

**Conference of Participants
of the Register of Damage for Ukraine**

Ref ► RD4U-Board(2024)10-EN

The Hague, 07 March 2024

Quarterly report by the Board of the Register of Damage for Ukraine

On behalf of the Board of the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine, I have the honour to transmit the Board's Quarterly Report 2024/1 to the Conference of Participants in accordance with Article 6.9 of the Statute of the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine.

Though the Board cannot report on the number of claims received (or recorded in the Register) pending the launch of the submission of the first claims, we – the members of the Board – are pleased to have taken an important step towards that milestone by having adopted the first set of required rules and regulations, that will now be proposed to the Conference of Participants for approval by way of written procedure.

An informal meeting to discuss the proposed rules and regulations with Participants and Associate Members will be held in Strasbourg on 18 March 2024. I will attend this meeting, along with the Chair of the Conference of Participants and the Executive Director. It will be an opportunity for us to informally exchange views on the steps that are necessary for the Register to launch the submission of the first claims on 2 April 2024.

Yours sincerely,



Robert Spano

Chair of the Board of the
Register of Damage for Ukraine

Quarterly Report 2024/1
by the Board of the Register of Damage
Caused by the Aggression of the Russian Federation against Ukraine
to the Conference of Participants

Introduction

1. The Board of the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine (hereinafter referred to respectively as “the Board” and “the Register”) held its 2nd meeting in The Hague, the Netherlands from 27 February to 1 March 2024, with all Board members present.
2. On the agenda were administrative matters and formalities, briefing by the Executive Director on ongoing work, plans and vision for the Register, discussion of the scope of the Register’s mandate, information on expected numbers of claims, availability of evidence and the Ukraine Government’s assistance to victims in Ukraine, consideration of draft rules and regulations of the Register, outreach efforts and other matters.

Scope of the Report

3. Under Article 6.9 of the Statute, the Board is to provide quarterly reports to the Conference of Participants (“Conference”). Such reports shall include the number of claims received and the number of eligible claims recorded in the Register, the relevant categories and the total amount of compensation sought (if applicable). Such reports shall also include the summary of other significant factual or legal matters relevant to the work of the Register.
4. Since the process of submission of claims to the Register has not yet commenced, the Board cannot yet report on the number of received and recorded claims. Therefore, this report focuses on steps the Board, together with the Secretariat, has taken towards the launch of the submission of claims, in particular on rules and regulations adopted during the 2nd meeting, and on factual and legal issues the Board has considered.

Rules and regulations adopted by the Board

Conflicts of Interest

5. Continuing the work from its Inaugural Meeting, the Board adopted Rules on Conflicts of Interest and Disclosure for Members of the Board of the Register of Damage Caused by the Aggression of the Russian Federation Against Ukraine (“Conflicts Rules”) (RD4U-Board(2024)05).
6. In preparation of the Conflicts Rules, the Board was guided by the provisions of the Register’s Statute, as well as the Rules on the appointment and removal of the members of the Board of the Register.

7. In addition to articulating general principles related to independence and impartiality of the Board members, the Conflicts Rules address circumstances that may preclude the ability of a Board member to be impartial or independent overall, and that may give rise to doubts as to the member's ability to be impartial or independent in considering a claim or a group of claims. The document also stipulates the rules for disclosure of facts or circumstances that exist or develop that may, in the eyes of a reasonable third person, give rise to doubt as to a Board member's impartiality or independence.
8. When such facts or circumstances arise with respect to a Board member's ability to be impartial or independent overall, a disclosure shall be made to the Chair of the Conference of Participants.
9. When such facts or circumstances arise with respect to the Board member's impartiality or independence in considering a particular claim or group of claims, such Board Member shall make the disclosure to the Chair of the Board (or the Vice-Chair of the Board if the disclosure is made by the Chair) and recuse him- or herself from any decision-making regarding the claim or group of claims in question. The Chair (or Vice-Chair) of the Board may decide that such circumstances shall be disclosed to the entire Board, and if the issue cannot be resolved – it shall be referred to the Chair of the Conference of Participants.
10. This approach is consistent with the provision of Rule 3 of the Rules on the appointment and removal of the members of the Board of the Register, whereby when *“conflicts of interest arise, they must be declared as soon as they are known to the Chair of the Conference in order that they can be effectively addressed.”* Clear conflicts of interest that may prevent a Board member from serving on the Board overall, as well as potential issues that cannot be resolved internally, shall be referred to the Chair of the Conference. The Conflicts Rules also follow a practical approach recognising that the Board members' broad and established legal practices and careers, and their professional affiliations, including with law firms and other institutions, do not preclude their independence and impartiality *per se* as Board members.

