by the occupation authorities of the Russian Federation.

In addition, the UN Human Rights Committee monitoring compliance with the International Covenant on Civil and Political Rights (ICCPR) of 1966, confirmed in 1997 that the rights enshrined in the Covenant apply to people living in the territory of a State party. Also, the UN Human Rights Committee and other bodies monitoring the implementation by states of their human rights obligations under ratified agreements, constantly emphasize that such obligations apply to any territory under the jurisdiction of a state, in particular to territories occupied as a result of hostilities.<sup>18</sup>

Thus, Russia, as the state occupying Crimea, should guarantee and ensure equal rights for men and women to enjoy all civil and political rights enshrined in the International Covenant on Civil and Political Rights.<sup>19</sup>

**As can be seen from the above, the Russian Federation systematically violates the rules of this pact, in particular:**

- the right to life (Article 6);
- inadmissibility of torture or cruel

treatment (Article 7);

- the right to liberty and security of person (Article 9);
- the right to freedom of thought, conscience and religion (Article 18);
- the right to hold opinions without interference (Article 19);
- the right to peaceful assembly (Article 21).

Article 2, part 3 of the International Covenant on Civil and Political Rights states that a person has the right to a remedy for violations, including the right to life, physical integrity, and other fundamental rights, and that it is the duty of the state to provide through the judiciary or other authorities such a means of protection. In particular, the third part of Article 2 establishes the following: **“3. Each State Party to the present Covenant undertakes: (b) to ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; (c) to ensure that the competent authorities shall enforce such remedies when granted.”**

The UN Human Rights Committee, established by the same Covenant, has issued general comments on the interpretation of this provision. It was pointed out that the introduction of an effective compensation mechanism was an essential component of a state’s obligation to respect human rights: Article 2, paragraph 3, required States to

provide remedy to individuals whose rights under the Covenant had been violated. Without compensation for those whose rights have been violated, the obligation to provide an effective remedy, which is crucial to Article 2 paragraph 3, will remain illusory. In addition to the explicit compensation required under article 9, paragraph 5 and article 14, paragraph 6, the Committee concludes that the Covenant generally provides for compensation. The Committee also noted that, in certain cases, reparations may include restitution, rehabilitation and satisfaction measures, such as public apologies, public memorials, guarantees of non-repetition, changes in relevant laws and practices, and prosecution of persons guilty of human rights violations.<sup>20</sup>

Besides, ignoring human rights in the occupied Crimea violates Articles 2–11 of the European Convention on Human Rights.<sup>21</sup>

Compliance with the norms of this Convention by the occupying power has been repeatedly confirmed by the case law of the European Court of Human Rights. For instance, in the cases of *Loizidou v. Turkey* (1998), *Demades v. Turkey* (2008) and others.<sup>22</sup>

The cultural heritage has been severely damaged, some of its objects have been destroyed, and cultural values continue to be exported to the territory of the Russian Federation. The Russian authorities have appropriated more than 4,000 monuments of national and local significance. A study by the Center for Defense Strategies “Cultural Heritage as an Element of National Security: the Crimea Lens” reveals in detail the consequences of the occupation for cultural heritage sites on the peninsula.<sup>23</sup>

## 2. Human displacement due to occupation

Replacing the population of Crimea has become for the Russian Federation a mission of strategic importance, whereby the Kremlin has been pursuing a consistent policy since 2014, forcing Crimean people to leave the peninsula and at the same time populating Crimea with its citizens from the territory of Russia. As a result, according to Council of Europe expert Serhii Zaiets, one of the biggest problems caused by the occupation is the issue of compensating Ukraine for losses from displacement from the occupied territories (internal displacement and emigration). In terms of the armed conflict in the east of Ukraine, government spending is somewhat visible, due to the nature of the events and the number of internally displaced persons (IDPs) from the east. Instead, the losses caused by the displacement of people from Crimea are less noticeable due to the less destructive nature of the occupation and the relatively smaller share of IDPs from Crimea in their total number. Thus, the number of IDPs from Crimea is about 64,000 people out of a total of about 1.5 million.

It should be noted that any population displacement from the occupied territories to the territory controlled by the Government of Ukraine (internal displacement) and emigration cause direct and indirect material damage to both the state and displaced persons themselves. Such damages must be reimbursed by the State responsible for internal displacement, in the case of Crimea it is the Russian Federation.

Human displacement, first of all, imposes an additional burden on the state due to the need for direct additional costs of providing IDPs with housing, their social support, creating additional places in kindergartens, schools, forming personnel reserve in healthcare, etc. All these costs must be borne by the state before IDPs can integrate and pay community support taxes. Losses should also include those direct and indirect sustained by IDPs due to the loss of property, business, clientele, business relationships, etc. Revenues not received by the state budget are also part of the losses.

## 3. Economic losses and damage to the environment

The National Economic Strategy 2030, approved by the Cabinet of Ministers of Ukraine, states that the number of direct losses of Ukraine in the form of loss of assets due to the occupation of Donbas and Crimea exceeds UAH 1 trillion in 2013 prices.<sup>24</sup> According to the Ministry of Justice of Ukraine, the number of direct losses in the form of loss of assets caused by the temporary occupation in 2013 prices amounted to UAH 950 billion. The

market value of the illegally seized mineral resources in the Autonomous Republic of Crimea and the city of Sevastopol amounted to another UAH 126.8 billion for Ukraine.

In addition to national assessments, international organizations and experts also tried to assess the losses sustained by Ukraine regarding the Russian aggression. Thus, in 2017, the Office of the UN High



Yevpatoria Commercial Sea Port © Wikipedia

Commissioner for Human Rights estimated that Russia had illegally confiscated 4,575 public and private real estate assets in the occupied Crimea.<sup>25</sup> Anders Åslund, a senior fellow at the Eurasia Center at the Atlantic Council and author of *Kremlin Aggression in Ukraine: The Price Tag*, in 2018, stated Ukraine had lost \$100 billion due to Russian aggression in Crimea and the east.<sup>26</sup>

The most comprehensive study of economic losses as a result of the Russian occupation of Crimea today is a study by the Center for Economic Strategy, upon request of the Office of the Permanent Representative of the President of Ukraine in the Autonomous Republic of Crimea in 2021. According to experts, the economic losses due to the temporary occupation of Crimea by the Russian Federation amounted to \$135 billion, or about 75% of Ukraine's GDP in 2013. \$135 billion is the

direct loss of assets, including the value of land on the Crimean Peninsula (\$3 billion), and proven mineral deposits (\$52.3 billion) in the form of natural gas and crude oil, loss of residential real estate (\$42.7 billion), losses of private companies (\$18.4 billion), banks (\$2.7 billion), the state (\$14 billion), and local communities (\$1.7 billion). Meanwhile, researchers emphasize that this is only a minimal proven estimate of Ukraine's economic losses.

