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Register of Damages Caused by the Aggression of the Russian Federation in Ukraine: the Creation and Main Objectives of the Mechanism

Abstract

The paper addresses the ongoing issue of the financial responsibility of the Russian Federation for the damages caused by the armed attack on Ukraine in 2022. It examines the main assumptions of the recently established international compensation mechanism, the Registry of Damages in favour of Ukraine. The subsequent discussion will focus on the establishment of the mechanism, its purpose and the challenges it faces.

KEYWORDS: damage register, Russian-Ukrainian conflict, Russian Federation aggression, armed conflict, compensation

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1 | Introduction

Since the beginning of the Russian Federation's aggression against Ukraine on February 20, 2014, and especially after the escalation of the conflict on February 24, 2022^[1], millions of Ukrainian citizens have experienced

¹ For more on the historical, political, and social context regarding the annexation of Crimea and Russia's aggression against Ukraine, see, among others: Pavel Kowal, Igor Lyubashenko, *Rewolucja ukraińska 2013–2014: Wybuch i konsekwencje Euromajdanu* (Warsaw: ISP PAN, 2014); Richard Sakwa, *Frontline Ukraine: Crisis in*

unimaginable suffering. The destruction of infrastructure, forced displacement, brutal attacks on civilians, and numerous human rights violations have become a daily occurrence. In light of these events, the international community has been confronted with the challenge of ensuring justice for the victims and facilitating the reconstruction of Ukraine in the aftermath of the hostilities.

A key element of this process is the documentation of damage caused by aggression and the establishment of mechanisms for claiming compensation^[2]. In response to these needs, the Council of Europe adopted on May 23, 2023. Resolution CM/Res(2023)3, establishing an Expanded Partial Agreement on the Registry of Damages Caused by the Russian Federation's Aggression in Ukraine (hereinafter the Registry). The Registry's objective is to systematically collect, verify, and register claims from individuals, legal entities, and the Ukrainian state that have suffered losses as a result of hostilities.

The purpose of this paper is to provide a comprehensive overview of the establishment, structure, and operation of the Registry. The article thoroughly analyzes the technical and logistical aspects of documenting damage, as well as the political and legal challenges facing this endeavor. Additionally, it assesses the effectiveness of the Registry's activities to date and its prospects for the future, including the potential for expansion to other armed conflicts.

The registry facilitates formal reporting of claims and is a critical step in ensuring justice for conflict victims. Accurate documentation and verification of damages are essential for the process of paying reparations and rebuilding damaged communities. This article aims to provide a comprehensive overview of the Registry's functioning and assess its relevance

the Borderlands (London: I.B. Tauris, 2015); Andrew Wilson, *Ukraine Crisis: What It Means for the West* (New Haven: Yale University Press, 2014); Taras Kuzio, *Putin's War Against Ukraine: Revolution, Nationalism, and Crime* (CreateSpace Independent Publishing Platform, 2017).

² For a more extensive discussion of armed conflict and the resulting damage, see Emily Crawford, Alison Pert, *International Humanitarian Law* (Cambridge: Cambridge University Press, 2015), 22. The authors point out, among other things, that armed conflicts, regardless of their nature, lead to enormous damage, both direct and indirect. They attach great importance to the importance of international humanitarian law in minimizing this damage and protecting civilians, and outline the challenges facing the international community in enforcing these rights and preventing their violation.

to international humanitarian law and reparations processes through an analysis of the achievements and challenges to date.

In light of the global challenges posed by armed conflict, the establishment of such a mechanism could serve as a template for future initiatives aimed at documenting war damage and ensuring justice for victims worldwide.

Compensation for damages caused during armed conflicts are a complex process that requires the involvement of many international and national actors. These mechanisms may include: bodies of international justice in the form of tribunals and commissions^[3], international agreements between states, both multilateral and bilateral, concerning war reparations and setting the conditions and mechanisms for compensation^[4], or, finally, compensation mechanisms created within the framework of regional international organizations.