Claims Rules

11. The Board adopted the Rules for Submission, Processing and Recording of Claims (“Claims Rules”) ([RD4U-Board\(2024\)04](#)). This is a key overarching document that determines the overall procedure for how claims are to be submitted, who can submit them, what the evidentiary rules are, how the Secretariat is to process the claims and how the Board is to make decisions.
12. The Claims Rules lay down provisions that are central to the design of the claims submission and processing system. For example, claims shall be submitted in accordance with categories of eligible claims, and each category may have its own evidentiary requirements and specificities of procedure. An initial list of categories has also been adopted by the Board (see below).

13. Another important rule is that all claims shall be submitted in digital form through the Ukrainian digital system Diia. The use of Diia makes the process of gathering and submitting information and evidence convenient and secure for the claimant, as Diia allows for seamless connection with various registers and databases in Ukraine. Diia is easily accessible to claimants and represents in itself a significant security feature for RD4U.
14. The Claims Rules stipulate that in processing the claims, the Secretariat may use mass claims processing techniques and tools such as computer-assisted data processing, data analysis and sampling, including through the use of artificial intelligence. This is a practical requirement for the work of the Register taking into account the large number of expected claims.
15. The Claims Rules also determine the eligibility criteria for the claims to be recorded in the Register. In this regard, the Claims Rules follow and complement Article 2.2 of the Statute, as well as introduce technical requirements for submission of claims.

Categories of Claims

16. In accordance with Article 6.5(b) of the Statute, the Board adopted a Categories of claims eligible for recording (“List of Categories”) ([RD4U-Board\(2024\)07](#)).
17. The List of Categories is structured according to the type of claimant – “**A**” is for claims by individuals (including private entrepreneurs), “**B**” is for claims by the State of Ukraine (including the Government, local and regional authorities and other state-controlled entities), and “**C**” is for claims by other legal entities, including businesses. These broad groups are further divided into categories based on the type and nature of the claim and its general legal basis.
18. In determining the List of Categories, the Board was guided by the Statute, international law and existing precedent, taking into consideration factual, legal, evidentiary and technical elements. The Board emphasised that the List of Categories may be amended or clarified, as the Board and Secretariat gain additional knowledge of the situation in Ukraine, and new factual or legal issues arise and are analysed.
19. In adopting List of Categories, the Board considered the proposal for the list of categories of claims from the Government of Ukraine that was presented at the previous Board meeting. The Board noted that, while it followed to some extent a different approach to defining categories, almost all of the categories proposed by the Government of Ukraine are covered in the List of Categories adopted.
20. The only exceptions to this are the Government’s proposed categories of Government claims related to the loss of human capital and Government subsidies to businesses in Ukraine. The Board determined that further analysis of these proposed categories is required, and the Conference will be informed at a later stage on whether these categories will be proposed for inclusion.

Claim Form

21. In accordance with Article 10 of the proposed Claims Rules, for each category of claim, there will be a Claim Form containing a description of the information and evidence claimants are required to submit. To support the claim, a claimant may submit additional information and documents.
22. As previously announced, the intention is to open the claims submission process with a single claim category, namely claims for damage and destruction of residential immovable property (category “A3.1” of the List of Categories). This is driven by considerations of efficiency and expedition in light of the current state of development of the digital systems, because this category is the most advanced in terms of available evidence in the required digital form. Equally important, the Board fully appreciates that destruction of homes has an immense impact on people’s lives.
23. The Board also adopted the Claim Form for category A3.1 (damage or destruction of residential immovable property) ([RD4U-Board\(2024\)08](#)).
24. In designing this inaugural Claim Form the Board sought to address the challenge of reproducing the Claim Form and data fields in digital form in Diia, which will require a considerable level of detail and flexibility. While agreeing on the main contours of the Claim Form, the Board agreed that the Secretariat is to ensure that the Claim Form for category A3.1 is reproduced in Diia in an efficient, flexible and user-friendly manner, taking into account the realistic availability of evidence to the claimants in this category (much of which will be through Diia).
25. In adopting this Claim Form, the Board considered, *inter alia*, whether the Register’s mandate includes recording of claims by nationals of the Russian Federation (who lack another nationality). This issue is not as straightforward as might be assumed. As noted by the Board, international law generally limits the right of a national of State A from holding State A responsible for internationally wrongful acts in an international forum. However, the Statute of the Register does not expressly include a criterion of nationality for eligibility of claims.
26. The Board considered that this matter requires further careful analysis and discussion. In the meantime, for the purposes of the first Claim Form, the Board considered that it would not be appropriate to place a technical restriction on the ability of Russian nationals to *submit* claims to the Register.