Among government agencies and enterprises, some of the biggest losses were suffered by energy companies and transport infrastructure, including the ports of Yevpatoria, Kerch, Sevastopol, Feodosia and Yalta. The administration of seaports of Ukraine in 2019 stated that Russia must pay more than UAH 1.24 billion in compensation for lost property in the ports of Crimea.<sup>27</sup>



Particular attention should be paid to the losses of government agencies and enterprises whose activities were related to the peculiarities of the region. These include state health facilities and agri-food enterprises such as Masandra, New World, Magarach, Simferopol and Sevastopol wineries. Thus, the occupying power of the Russian Federation first “nationalized” and then illegally privatized many assets. In 2016, the Trade Unions Federation of the Republic of Tatarstan purchased for RUB 1.4 billion (\$ 21 million) Foros sanatorium (formerly owned by Ihor Kolomoiskyi).<sup>28</sup>

In 2017, Southern Project LLC (an entity of Rossiya Bank owned by Yuri Kovalchuk) acquired the New World champagne plant for RUB 1.5 billion (\$26 million). In 2020, the same company bought the Masandra winery for RUB 5.327 billion (\$74 million).<sup>29</sup>

It should be noted that the illegal, meaningless and large-scale destruction and misappropriation of property that is not caused by military necessity is a serious violation of international humanitarian law, which entails the right to compensation.

The legal basis for this right is enshrined in the Universal Declaration of Human Rights (Article 8), the International Covenant on Civil and Political Rights (Article 2), the International Convention on the Elimination of All Forms of Racial Discrimination (Article 6), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Article 14), the Convention on the Rights of the Child (Article 39); The Hague Convention respecting the Laws and Customs of War of 1907 (Article 3); Additional Protocol to the Geneva Conventions of 12 August 1949 (Article 91); and the Rome Statute of the International Criminal Court (Articles 68 and 75).<sup>30</sup>

According to Vitaliy Sekretar, First Deputy Head of the Prosecutor’s Office of the Autonomous Republic of Crimea and the City of Sevastopol, there are about 100 criminal proceedings in the Ukrainian pre-trial investigation bodies concerning violations of state or private property rights in the occupied Crimea. Most of them are qualified by Ukrainian law enforcement bodies under Article 438 of the Criminal Code of Ukraine (violation of laws and customs of war), as international legal acts (including the Hague Regulations of 1907, the Geneva Convention (IV) of 1948) prohibit the occupying power from destroying and appropriating property in the occupied territories regardless of ownership.<sup>31</sup>

To date, there is almost no comprehensive assessment of the implications and damage due to the occupation of Crimea and Russia’s illegal actions on the peninsula for the environment. In the absence of direct access to the peninsula, such an assessment is extremely difficult to conduct. Meanwhile, a significant part of the territory of Crimea has a conservation status. Nevertheless, actions of the Russian authorities not only harm the environment, but also create a risk of destruction of certain natural resources and territories. For instance, regular military exercises of the Armed Forces of the Russian Federation are held in nature reserves and lead to the destruction of landscapes, annihilation of animals and plants, pollution of soil, air and sea. The construction of the Kerch bridge and the Tavryda highway have led to the same devastating consequences. In addition, the occupation of Crimea and the lack of monitoring have led to the uncontrolled use of natural resources of the region.

Another alarming signal is the possible potential deployment of nuclear weapons by Russia in the occupied Crimea. Thus, in July 2021, First Deputy Minister of Foreign Affairs Emine Japarova at the “Ukraine 30. International Relations” Forum stated that Russia is actively building the Crimean military infrastructure for its nuclear weapons as well as it is reconstructing the infrastructure of Soviet-era nuclear warheads. Potential nuclear weapons carriers are already stationed on the peninsula.”<sup>32</sup>

According to the Chief of the Main Directorate of Intelligence of the Ministry of Defense of Ukraine, Brigadier General Kyrylo Budanov, the actions of the Russian occupation administration on the Crimean Peninsula could lead to an environmental catastrophe in the entire Black Sea region. **“Tactical nuclear weapons in Crimea, and now the intention to deploy uranium enrichment facilities, the production of dual-use materials and the use of nuclear weapons technology on the occupied Ukrainian peninsula, could all turn Crimea into a nuclear settling tank. The ecological situation in the whole region will be under threat,”** Budanov noted.<sup>33</sup>

On February 24, 2022, units of the Armed Forces of the Russian Federation carried out the military invasion of the territory of Ukraine. In particular, the town of Nova Kakhovka in the Kherson region was occupied and the Kakhovka HPP, all hydraulic structures of the North Crimean Canal that regulated water supply from the Kakhovka Reservoir of the lower Dnipro River Basin to the Crimean Peninsula, were seized.<sup>34</sup>

On February 27, the occupiers destroyed the temporary dam and the main partition

structure of the canal. As a result, the Russian Federation elicits water intake from the Kakhovka reservoir of the lower basin of the Dnipro River.

Partial depressurization of the hydraulic structure of the North Crimean Canal has led to the leakage of 4,320,000 cubic meters of water per day. Losses for unauthorized use of water resources of Ukraine amount to UAH 32,628,960 per day. As of March 17, the total amount was almost UAH 620 million.<sup>35</sup>

According to the Information on the Environmental Impact of Russian Aggression in Ukraine from February 24 to March 18, 2022 of the Ministry of Environmental Protection and Natural Resources of Ukraine, Russian troops attack port infrastructure along the Black Sea and the Sea of Azov and ships at anchor, leading to water pollution and proliferation of toxins in the sea.

Ramsar sites are being devastated on the shores of the Black Sea and the Sea of Azov in the Kherson region and Crimea. Since 2014, the Russian military has used the Opuk Cape aquatic coastal complex in Crimea for military exercises.

The nature of the annexed Crimean Peninsula is also being destroyed by the deployment of military facilities, including nuclear ones, as well as the destruction of protected areas and unique ecosystems.

