

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

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The Hague, 17 June 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 2024/2 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.

An informal meeting to discuss the proposed rules and claim forms with Participants and Associate Members will be held in Strasbourg on 27 June 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 have an exchange on the progress of the Register's work as well as answer any questions Participants and Associate Members may have on the documents proposed by the Board for approval of the Conference of Participants.

Yours sincerely,



Robert Spano

Chair of the Board of the
Register of Damage for Ukraine

Quarterly Report 2024/2
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 (“the Board” and “the Register” respectively) held its 3rd meeting in The Hague, the Netherlands from 10 to 14 June 2024, with all Board members participating.
2. On the agenda were administrative matters and formalities, updates by the Executive Director on the work of the Register, including IT matters, and consideration of draft rules and claim forms.

Report under Article 6.9 of the Statute

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.

Number of claims received ¹	
Category A3.1 Damage and Destruction of Residential Immovable Property	3,700
Total	3,700
Number of eligible claims recorded in the Register	N/A ²
Total compensation sought	N/A ³

4. The Board discussed the relatively low number of claims received due to technical issues in the initial phase, lack of awareness of the Register and the possibility to

¹ As of 09:00 CET on 14 June 2024.

² Processing of received claims will commence after the completion of the development of the Register’s relevant technical systems. The completion is expected in the fall of 2024. The Board expects to commence its decision-making on claims at its meeting in December 2024.

³ Data will become available after the commencement of claims processing, see note 2, *supra*.

submit claims, and lack of interest amongst potential claimants to submit claims due to the uncertain prospect of receiving compensation from Russia (a Ukrainian survey on the public opinion on reparations indicated a relatively high level of scepticism of the possibility of receiving reparations from Russia⁴).

5. The Board emphasised the importance of developing a wide-ranging outreach programme to reach potential claimants in Ukraine and abroad and the need to encourage potential claimants to submit claims, including by sending a clear and coordinated message on the status of the process to establish a comprehensive international compensation mechanism which may include a claims commission and compensation fund.
6. The Board asked the Secretariat to develop a concept note setting out the Register's strategy over the next six months to reach potential claimants. The Board highlighted the need to apply different outreach strategies in Ukraine and abroad and to engage with governments and civil society actors to encourage submissions.

Rules and claim forms adopted by the Board

Rules Governing Access to RD4U documents

7. The Board examined the rules for the classification of documents of the Committee of Ministers ("CM"), in particular CM resolution Res(2001)6 on access to Council of Europe documents. The Board noted that the resolution applies to Partial Agreements, without prejudice to more favourable rules on access already applied by certain Partial Agreements, and subject to duly reasoned specific exceptions which may be adopted by the competent governing bodies. The Board also noted that the Council of Europe's information policy is based on the principle that "transparency is the rule and confidentiality the exception".
8. In accordance with Article 11, paragraph 2 of the Register's Statute, "[r]ules on access to documents..." shall be proposed by the Board and approved by the Conference. Based on the different types of information and documents that the Register and its bodies process and develop, the Secretariat prepared draft rules on access to information with transparency as the main principle while providing for exceptions to protect sensitive information related to claimants and claims, including evidence.
9. The Board considered the draft Rules Governing Access to RD4U documents as set out in document RD4U-Board(2024)23 and decided to adopt and propose them to the Conference of Participants for approval in accordance with Article 6(5)(b) of the Statute.

⁴ Human Rights in the Process of Overcoming the Consequences of the War: Survey Results 2024, Kharkiv Institute for Social Research, USAID, as part of the Human Rights in Action Program.

Rules on the Use of Representatives

10. The Board considered the draft Rules on the Use of Representatives as set out in document RD4U-Board(2024)24 and decided to adopt and propose them to the Conference of Participants for approval in accordance with Article 6(5)(b) of the Statute.