Principles on Personal Data Protection and Privacy

27. The Board considered the adoption of general principles on privacy and data protection in the context of Article 11.2 of the Statute. The Board emphasised the need to find a balance between principles securing privacy and protection of data submitted by claimants to the Register, while ensuring the practicality of the Register’s data protection regime, bearing in mind that it will, in all likelihood, deal with millions of potential data subjects. The Board noted that the express consent of claimants is central to any transmission of data to the Register.

28. The Board decided to continue examining this issue through a written procedure as soon as possible after the conclusion of the meeting.

Proposal of the Adopted Rules and Regulations of the Register to the Conference

29. The Board decided to propose the adopted rules and regulations to the Conference for approval. The list of rules proposed to the Conference is attached hereto as Annex I.

Statement

30. The Board also decided to issue a public statement to provide provisional guidance on claims categories (Annex II). This was published on 01 March 2024.

Outreach

31. The Board discussed the importance of outreach and agreed that while outreach to attract new States to join the Register was mainly a task for the Register's Participants and Associate Members and their diplomatic and political branches, Board members and the Secretariat (through the Executive Director) should also use opportunities that arise to engage with States and other stakeholders.

32. The Board also discussed opportunities for cooperation with other international organisations and agreed that such cooperation has to be beneficial and valuable to the Register. A utilitarian approach will be taken, with the onus on the potential partner organisation to demonstrate usefulness.

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Annex I

Documents Adopted by the Board at its Meeting 2024/1
and proposed to the Conference of Participates

27 February – 1 March 2024

1. Rules on Conflicts of Interest and Disclosure for Members of the Board of the Register of Damage Caused by the Aggression of the Russian Federation Against Ukraine (RD4U-Board(2024)05).
2. Rules Governing the Submission, Processing and Recording of Claims (“Claims Rules”) (RD4U-Board(2024)04).
3. Categories of Claims Eligible for Recording in the Register of Damage for Ukraine (RD4U-Board(2024)07).
4. Claim Form - Claims category A3.1 – Damage or Destruction of Residential Immovable Property (RD4U-Board(2024)08).
5. Principles on Personal Data Protection and Privacy (RD4U-Board(2024)06)¹.

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¹ Adopted by the Board with the use of written procedure on 6 March 2024.

Annex II

[published on 01 March 2024 on the Register's website]

The Board prepares for the opening of submission of claims to the Register of Damage for Ukraine

The Board of the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine (RD4U) convened for its second meeting in The Hague from 27 February to 1 March 2024. The Board focused on the adoption of the rules and regulations necessary for the work of the Register and prepared the launch of the submission of claims, scheduled for April 2024.

The rules and regulations will govern submission, processing and recording of claims, categories of claims and claim forms including requirements for evidence. The Board also adopted the Rules on conflicts of interest and disclosure for members of the Board.

The rules and regulations adopted by the Board are subject to approval by the Conference of Participants before taking force.

The Board made the following statement:

“The work of the Register of Damage for Ukraine is progressing well, and we are working hard together with the Secretariat to prepare the launch of submission of claims, planned for April.

We recognise the importance of this milestone for Ukraine and its people, who have been suffering from the aggression of the Russian Federation – now for more than two years.

Today, the Board adopted the first set of rules and regulations of the Register required for the launch. It includes rules for submission, processing and recording of claims and categories of claims eligible for recording in the Register. Under its Statute, these rules are subject to approval by the Conference of Participants and will be published thereafter on the Register's website.

The April launch of the submission of claims will cover one category, namely damage or destruction of residential immovable property. The Board has chosen this category because destruction of homes has an immense impact on people's lives. Some 300,000 to 600,000 claims are anticipated and substantial evidence is readily available.

Soon thereafter, the Register will launch the submission of claims from individuals who have been most affected by the war, as well as claims related to the damage or destruction of critical infrastructure of Ukraine. Other categories will follow.

The Register represents a significant first step towards the establishment of an international compensation mechanism to address the consequences of the aggression of the Russian Federation against Ukraine in violation of international law.”