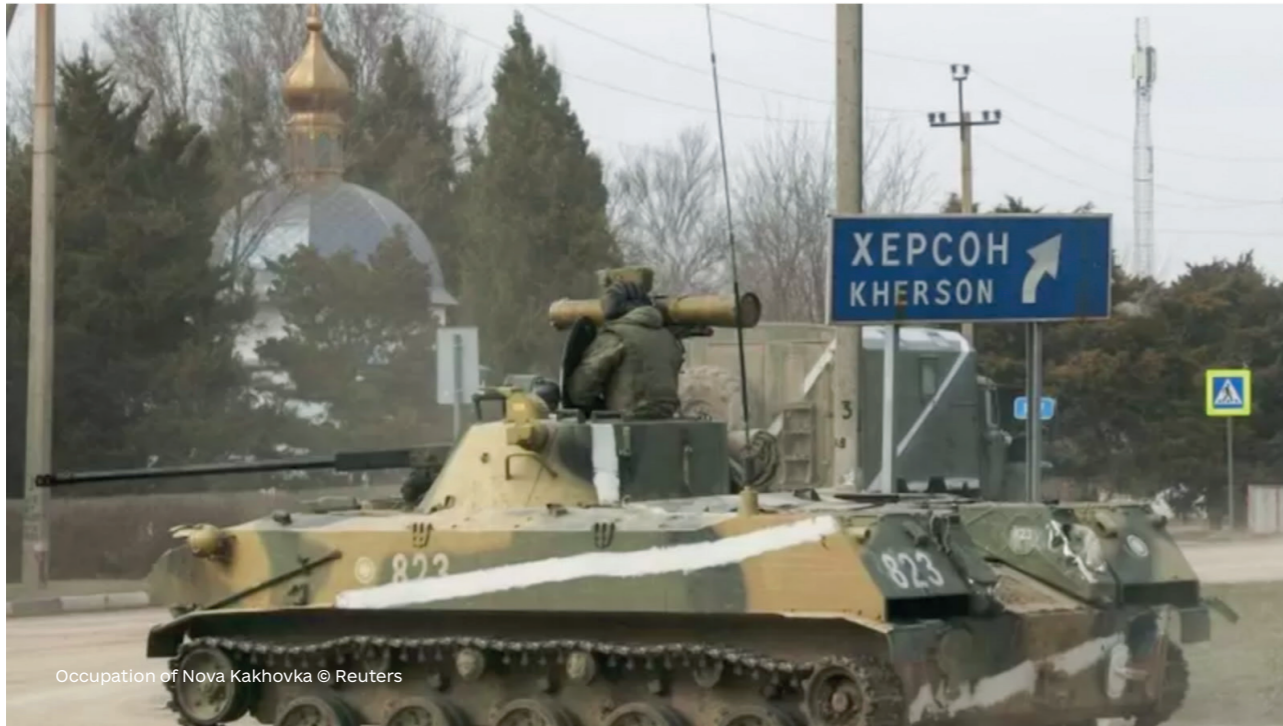
Cases of Russian ships attacking merchant ships since the first days of the war (including one Moldovan and one Panamanian vessel on February 25) with the use of heavy weapons pose a significant potential risk of contamination of the sea with petroleum products and other



pollutants. Explosions, shots and shells bursts during the capture of Snake Island had a significant negative impact on the unique ecosystem of the Philoporic Field of Zernov, due to noise and other types of pollution. Two more ships were captured by Russian troops and delivered to the waters

of annexed Crimea, namely the tanker Athena and the bulk carrier Princess Nicole.

In the case of the Black Sea, there are gross violations of the Bucharest Convention on the Protection of the Black Sea against Pollution.<sup>36</sup>



Occupation of Nova Kakhovka © Reuters

## CHAPTER 2. COMPENSATION FOR LOSSES FROM OCCUPATION IN THE STRATEGIC VISION OF THE STATE, LEGAL JUSTIFICATION AND PRACTICAL STEPS TO COMPENSATE FOR THE LOSSES DUE TO THE OCCUPATION OF CRIMEA

Article 91 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts of 8 June 1977, provides that a party to the conflict which violates the provisions of the Conventions or of this Protocol shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces.<sup>37</sup>

According to paragraphs 6 and 7 of Article 5 of the Law of Ukraine “On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine,” the Russian Federation as the state carrying out the occupation bears full responsibility for the compensation for the material and moral damage caused by the temporary occupation of Ukraine to legal entities, civil associations, citizens of Ukraine, foreigners and stateless persons.

The state of Ukraine will use all possible means to foster the payment of material and moral damages by the Russian Federation.

In accordance with the norms and principles of international law, responsibility for the protection of cultural heritage in the temporarily occupied territory rests with the Russian Federation as the occupying power.<sup>38</sup>

The main strategic document regarding the deoccupation of the Autonomous Republic of Crimea and the city of Sevastopol is the Strategy for the Deoccupation and Reintegration of the Temporarily Occupied Territory of the Autonomous Republic of Crimea and the City of Sevastopol, approved by the Presidential Decree of March 24, 2021 No. 117/2021.<sup>39</sup> The document set out the principles of the legal mechanism for protecting Ukraine’s property interests violated as a result of the occupation of Crimea by the Russian Federation.

According to the Strategy, the Russian Federation and the occupation administration of the Russian Federation are performing acts to illegally seize, use and dispose of property, including land plots located in the temporarily occupied territory of Ukraine and owned by the state of Ukraine, Crimea, territorial communities, including the territorial community the city of Sevastopol, as well as citizens and legal entities of Ukraine.

Ukraine uses all available international legal mechanisms to protect the property rights and interests of the state of Ukraine, its citizens and legal entities, raises in accordance with the established procedure in the courts of Ukraine and international judicial institutions the issue of damages awards payable for restrictions on the exercise of the right of ownership over property located in the temporarily occupied territory, destruction or damage of such property in connection with

the armed aggression of the Russian Federation, the armed conflict and the temporary occupation of the territory of Ukraine. Ukraine takes all legal measures to return the property of the state of Ukraine, its citizens and legal entities, illegally seized in connection with the armed aggression of the Russian Federation, the armed conflict, the temporary occupation of Ukraine, or receive compensation for the value of such property and profits lost due to its illegal alienation.

In fact, this decree has become an important document that contains the very concept of damages award, since, according to the case law of Ukrainian courts, when considering cases regarding the loss of property by citizens in connection with a conflict or occupation, the courts rule in favor of compensation.<sup>40</sup> At the same time, the concepts of damages award and compensation are not identical, with compensation being broader in nature



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and having both tangible and intangible dimensions.