Claim Form and Rules, Category A1.1 Involuntary internal displacement

11. The Board emphasised the importance of relying on the internationally recognised definition of an internally displaced person. The Board discussed whether registration in the Ukrainian Unified Information Database for Internally Displaced Persons (“Register for Internally Displaced Persons” or “RIDP”) or any other database or register should be a requirement for the submission of a claim in category A1.1. The Board noted that individuals who have moved within the occupied territories have not been able to register in the RIDP as for registration it requires such persons to move to territory controlled by Ukraine. The Board also noted that there might be internally displaced persons who have not registered in the RIDP for other reasons. Although registration in the RIDP should be encouraged, the Board considered that it did not have a legal basis for requiring registration in a particular database or register but that there should be a question on registration in the claim form.
12. The Board decided to adopt and propose Claim Form A1.1 as set out in document RD4U-Board(2024)16 to the Conference of Participants for approval in accordance with Article 6(5)(b) of the Statute.

Claim Form and Rules, Category A2.1 Death of an immediate family member

13. The Board discussed the concept of family for the purposes of this category. The Board decided to opt for a notion of family whereby “immediate family” includes the deceased person’s parents, spouse, and children.
14. A claim may also be submitted by the deceased person’s other family members who do not fall in the “immediate family” category. In addition to kinship, other family members would have to prove their legitimate interest in submitting such a claim. This requirement is meant to restrict the group of claimants to those with close ties to the deceased and flows from the case law of the European Court of Human Rights.
15. The Board decided that the concept of spouse should encompass spouse through legal marriage as well as civil partnership and that for the purposes of this category, a civil partner is an individual, regardless of gender, who at the time of death of the deceased maintained a long-term close relationship with the deceased, lived and maintained household together with the deceased, had common major expenditures, or provided assistance to one another and maintained other elements of family relationship.

16. The Board discussed the types of evidence and information that claimants may be able to produce in this category. The Board noted that the claim form does not exclude the submission of any piece of evidence or information and emphasised that it has not yet taken any position on the weight or quality of evidence. The Board will later examine whether and how it will consider documents produced in the occupied territories (e.g. death certificates, proof of relationship with deceased) and take a position based on international law.
17. The Board inquired about the technical feasibility of submitting a claim on behalf of a “family unit”. The Executive Director emphasised that while it is not possible from a technical standpoint for a claimant to file a claim on behalf of a group of claimants, claims related to the same deceased individual can be grouped together at the processing stage.
18. The Board recalled that claims in category A2.1 relate to the mental pain and anguish caused by the death of an immediate family member while claims related to the pecuniary consequences of the death, including loss of income or support, should be submitted under other categories.
19. The Board decided to adopt draft Claim Form A2.1 as set out in document RD4U-Board(2024)17 and propose it to the Conference of Participants for approval in accordance with Article 6(5)(b) of the Statute.

Claim Form and Rules, Category A2.2 Missing immediate family member

20. The Board discussed whether registration in the Ukrainian Unified Register of Persons Missing Under Special Circumstances should be a requirement for the submission of a claim in category A2.2. The Board noted that persons who have gone missing in or from the occupied territories are in most cases not registered in Ukraine’s Unified Register and therefore such registration should not be required, and in any event the Board considered that it did not have a legal basis for requiring registration in a particular database or register although registration in Ukraine’s Unified Register should be encouraged.
21. The Board noted that claims in category A2.2 relate to the mental pain and anguish caused by the disappearance of an immediate family member while claims related to the pecuniary consequences of the disappearance, including loss of income or support, should be submitted under other categories.
22. The Board decided to adopt draft Claim Form A2.2 as set out in document RD4U-Board(2024)18 and propose it to the Conference of Participants for approval in accordance with Article 6(5)(b) of the Statute.

Claim Form and Rules, Category A3.1, Damage or destruction of residential immovable property (revision)

23. The Board considered revised Claim Form A3.1 Damage or destruction of residential immovable property as set out in document RD4U-Board(2024)08-Rev1. The purpose of the revisions was to align the claim form with other forms. The Board decided to propose the revised version to the Conference of Participants for approval in accordance with Article 6(5)(b) of the Statute.