Each time, the process of compensation for armed conflict faces numerous challenges. One such challenge is the documentation of damages and losses, which is especially difficult during ongoing conflicts. This is due to the need for effective mechanisms for collecting and verifying evidence, a process that can be time-consuming and costly^[5]. Equally problematic often proves to be the issue of establishing legal responsibility for war

³ Examples include the International Criminal Tribunal for the former Yugoslavia, which played a key role in prosecuting war crimes and awarding reparations to victims of the conflict in the former Yugoslavia, or the UN Compensation Commission established by the UN Security Council, which was created after Iraq's invasion of Kuwait in 1990 and managed the payment of more than \$52 billion in reparations. More widely this issue is presented by, among others: James Gow, Rachel Kerr, Zoran Pajic, *Prosecuting War Crimes: Lessons and Legacies of the International Criminal Tribunal for the Former Yugoslavia* (London: Routledge, 2013); Lea Brilmayer, Chiara Giorgetti, Lorraine Charlton *International Claims Commissions: Righting Wrongs After Conflict* (Cheltenham: Edward Elgar Publishing, 2017).

⁴ One example is the Potsdam Treaty of 1945, which determined the war reparations Germany was to pay after World War II. Most of the reparations were to be taken from the Soviet occupation zone, but the USSR was also to receive some reparations from the western occupation zones. For more on the Potsdam Conference and its impact on the postwar order in Europe, see, for example: Melvyn P. Leffler, *A Preponderance of Power: National Security, the Truman Administration, and the Cold War* (Stanford: Stanford University Press, 1992); Tony Judt, *Postwar: A History of Europe Since 1945* (New York: Penguin Books, 2005).

⁵ Pablo De Greiff, *The Handbook of Reparations* (Oxford: Oxford University Press, 2006), 35-60.

damage, especially in cases of internal or asymmetric conflicts^[6]. The reparations process is also hindered by political obstacles, including a lack of cooperation from aggressor states, as well as legal complexities related to state sovereignty and immunity.

A research method called the dogmatic and exegetical method was used to prepare the presented study. The provisions of UN and Council of Europe resolutions were analyzed. These provisions pertained to the establishment and operation of the Registry. Through a detailed analysis and interpretation of these documents, their meaning and application in practice are described.

2 | Ukraine's conflict with Russia – from the Orange Revolution to the War Damage Register

The Russian-Ukrainian conflict has its roots in the region's complex history, marked by shifting borders and periods of Ukraine's dependence on the Russian Federation. During the 19th and 20th centuries, Ukraine was part of the Russian Empire and then the Soviet Union. Following a brief period of independence from 1917 to 1920, it was incorporated into the USSR as one of its republics^[7]. The collapse of the USSR in 1991 brought independence to Ukraine, but relations between the states remained strained^[8]. The doctrine expresses the view that issues of national identity, language and the political orientation of a state vacillating between East and West became a key factor affecting mutual relations^[9]. The protests, which erupted in

⁶ Human Rights Watch, *World Report 2023*, 145-175. <https://www.hrw.org/world-report/2023>.

⁷ For more on the historical and political context of Russia to Ukraine, see, among others: Adam Eberhardt, *Między Berlinem a Moskwą. Stosunki niemiecko-rosyjskie 1991-2014* (Warsaw: Polish Institute of International Affairs, 2015), 150-185; Serhii Plokhy, *The Gates of Europe: A History of Ukraine* (New York: Basic Books, 2015), 300-340.

⁸ For a broader discussion of Ukraine-Russia relations from the collapse of the USSR to the present, see Paul D'Anieri, *Ukraine and Russia: From Civilized Divorce to Uncivil War* (Cambridge: Cambridge University Press, 2019).

⁹ So, among others, Plokhy, *The Gates of Europe*, 336 and n. The author analyzes the historical background of these identity conflicts, showing how history, culture

response to allegations of election rigging, signaled a shift in Ukraine's foreign policy orientation, with demonstrators calling for the country to move closer to the European Union (EU) and to become less dependent on Russian influence^[10]. The so-called Euromaidan protests, which began in November 2013, were the culminating moment of this shift. At the time, demonstrations were held in Kyiv against the decision of then-Ukrainian President Viktor Yanukovich to suspend preparations for the signing of the Association Agreement with the EU. These demonstrations rapidly evolved into a widespread social movement, ultimately leading to the ousting of Yanukovich in February 2014^[11].