However, without clearly defined measures to fulfill the goals and tasks of the Strategy and appropriate funding, the document remains a political declaration. On September 29, 2021, the Cabinet of Ministers of Ukraine approved the Action Plan for the Implementation of the Strategy for the Deoccupation and Reintegration of the Temporarily Occupied Territory of the Autonomous Republic of Crimea and the City of Sevastopol.<sup>41</sup> According to the Plan, responsibility for investigating violations of property rights and interests of the state of Ukraine, its citizens and legal entities, foreign individuals and legal entities in the temporarily occupied territory is assigned, by consent, to the Office of the Prosecutor-General, the National Police, the Security Service of Ukraine and other pre-trial investigation authorities. The results of such investigations lay the basis for bringing appropriate claims against the Russian Federation for damages caused by violations of the rights of individuals and legal entities. In addition, the Ministry of Reintegration of the Temporarily Occupied Territories, the Ministry of Justice, the Ministry of Finance along with, by consent, the Office of the Prosecutor-General and the Representative Office of the President of Ukraine in the Autonomous Republic of Crimea are obliged to determine the norms and procedures for the recovery of the property or compensation to legal owners of the property that was illegally alienated or destroyed during the temporary occupation. At present, such procedures continue to be developed with the participation of various central authorities.

On March 20, 2022, the Cabinet of Ministers of Ukraine adopted Resolution No. 326 “On

Approval of the Procedure for Determining the Damage and Losses Caused to Ukraine as a Result of the Armed Aggression of the Russian Federation.”<sup>42</sup>

By this Resolution, the Cabinet of Ministers of Ukraine decided to approve the Procedure for determining the damage and losses caused to Ukraine as a result of the armed aggression of the Russian Federation.

Ministries and other central and local executive bodies were instructed to develop and approve within six months the methods provided for in the Procedure and approved by this Resolution.

As is known, the armed aggression of the Russian Federation against Ukraine began on February 20, 2014, when, in contravention of the international legal obligations of the Russian Federation, there took place the first cases of violation by the Armed Forces of the Russian Federation of the procedure for crossing Ukraine’s borders in the Kerch Strait in Crimea and the use of its troops deployed in Crimea in accordance with the Agreement between Ukraine and the Russian Federation on the Status and Conditions of Stay of the Black Sea Fleet of the Russian Federation on the Territory of Ukraine of May 28, 1997 to block Ukrainian military units.<sup>43</sup>

The Ukrainian government is thus faced with an ambitious and important task to determine the volume of the damage caused to Ukraine by the Russian Federation as a result of the armed aggression and occupation.

Besides the damage incurred from the misappropriation of property in Crimea, Ukraine has suffered heavy losses as a



result of the internal relocation of the population from Crimea to government-controlled areas. Ukraine has created an IDP records system, which has been improving for several years since the beginning of Russia's aggression. Some measures to enhance the quality of this system were aimed at reducing the number of people registered as IDPs, which is related to social benefits control and aims to save money. This confirms that the problem of relocation is associated with direct material losses, and the state tried to optimize them in order to prevent an unjustified accrual of benefits to persons who are not entitled to receive them. At the same time, according to Serhii Zaiats, an expert from the Council of Europe, this also indicates a certain imperfection in recording, since the direct cost of social benefits and their reduction was chosen as the efficiency indicator. Under this approach, the IDP records system may not provide complete information on their actual number of such people. Not all IDPs are registered, since this may be subject to certain additional restrictions or barriers. An analysis of the Unified State Register of Court Decisions shows that disputes over the revocation of a certificate of registration as an internally displaced person or the refusal to issue such a certificate are quite common. The very fact of the existence of such disputes suggests the imperfection of the system.

The government of Ukraine is currently developing measures concerning the damages payable for housing destruction, lending programs for IDPs, etc. However, compensation mechanisms for the lost (destroyed) housing are applicable only to residents of the occupied part of Donbas. The development of such mechanisms is Ukraine's commitment under the UN Guiding Principles on Internal

Displacement. At the same time, it is also necessary to bring the Russian Federation to account for the involuntary movement of the population as a result of the occupation and to assess the damage caused.

Ukraine already has a clear legal position prepared by the Prosecutor's Office of the Autonomous Republic of Crimea and human rights organizations regarding Russia's forced displacement of civilians from the peninsula. These actions of the Russian Federation constitute a war crime, the relevant evidence whereof has been submitted to the International Criminal Court (ICC).<sup>44</sup>

**It should be noted that the Ukrainian state has taken a number of steps to hold Russia accountable under international law. In 2014, Ukraine started lodging interstate claims to the European Court of Human Rights. As of January 2021, after the consolidation of cases brought by Ukraine against the Russian Federation, there were three interstate cases pending before the ECHR:**

- [Ukraine v. Russia \(re Crimea\) \(application No. 20958/14\);](#)
- [Ukraine and the Netherlands v. Russia \(applications Nos. 8019/16, 28525/20 and 43800/14\);](#)
- [Ukraine v. Russia \(VII\) \(application No. 38334/18\);](#)
- [Ukraine v. Russia \(VIII\) \(application No. 55855/18\).](#)

On January 14, 2021, the Grand Chamber of the European Court of Human Rights found admissible Ukraine's allegations of violation by the Russian Federation of its international legal obligations under the

Convention for the Protection of Human Rights and Fundamental Freedoms. The court will continue to consider the merits of the cases and rule on most of the human rights violations reportedly committed by Russia according to Ukraine,<sup>45</sup> including forced disappearances, ill-treatment, unlawful deprivation of liberty, unlawful automatic imposition of Russian citizenship, unlawful searches of private premises, persecution and intimidation of religious leaders, obstruction of non-Russian media, banning public gatherings and expressions of opinions, intimidation and arbitrary detention of demonstration organizers, expropriation of private property without compensation, restriction of freedom of movement between Crimea and Ukrainian-controlled territory, discrimination against Crimean Tatars.

The Court noted that on February 27, 2014, the Russian Federation established effective control over the territory of the Autonomous Republic of Crimea and the city of Sevastopol of Ukraine, on which basis the Court will consider the case in future. Thus, this gives grounds to demand from the Russian Federation compensation for damages caused by its actions committed after February 27, 2014.