Claim Form and Rules, Category A3.2 Damage or destruction of non-residential immovable property

24. The Board considered draft Claim Form A3.2 Damage or destruction of non-residential immovable property as set out in document RD4U-Board(2024)19 and noted that it is consistent with revised Claim Form A3.1 on residential immovable property. The Board decided to adopt draft Claim Form A3.2 and propose it to the Conference of Participants for approval in accordance with Article 6(5)(b) of the Statute.

Claim Form and Rules, Categories B1.1, B1.2, C1.1 and C1.2 Damage or destruction of critical and non-critical infrastructure

25. The Board discussed the approach to be taken to critical and non-critical infrastructure. In accordance with the Statute, damage to the infrastructure of Ukraine due to the internationally wrongful acts of the Russian Federation in or against Ukraine should be recorded in the Register.

26. In the absence of an internationally recognised definition, the Board decided to be guided by the Ukrainian legislation on critical infrastructure rather than introduce a concept from another regime. Also, claimants can be assumed to be most familiar with the Ukrainian approach. The list of infrastructure in paragraph 4.4 of the claim form that may be considered as critical infrastructure therefore follows Ukrainian legislation on critical infrastructure.

27. The Board discussed the need to develop special rules for large and complex claims in these categories and agreed that such rules may not be needed at the submission stage, but will be required at the processing and recording stage.

28. The Board decided that the same claim form can be used for categories B1.1, B1.2, C1.1, and C1.2 as there is no distinction between the types of information and evidence that should be submitted for claims related to damage or destruction of critical and non-critical infrastructure by the State of Ukraine and public and private legal entities, and that claims related to critical or non-critical infrastructure can therefore be made using the same form.

29. The Board decided to adopt draft Claim Form B1.1, B1.2, C1.1 and C1.2 as set out in document RD4U-Board(2024)20 and propose it to the Conference of Participants for approval in accordance with Article 6(5)(b) of the Statute.

Claim Form and Rules, Categories B1.3 and C1.3 Damage or destruction of residential immovable property – Residential areas

30. The Board noted that there is no distinction between the types of information and evidence that should be submitted for claims related to damage or destruction of residential immovable property – residential areas – by the State of Ukraine and public and private legal entities and therefore the same claim form can be used for categories B1.3 and C1.3.

31. The Board decided to adopt draft Claim Form B1.3 and C1.3 as set out in document RD4U-Board(2024)21 and propose it to the Conference of Participants for approval in accordance with Article 6(5)(b) of the Statute.

Claim Form and Rules, Categories B1.4 and C1.4 Damage or destruction of residential immovable property – Common use areas

32. The Board noted that there is no distinction between the types of information and evidence that should be submitted for claims related to damage or destruction of residential immovable property – residential areas – by the State of Ukraine and legal entities and therefore the same claim form can be used for categories B1.4 and C1.4.

33. The Board decided to adopt draft Claim Form B1.4 and C1.4 as set out in document RD4U-Board(2024)22 and propose it to the Conference of Participants for approval in accordance with Article 6(5)(b) of the Statute.

Proposal by the Board on the adopted rules and claim forms to the Conference

34. The Board decided to propose the adopted rules and claim forms to the Conference. The list of rules and claim forms proposed to the Conference is attached hereto as Annex I.

Other significant factual or legal matters relevant to the work of the Register

35. The Board discussed the eligibility of nationals of the Russian Federation to have claims recorded in the Register. Based on the discussions and in light of the Statute and applicable rules of international law, the Board decided that claims by Russian nationals are not eligible for recording in the Register.

36. However, the Board agreed that there is no legal basis in the Statute or international law for excluding nationals of the Russian Federation who also hold another nationality from having their claim recorded.

37. Therefore, the Board decided to adopt the following decision:

- a. Claims by Russian nationals shall not be eligible to be recorded in the Register.
- b. Claims by Russian nationals may be recorded in the Register if they can establish that they also hold another nationality, provided that this other nationality is established as dominant and effective by the future claims commission in accordance with international law.