Following the controversial referendum in March 2014, Russia proceeded with the annexation of Crimea, a move that prompted strong international reactions. In response, Russia annexed Crimea, leading to international condemnation. This was followed in April of the same year by the declaration of independence by pro-Russian separatists in the Donetsk and Luhansk People's Republics, which precipitated the outbreak of civil war in eastern Ukraine. The armed conflict in the Donbas, and the destruction it brought, became the immediate cause for documenting war damage and seeking compensation.

In response to these events, the international community, including the United Nations (hereafter the UN) and the Council of Europe, took steps to document human rights violations and war damage. This led to the creation of the Register. The international community's reaction to the annexation of Crimea and the conflict in Donbas was fairly swift. Specifically, UN General Assembly Resolution 68/262 of March 27, 2014^[12], condemned the annexation of Crimea while underscoring the importance of respecting the territorial integrity of Ukraine.

and politics have shaped contemporary relations between Ukraine and Russia. In addition, he discusses the impact of Ukraine's Soviet past and post-Cold War aspirations on its relations with Russia.

¹⁰ See Andrew Wilson, *Ukraine's Orange Revolution* (New Haven: Yale University Press, 2005).

¹¹ See *Ukraine: Euromaidan, War, Reform*, ed. Agnieszka Gajewska, Konrad Gajewski (Warsaw: Institute of Political Studies, Polish Academy of Sciences, 2015).

¹² UN General Assembly Resolution A/RES/68/262 concerning the territorial integrity of Ukraine and the annexation of Crimea by the Russian Federation, passed at the 68th Session of the General Assembly on March 27, 2014. The document was titled: *Territorial Integrity of Ukraine*, <https://archive.is/vh2U8> [accessed: 14.05.2024].

The register was established at the initiative of the UN. On November 14, 2022, during the 11th Extraordinary Special Session of the General Assembly on the aggression of the Russian Federation against Ukraine, a resolution was adopted titled Supporting Remedies and Reparations for Aggression against Ukraine^[13].

The document was the international community's response to Russia's military actions in Ukraine. The resolution's key provisions include the establishment of an international mechanism for recording damage, the call for holding Russia accountable for any violations of international law, including humanitarian and human rights law, the reaffirmation of the commitment to respect, independence, and territorial integrity of Ukraine, and the demand that Russia immediately cease the use of force and completely withdraw its troops from Ukrainian territory.

The November 2022 UN General Assembly resolution stipulated that member states, in cooperation with Ukraine, establish an international damage registry. This registry is intended to document evidence and claims, as well as collect information on damage, loss, or injury to individuals, legal entities, and the State of Ukraine caused by violations of international law resulting from the actions of the Russian Federation in or against Ukraine. The resolution also promotes and coordinates the collection of evidence.

The document received 94 votes in favor, 14 votes against^[14], and 73 abstentions from the representatives of UN member states. The resolution acknowledged that the Russian Federation should be held responsible for any violations of international law, international humanitarian law

¹³ UN General Assembly Resolution A/RES/ES-11/5 of November 15, 2022, regarding support for remedies and reparations for aggression against Ukraine, <https://documents.un.org/doc/undoc/gen/n22/693/55/pdf/n2269355.pdf?token=VPHRGYeCzzXsMpgRWt&fe=true>. [accessed: 14.05.2024].

¹⁴ Opponents of the creation of the Registry pointed out that the resolution is divisive and sets a dangerous precedent, as it allows the creation of a mechanism that is not subject to the UN General Assembly. The Cuban representative stressed that creating a reparations mechanism for one specific armed conflict, while ignoring many other historical, legitimate and well-documented demands, is unjust, morally unacceptable and harms the credibility of the UNGA. a UN General Assembly. For a more extensive discussion of statements made by country representatives at the UN General Assembly meeting, see General Assembly Adopts Text Recommending Creation of Register to Document Damages Caused by Russian Federation Aggression against Ukraine, Resuming Emergency Special Session, Eleventh Emergency Special Session, 15th & 16th meetings (AM & PM), <https://press.un.org/en/2022/ga12470.doc.htm>. [accessed: 14.05.2024].

of armed conflict, and international human rights law in or against Ukraine. Consequently, the General Assembly acknowledged the necessity to establish an international mechanism for reparations for damage, loss, or injury caused by the Russian Federation's actions in violation of international law.