An important example concerning this case is a precedent which confirms the total legitimacy of Ukraine's claims against the Russian Federation. On May 12, 2014, the Grand Chamber of the European Court of Human Rights published its decision on just satisfaction in the case of *Cyprus v. Turkey*. Just satisfaction (Article 41 of the Convention for the Protection of Human Rights and Fundamental Freedoms) provides for monetary compensation for violations of the Convention. This marks the first time that the Court ruled on just

satisfaction in interstate matters. The court found that Turkey should reimburse Cyprus for €90 million worth of damages, of which €30 million to relatives of missing 1,456 Greek Cypriots and €60 million to Greek Cypriots who continue to live on the Turkish-occupied Karpass peninsula. This decision came 13 years after the Grand Chamber found that Turkey was responsible for violating Article 2 of the Convention (right to life), Article 3 (prohibition of torture), Article 5 (right to liberty and security).<sup>46</sup>

Another court where Ukraine filed an application was the International Court of Justice. In January 2017, Ukraine instituted proceedings before the ICJ, alleging that the Russian Federation had violated the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention for the Suppression of the Financing of Terrorism. Ukraine stated that the Russian Federation was violating the Convention for the Suppression of the Financing of Terrorism, since its officials and private persons supplied weapons, allocated funding, conducted training and provided other forms of assistance to armed groups, including the so-called DPR and LPR and other related groups and individuals operating in Ukraine, and that Russia was in breach of the Convention on the Elimination of All Forms of Racial Discrimination and had discriminated against Tatar and Ukrainian ethnic populations in Crimea since February 2014 in order to entrench Russian dominance on the peninsula by erasing competing cultures. The purpose of the application to the ICJ is to establish violations of the said Conventions by the Russian Federation, restore Ukraine's violated rights, oblige Russia to refrain from such actions in the



future and compel it to pay the damages.

It should be added that the full-scale Russian invasion of Ukraine, which began on February 24, 2022, became the basis for Ukraine's lawsuit before the ICJ against Russia "on charges of genocide under the Convention on the Prevention and Punishment of the Crime of Genocide," which makes it a third Convention on which Ukraine submits an application. This lawsuit is a legal position that completely refutes the propaganda "arguments" of the Russian Federation about the genocide of Ukraine against the Russian-speaking population of the occupied territories of Donbas. The court was swift in considering Ukraine's request for provisional measures (submitted with the lawsuit). On March 16, 2022, the Court rendered its provisional measures order, including the immediate suspension of military operations in Ukraine.

Therefore, Ukraine has filed claims with the ICJ under all three Conventions on which the Court has jurisdiction and which may be applicable, namely the International Convention for the Suppression of the Financing of Terrorism, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Prevention and Punishment of the Crime of Genocide.

Among other UN international legal instruments, Ukraine also used the Arbitration Tribunal constituted under Annex VII of the 1982 UN Convention on the Law of the Sea. On September 14, 2016, the Ministry of Foreign Affairs of Ukraine initiated a case in this tribunal between Ukraine and the Russian Federation.

As part of the arbitration proceedings, Ukraine is appealing against the brazen

violations of the UN Convention on the Law of the Sea, which Russia has committed since 2014 in the territorial sea adjacent to the Crimean coast, the Black and Azov Seas and the Kerch Strait, including seizure of rigs and mineral deposits, illegal gas production from the continental shelf of Ukraine in the Black Sea, usurpation of rights to regulate fisheries, illegal fishing and prevention of Ukrainian fishing companies from fishing in marine waters adjacent to the Crimean Peninsula; illegal blocking of the transit of Ukrainian vessels through the Kerch Strait, usurpation of navigation rights, construction of a gas pipeline, a power transmission line and a bridge across the Kerch Strait without the consent of Ukraine, conducting research on archaeological and historical sites at the bottom of the Black Sea without the consent of Ukraine. In February 2020, the Arbitral Tribunal found it had jurisdiction over the case, and is now examining it on the merits.

In order to bring the leadership of the Russian Federation to international legal responsibility, Ukraine also files lawsuits in the International Criminal Court. At the same time, it should be noted that Ukraine has not yet ratified the Rome Statute of the International Criminal Court, which would allow Ukraine to become a full member of the Court and bring national legislation in line with international humanitarian law. Since the beginning of the occupation, the Ukrainian prosecution authorities have submitted more than 12 reports on crimes committed in the territory of the Autonomous Republic of Crimea and the city of Sevastopol, which fall under the jurisdiction of the International Criminal Court.

The Prosecutor's Office of the Autonomous



Republic of Crimea and the Regional Center for Human Rights have made a submission to the International Criminal Court about 3,952 victims of property violations in Crimea, which was prepared on the basis of monitoring court rulings.<sup>47</sup>

At the end of 2020, ICC Prosecutor Fatou Bensoudi announced the completion of a preliminary study of the situation in Ukraine<sup>48</sup> and said that all the statutory criteria for opening an investigation into the situation in Ukraine were met. The Prosecutor's Office concluded that there were reasonable grounds to believe that crimes against humanity and war crimes had been committed in the context of the situation in Ukraine under preliminary investigation, particularly during the occupation of Crimea and Sevastopol. However, due to the fact that Ukraine has not ratified the Rome Statute, the procedure for opening an investigation is complicated and involves first making

a request to the judges of the Pre-Trial Chamber of the Court to authorize an investigation. At the beginning of 2022, the investigation was not opened, but the full-scale Russian invasion of Ukraine on February 24, 2022 influenced the position of the Court. In March 2022, the investigative team and the prosecutor of the International Criminal Court started working in Ukraine to gather information to investigate war crimes committed as part of the aggression of the Russian Federation.<sup>49</sup>

Russia is sued not only by the state of Ukraine but also by public and private companies, which have similarly suffered serious losses as a result of the occupation of Crimea.

In October 2016, the state-owned company Naftogaz and six companies of the Naftogaz Group initiated arbitration proceedings (PCA case No. 2017-16) against the Russian



Federation under the Agreement between the Cabinet of Ministers of Ukraine and the Government of the Russian Federation on the Encouragement and Mutual Protection of Investments, also known as Ukrainian-Russian Investment Protection Agreement. Naftogaz asked the arbitral tribunal to oblige the Russian Federation to pay compensation for violating the Investment Protection Agreement, including the illegal expropriation of Naftogaz's strategically important energy investments, which became one of the main targets seized by the Russian Federation in occupied Crimea in 2014.