Statement

38. The Board also decided to issue a public statement (Annex II). The statement was published on 17 June 2024.

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Annex I

Documents adopted by the Board at its meeting 2024/2
and proposed to the Conference of Participates

10-14 June 2024

1. Rules Governing Access to RD4U documents (RD4U-Board(2024)23)
2. Rules on the Use of Representatives (RD4U-Board(2024)24)
3. Claim Form A1.1 Involuntary internal displacement (RD4U-Board(2024)16)
4. Claim Form A2.1 Death of an immediate family member (RD4U-Board(2024)17)
5. Claim Form A2.2 Missing immediate family member (RD4U-Board(2024)18)
6. Claim Form A3.1 Damage or destruction of residential immovable property (revision) (RD4U-Board(2024)08-Rev1);
7. Claim Form A3.2 Damage or destruction of non-residential immovable property (RD4U-Board(2024)19)
8. Claim Form B1.1, B1.2, C1.1, C1.2 Damage or destruction of critical and non-critical infrastructure (RD4U-Board(2024)20)
9. Claim Form B1.3 and C1.3 Damage or destruction of residential immovable property – Residential areas (RD4U-Board(2024)21)
10. Claim Form B1.4 and C1.4 Damage or destruction of residential immovable property – Common use areas (RD4U-Board(2024)22)

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Annex II

[published on 17 June 2024 on the Register's website]

The Board of the Register of Damage for Ukraine prepares for the launch of new claims categories

The Board of the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine (RD4U) convened for its third meeting in The Hague from 10 to 14 June 2024. The Board focused on the adoption of rules and claim forms related to twelve categories of claims.

The rules and claim forms adopted by the Board are subject to approval by the Conference of Participants before entering into force.

The Board made the following statement:

From the outset, our aim has been to prioritise the collection and recording of claims from individuals most affected by the war, as well as claims related to Ukraine's critical infrastructure.

Since the Register opened for the submission of claims on 2 April 2024, several thousand claims have been submitted related to damage and destruction of residential property.

At our third meeting, we adopted rules and claim forms related to twelve claims categories, including claims related to the death and disappearance of immediate family members, involuntary internal displacement, and a number of new categories related to damage and destruction of property.

We also adopted the rules and claim form governing claims for damage and destruction of Ukraine's infrastructure.

In addition to claims from individuals, some of these categories will be open to the submission of claims from legal entities and the State of Ukraine, including its regional and local authorities.

In accordance with international law and the object and purpose of the Register's Statute, we decided that claims by Russian nationals shall not be eligible for recording in the Register. However, claims by Russian nationals may be recorded if they can establish that they also hold another nationality.

We also adopted Rules on the Use of Representatives. These rules will allow individuals and legal entities to easily – in Diia – appoint a representative to submit claims on their behalf. Parents and guardians will also be able to submit claims on behalf of minors or persons under guardianship. Moreover, under these rules, those who themselves cannot or do not want to use the Diia digital system, will be able to submit claims with the assistance of Centres for Provision of Administrative Services located across Ukraine, where they will receive all the required support.

Once the rules and claim forms have been approved by the Register's member States, the Register will open for the submission of claims in these twelve new categories and implement the new rules.

Additional categories of claims, including categories related to violations of personal integrity, to loss of property, income or livelihood, business and other economic losses, loss of access to public services, loss of historic, cultural and religious heritage, damage to the environment and natural resources, demining and clearance of unexploded ordnance, will be launched in due course.

We recall that the work of the Register is intended to constitute the first component of a future international compensation mechanism which may include a claims commission and a compensation fund. As such, the Register represents a significant first step to ensure timely compensation for the victims of the Russian Federation's internationally wrongful acts in or against Ukraine.

We strongly encourage all those affected by the aggression of the Russian Federation to submit claims to the Register under the relevant categories.