The Council of Europe has also played a key role in establishing formal mechanisms for documenting war damage. For example, during Finland's presidency of the Council of Europe's Committee of Ministers in Reykjavik on May 16-17, 2023, the foreign ministers of the organization's member states agreed to establish a mechanism for accepting claims for damages caused by the Russian Federation's aggression against Ukraine. A resolution was passed on the establishment of the Registry^[15] which implements the November 2022 UN General Assembly resolution. The document was endorsed by 40 of the 46 member states of the Council of Europe, but not all member states of the organization. Turkey, Serbia, Hungary, Armenia, Azerbaijan, and Bosnia and Herzegovina did not endorse the document, but they did not block it either. In addition to the member states of the Council of Europe, the agreement was joined by several non-European countries, including Canada, Japan, the United States, and the European Union (hereafter, the EU). Consequently, interested non-European countries, particularly the U.S., Canada, Japan, and Australia, can readily contribute to the establishment of the Registry. Their involvement could assuage Ukraine's concerns that the war is losing ground as a conflict with global, not just regional, repercussions. It is noteworthy that a significant number of the Council of Europe's members also belong to the European Union. EU members, along with the other G7 countries and Australia, are the most involved in sanctioning and freezing the assets of Russia and Russian oligarchs. The close ties between the EU and the Council of Europe, stemming from shared membership, will bolster the Council of Europe's ability to operationalize its various mechanisms^[16].

¹⁵ Resolution of the Committee of Ministers of the Council of Europe CM/Res(2023)3 Establishing an Expanded Partial Agreement on the Registry of Damage Caused by the Aggression of the Russian Federation in Ukraine adopted on May 12, 2023 at the 1466th meeting of the Deputy Ministers and amended on September 27, 2023 at the 1476th meeting of the Deputy Ministers, <https://rm.coe.int/0900001680ab2595>. [accessed: 14.05.2024].

¹⁶ Aleksandra Mężykowska, „Establishment of the Registry of Damage: The first element in ensuring Russia's financial accountability for the aggression against Ukraine” *European Society of International Law Reflections*, No. 3 (2023): 15.

The countries that joined the agreement reached a consensus that the Russian Federation should compensate victims in Ukraine and help rebuild the country after the armed conflict ends. Each time a country joins the Registry, it is an affirmation of its support for the war-affected population, as well as for Ukraine's political reconstruction process.

The Registry's universal scope is a notable aspect of its impact. It operates under the auspices of the Council of Europe's governmental regional organization, which mobilizes all available instruments to ensure full accountability of the Russian Federation for human rights violations and serious violations of international law, as well as to guarantee reparations to victims of Russian violence. This mechanism is universally accessible, welcoming all states, irrespective of their geographical location.

3 | Establishment and operation of the Registry – legal basis, structure and objectives

Accordingly, the legal basis for the establishment and operation of the Registry is Resolution CM/Res (2023)³ of the Committee of Ministers of the Council of Europe, dated May 2023, and the Statute of the Registry, which is attached to the Resolution. This document regulates in detail the following issues: the mandate and functions of the Registry, its legal status, seat, membership, organizational structure, powers of the Registry's bodies, financing and budget, among others.

The resolution calls for member states to collaborate in establishing and maintaining the Registry, and it outlines the fundamental principles of its operation. The document also defines the scope of data to be collected and the standards for its protection and processing.

The Registry is a platform for intergovernmental cooperation that operates within the institutional framework of the Council of Europe. It has legal personality under the provisions of its Statute, in accordance with the domestic laws of the Kingdom of the Netherlands and Ukraine. As a result, it possesses the legal capacity necessary to perform its functions, carry out its mandate, and protect its interests. Specifically, it is entitled to enter into contracts and to acquire and dispose of both movable and immovable

property. To carry out its mandate, the Statute authorizes the Registry to enter into agreements with states, organizations, and international bodies^[17].