In February 2019, the tribunal ruled in favor of Naftogaz and reaffirmed its jurisdiction over the case, recognizing that the Russian Federation had illegally expropriated Naftogaz's investments in breach of its obligations under the Investment Protection Agreement. The current (second) stage of the arbitration proceedings concerns the determination of the size of the compensation payable for Naftogaz's losses, which the company currently estimates at more than \$10 billion (Russia has misappropriated mineral deposits, drilling rigs, underground storage facilities, ships, the gas transportation system and other facilities), including interest.<sup>50</sup> An arbitration award on the amount of due compensation is expected no earlier than the beginning of 2023. In November 2019, the Court ruled on the admissibility of the case. The parties thereto are now filing written objections by December 22, 2022, after which date the case will be considered by the Court on the merits.

A number of private companies have filed lawsuits in various courts to compensate for the damage caused by

the Russian occupation of Crimea. In 2017, the press service reported that PJSC DTEK Krymenergo was demanding a compensation from Russia of more than \$500 million for the loss of the company's assets in occupied Crimea, "nationalized" by the Russian occupation authorities.<sup>51</sup> In 2018, DTEK announced that it had filed a lawsuit with the Permanent Court of Arbitration in The Hague against Russia for the loss of assets in occupied Crimea.<sup>52</sup>

PJSC Ukrnafta also sued Russia. In 2018, the Swiss Federal Supreme Court ruled to confirm the legitimacy of PJSC Ukrnafta to the ad hoc arbitration tribunal to protect its assets in Crimea, illegally seized after the occupation.<sup>53</sup> On April 12, 2019, the arbitration tribunal ordered the Russian Federation to pay PJSC Ukrnafta more than \$44 million in compensation for the expropriation of the company's investments in Crimea. The court found Russia responsible for the actions of armed groups that seized the office and 16 gas stations of PJSC Ukrnafta on the peninsula in 2014 and later passed to the occupying power. Russia tried to challenge this decision. However, on December 12, 2019, the Swiss Federal Supreme Court dismissed the application of the Russian Federation to cancel the arbitration award in favor of PJSC Ukrnafta.<sup>54</sup>

In 2018, the Permanent Court of Arbitration in The Hague granted the claim of 18 legal entities and one individual, ordering Russia to compensate these Ukrainian companies the losses incurred as a result of the occupation of Crimea.<sup>55</sup> The lawsuit had been filed by Dayris LLC, Dan-Panorama LLC, Diline Ltd LLC, Everest Estate LLC, IMME LLC, Krim Development LLC, Niva-Tour LLC, Privatland LLC, Privatoffice LLC, Sanatorium Energetic LLC, Broadcasting

Company Zhisa LLC, AMC Financial Vector LLC, AMC Finansovyy Kapital LLC, Edelweis-2000 PE, Planeta PE, Aerobud PJSC, Fortuna CJSC, Ubk-Invest CJSC and Oleksandr Dubilet, former Chairman of Board of PJSC CB PrivatBank. The case had been under consideration since 2015. The amount of compensation is approximately \$159 million.

The national energy company Ukrenergo is suing Russia as well. In 2020, the ad hoc arbitration tribunal proceeded to consider the claim of Ukrenergo, according to which the company demands that Russia pay €527 million in compensation for expropriated investments in Crimea, including interest.<sup>56</sup>

It should be noted that few banks have filed lawsuits against Russia for damages, although their assets were also seized by the occupying authorities. One of them is Oschadbank.

In May 2014, state-owned Oschadbank (JSC State Savings Bank of Ukraine) ceased all banking operations in occupied Crimea and closed its Crimean Republican Branch. During this period, the occupying authorities of the Russian Federation in Crimea took UAH 32.45 million from the bank vault to an unknown destination. In July 2015, Oschadbank submitted a demand to the government and the President of the Russian Federation concerning compensation for the losses incurred as a result of the occupation. Oschadbank estimated the direct losses at about UAH 15 billion (based on the book value of the bank's assets lost as a result of the occupation and the bank's inability to operate on the peninsula). In 2018, Oschadbank announced compensation for losses amounting to \$1.3 billion for the bank's assets.<sup>57</sup> In 2018, the decision to

recover this sum was made by a Paris-based arbitration tribunal. However, in 2021, the Paris Court of Appeal overturned the 2018 ruling, leading to Oschadbank appealing the decision.<sup>58</sup>

Another bank, PrivatBank, estimated its losses from the occupation of Crimea at \$9 billion<sup>59</sup> and brought a case before the Permanent Court of Arbitration in The Hague. On February 4, 2019, the PCA found it had jurisdiction over all claims of PrivatBank against Russia and that Russia had violated its obligations under a bilateral agreement on promotion and mutual protection of investments by having illegally expropriated assets of PrivatBank in Crimea. The case will then be considered at the next stage of the arbitration proceedings.<sup>60</sup>

The Crimea-related arbitration cases have set a world precedent in the field of investment arbitration, marking the first time that the possibility of protecting investments in illegally controlled territories was recognized.

**Moreover, this precedent was first established by the national court:**

**The Swiss Federal Supreme Court has confirmed the jurisdiction of the Crimea-related arbitral tribunals, refusing to overturn the arbitral award on Russia's application in the Ukrnafta and Stabil cases.<sup>61</sup>**

Frequent and outright disregard by the Russian Federation for the norms of international law is problematic. Enforcement of international arbitral awards is no an exception, although enforcement of such decisions is required by the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (Article III).<sup>62</sup>

In this case, it is possible to study and use the experience of Yukos lawsuits against Russia. In July 2014, the Permanent Court of Arbitration in The Hague ordered Russia to pay \$ 50 billion in compensation to the former Yukos major shareholders, Veteran Petroleum Ltd., Yukos Universal Ltd. and Hulley Enterprises Ltd. Moscow appealed the decision of the PCA, but in February 2020 the Court of Appeal in The Hague ruled in favor of the majority shareholders of the oil company. In June 2020, the Supreme Court of the Netherlands upheld a complaint from Russia, which rejected the decision of the Court of Appeal. In December, the Supreme Court refused to suspend legal proceedings, sparking protests from Russia's Ministry of Justice.

In addition, former Yukos shareholders took the matter to courts of a number of countries, demanding that property be attached. In June 2015, in France and Belgium, an interim attachment was ordered on property that the executors of the court decision considered to be Russian. In May 2020, the ex-shareholders obtained an attachment of Russian alcohol trademarks in the Dutch jurisdiction, but in October, a court in The Hague lifted the seizure.<sup>63</sup>

Despite the fact that the court proceedings in this case are ongoing, the very facts of the seizure of Russian property for non-compliance with court decisions are important precedents.

Following the imposition of US and EU sanctions against the Central Bank of the Russian Federation and the seizure of accounts, compensation for the damage caused by the usage of these assets opens up additional prospects.<sup>64</sup>

On March 10, 2022, the President of Ukraine signed the Law of Ukraine "On Basic Principles of Compulsory Seizure of Property of the Russian Federation and Its Residents in Ukraine." According to the Law, the forcible confiscation of property of the Russian Federation and its residents in Ukraine is carried out without any compensation (reimbursement) of their value, given the full-scale aggressive war waged by the Russian Federation against Ukraine and the Ukrainian people.<sup>65</sup>

This is an example of the use of retaliation as one of the ways to hold Russia to account under international law for the act of aggression and temporary occupation of certain Ukrainian territories.

Since the beginning of the occupation of Crimea, Ukraine has sought to use all international legal tools on the legal frontline. Ukraine has already resorted to the European Court of Human Rights, the International Court of Justice, the International Criminal Court, the International Tribunal for the Law of the Sea, arbitration tribunals established under Annex VII of the 1982 UN Convention on the Law of the Sea and ad hoc arbitral tribunals. In most of them, Ukraine either has every chance of obtaining a ruling in its favor or has already received one. However, many cases have been pending for years or will continue to do so. What is more, some of these mechanisms will not compensate for the losses incurred as a result of Russia's violation of its international legal obligations. Accordingly, proceeding from the already prepared legal positions and awards of the courts, it is necessary to apply or seek new tools to recover damages from the Russian Federation.

## CHAPTER 3. SUBSEQUENT STEPS

Over the period of occupation, Ukraine has taken a number of measures to bring Russia to justice for the crimes committed and to compensate for losses incurred as a result of the occupation. To date, however, there are very few examples of obtaining real compensation for such losses, primarily as regards economic damages sustained by individual public or private companies.

**Effectiveness in this direction depends on a clear plan of action of the state and coordination between different governmental agencies. In addition, an important task is to cooperate with civil society in order to develop an appropriate legal position that will be most effective for individual complaints and lawsuits of Ukrainian citizens affected by the occupation and actions of the Russian Federation in Crimea.**

The basic element is assessing the damage caused by the occupation of the peninsula. At this stage, estimates of losses in the economic sphere have been conducted, among which the most complex one is the assessment of the Center for Economic Strategy, commissioned by the Representative Office of the President of Ukraine in the Autonomous Republic of Crimea in 2021.

A comprehensive assessment is required for the damages suffered as a result of human rights violations and war crimes committed in Crimea, losses of the state and citizens from internal (involuntary for citizens) population displacement, losses from destruction of cultural heritage, losses from the deteriorating environmental

situation, etc. For instance, no victim of forced disappearances or politically motivated imprisonment has received compensation from Russia. Currently, at least 116 citizens of Ukraine are imprisoned on fabricated politically motivated criminal charges and are in places of detention in occupied Crimea or Russia. Some of them have been behind bars since 2014 under conditions degrading human dignity and leading to a significant deterioration in physical and mental health. Most of them have been subjected to torture and other forms of violence. The terms of imprisonment given to Ukrainian citizens in Crimea, particularly Crimean Tatars, are often up to 18 years in maximum security prisons. Russia must pay for each day of imprisonment of our citizens, compensate for all the damage incurred by its actions to both prisoners and their relatives. This requires the development of an appropriate methodology for determining the amount of damage. The methodology should include other losses, for example, those suffered by Ukraine in supporting its citizens who have fallen victim to political persecution in Crimea.

Such support comprises the Resolution of the Cabinet of Ministers of December



11, 2019 No. 1122 “Certain Issues of Social and Legal Protection of Persons Deprived of Liberty as a Result of the Armed Aggression against Ukraine after Their Release,”<sup>66</sup> based on which Ukrainian citizens upon release acquired the right to receive one-time cash assistance of UAH 100,000. Also entitled to this assistance are persons deprived of their personal liberty by illegal armed groups, the occupation administration and/or the Russian authorities in the temporarily occupied territories of Ukraine and/or the territory of the Russian Federation in connection with public, political or professional activities of such persons. The Order of the Ministry of Veterans, Temporarily Occupied Territories and Internally Displaced Persons of February 21, 2020 No. 44 and the Order of the Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine of July 17, 2020 No. 57 approved the establishment of an interdepartmental commission to consider issues related to the recognition of persons as deprived of their liberty in consequence of the armed aggression against Ukraine and the implementation of measures aimed at their social protection. In 2020, according to the decision of the interdepartmental commission at the Ministry of Reintegration, 116 people received the said financial assistance and 86 people received the one-time financial assistance upon release. Accordingly, UAH 20.2 million were channeled for these

purposes from the state budget. In 2021, this amount increased significantly. In total, UAH 14 million worth of budget funds were provided to help the families of 140 citizens deprived of personal liberty in the temporarily occupied territories and the territory of Russia over the last year, with 418 citizens receiving one-time cash assistance totaling UAH 41.8 million, UAH 100,000 each. Accordingly, the total amount of budget funds allocated in 2021 stood at UAH 55.8 million.

Such state expenditures should also be taken into account when assessing the damage caused by the occupation of Crimea and mass human rights violations on the peninsula. They should also be born in mind in the development of the Methodology stipulated by the Cabinet of Ministers Resolution No. 326 “On Approval of the Procedure for Determining Damage and Losses Caused to Ukraine as a Result of the Armed Aggression of the Russian Federation.”

What is more, lawsuits against Russia require professional and information support overseas. Additional attention can be drawn to such processes by world-renowned lawyers and attorneys, who may be involved separately in specific cases or through the establishment of a strong international legal group to prepare and prosecute such lawsuits against Russia.



Inkerman vintage wine factory in Crimea



# FINDINGS AND RECOMMENDATIONS

1. Preparation of a state-led action plan to recover damages caused by the Russian aggression against Ukraine and the occupation of the Autonomous Republic of Crimea and Sevastopol, as part of the preparation and approval of a single comprehensive strategy for ensuring the payment of damages sustained by Ukraine due to the Russian aggression.
2. Establishment of a single coordinating body (a unit or an office in the already existing one) in order to conduct systematic work to assess the losses and damage caused by the Russian aggression, including the occupation of Crimea. Preparation of relevant lawsuits and complaints.
3. Development of a regulatory framework and mechanisms for making legal and political decisions on the use of reprisals and reparations for damages inflicted by Russia, particular due to the occupation of Crimea.
4. Analysis and evaluation of legal and regulatory acts regarding the register of losses and damages caused by the occupation (such as the register of lost property and assets, register of cultural heritage, register of internally displaced persons, to ensure the completeness of registration of such persons and identify circumstances leading to deregistration of IDPs, register of victims of forced disappearances, persons deprived of their liberty for political reasons, register of persons transferred from Crimea to the Russian Federation and violations of international humanitarian law, etc.).
5. Development of a methodology for comprehensive assessment of losses sustained by the state due to the occupation of Crimea and violations of international legal obligations, including militarization of the peninsula, environmental consequences, internal displacement of people, etc., which should include the Methodology developed in furtherance of the Resolution of the Cabinet of Ministers of Ukraine No. 326 “On Approval of the Procedure for Determining the Losses and Damage Caused to Ukraine as a Result of the Armed Aggression of the Russian Federation.”

6. Development of a methodology for assessing damages caused to individual citizens as a result of human rights violations, politically motivated persecution, involuntary displacement from the occupied territories, forced conscription into the armed forces of the occupying state.
7. Adoption of the Law of Ukraine on the Restitution (Restoration of Violated Rights) for Persons Affected by the Occupation of Crimea and Loss of Property.
8. Development of cooperation and interaction with the US, the UK, the EU, international institutions and agencies in order to search for and seize Russian assets and recover them as compensation for the damage caused by the Russian aggression, including the occupation of Crimea.
9. Bringing an interstate case before the European Court of Human Rights against the Russian Federation regarding the latter’s breach of its obligations under the ECHR as a result of the mass population displacement from the occupied territories to the territory controlled by the Government of Ukraine.
10. Involvement of leading foreign lawyers and attorneys who, together with Ukrainian experts, would prepare lawsuits against the Russian Federation and prosecute cases of damages in judicial and arbitration institutions. Establishment of a joint legal scientific and practical center with international representation in Ukraine.
11. An extensive information campaign abroad to inform the international community about Ukraine’s lawsuits against Russia and the progress of these cases; engagement of world-renowned lawyers and attorneys to comment on these cases.
12. Ratification of the Rome Statute of the International Criminal Court with a view to ensuring Ukraine’s full membership in the Court; interaction with the Court so as to develop joint decisions on the improvement of international criminal justice.

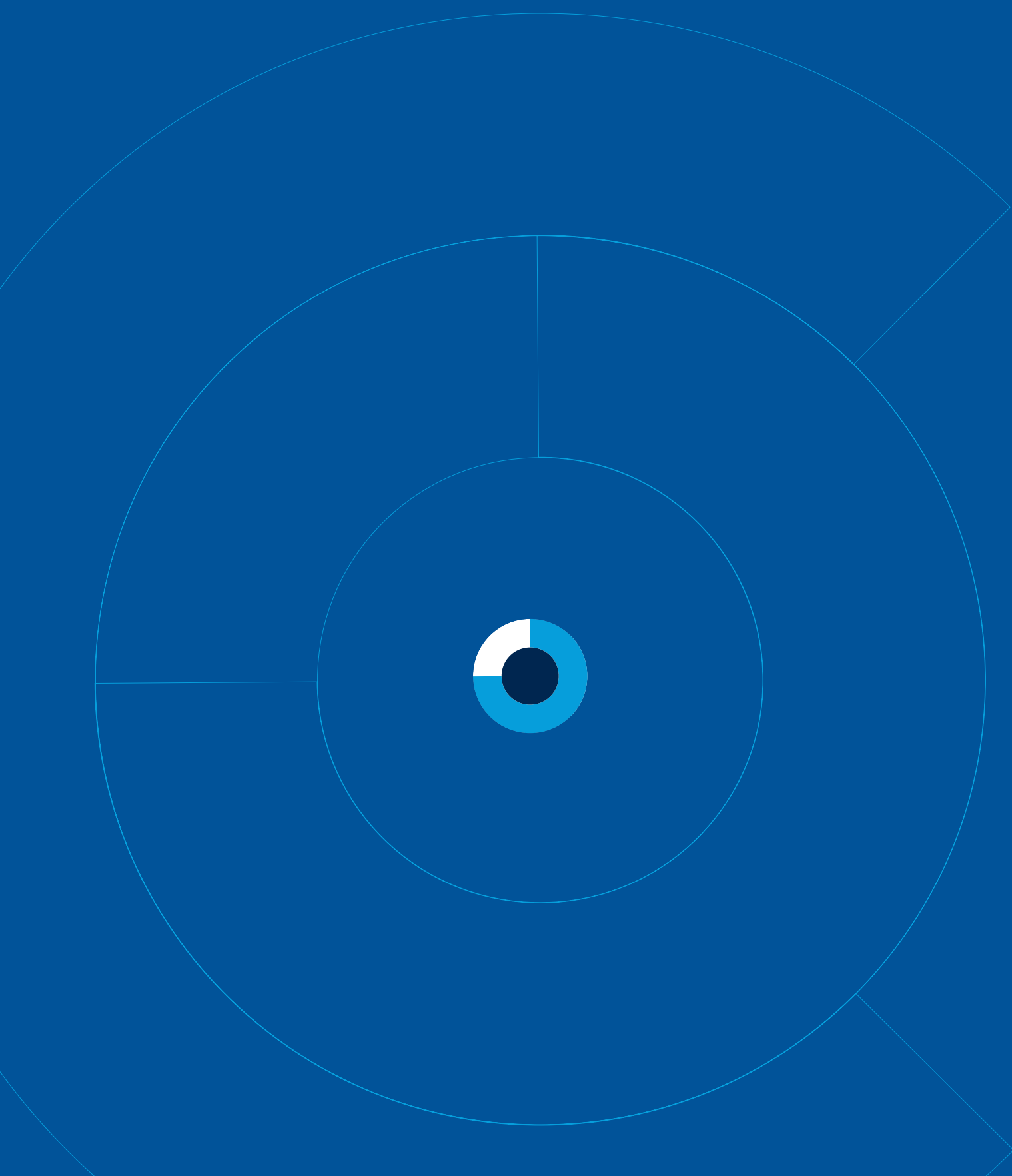


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