The Registry is headquartered in The Hague, Netherlands^[18]. It also maintains a branch in Kyiv, Ukraine, to serve as a liaison between the Ukrainian government and the Registry. This branch will be responsible for outreach and contact with potential claimants and the Ukrainian public in general. The branch will also facilitate awareness of the Registry's purpose and the procedure for submitting claims for damages^[19].

The registry's objective is to compile information and evidence regarding damages, losses, and injuries sustained by individuals, entities, or the Ukrainian state as a result of Russian attacks since the invasion on February 24, 2022. Damages may include various categories. These may include material damage (destruction of infrastructure, buildings, natural resources, and other material objects), intangible damage (loss of life, physical and psychological injury, and psychological trauma), or ecological damage (environmental pollution, degradation of natural resources, and other forms of ecological damage)^[20]. The Registry is intended to serve as a basis for subsequent legal proceedings and possible compensation payments by Russia to Ukraine.

The main objectives of establishing the Registry include the collection and storage of data, which allows centralization of information on tangible and intangible damages incurred by individuals and legal entities. Another objective is to provide access to the information, facilitating access to the collected data for member states, international organizations and other authorized entities. The registry is also intended to support reparation processes, enabling a smooth and transparent process for compensation claims^[21]. Data monitoring and analysis are essential for identifying patterns and preventing future damages. The Registry's establishment is also

¹⁷ See Article 3, paragraphs 3.1-3.3 of the Registry's Articles of Incorporation.

¹⁸ Details are contained in the Council of Europe's Host State Agreement.

¹⁹ See Article 3.3.4 of the Registry's Articles of Incorporation.

²⁰ The issues of the various categories of damage resulting from armed conflict are described extensively by Crawford, Pert, *International Humanitarian Law*, 112-135.

²¹ For more on reparations and reparations, the rules for determining their amount, and the mechanisms for claiming them, see *The Law of International Responsibility*, ed. James Crawford, Alain Pellet, Simon Olleson (Oxford: Oxford University Press, 2010), 563-599.

driven by the objective of ensuring a high level of personal data protection in accordance with international standards.

The registry will not evaluate claims or adjudicate. Any reparations to victims will be awarded by international courts or other competent institutions. It is also important to note that the Registry will not examine or evaluate claims received on the merits, assess their value, or order any payments. These functions will be the responsibility of the future international compensation mechanism, which will be established by a separate international instrument. The Registry serves as the initial phase in the establishment of this mechanism. The establishment of this mechanism is currently underway. The Registry's tasks include facilitating these ongoing efforts and actively participating in them.

As the compensation mechanism progresses, the Registry will continue to contribute to this broader initiative to ensure comprehensive accountability by collecting information about what happened in Ukraine. Once the compensation mechanism is established, the Registry's activities will transition to a new structure, and all claims' data and evidence will be transferred accordingly.

The Official Registry will be stored on a secure digital platform, based on digital data, to support secure digital processing of claims and evidence. The claims process, which will be digital only, will be as simple and streamlined as possible.

The team responsible for the operation of the Registry consists of Ukrainian nationals and international experts, for a total of 45 employees working at the headquarters in The Hague and 10 people working at the Kyiv branch.

According to the Registry's Articles of Association, its organizational structure consists of the following entities: The Conference of Participants, the Board of Directors, the Executive Director, and the Secretariat. The Conference of Participants is comprised of one representative designated by each member of the Registry. This body convenes at least once a year to oversee the Registry's general operations. The authority's responsibilities include: Bearing overall responsibility for fulfilling the Registry's mandate, recommending to the Registry's members and associate members measures to achieve its goals, approving the Registry's work regulations proposed by the Board of Directors, appointing members of the Board of Directors, appointing the Executive Director at the request of the Government of Ukraine, adopting the annual budget of the Registry, adopting the annual

report on the activities of the Registry, performing any other function to him by the Statute of the Registry^[22].

The Board of Registry is comprised of seven members who are experts in their respective fields. These members are drawn from the following countries: Ukraine, Iceland, Germany, Italy, the United States, Poland, and Finland^[23]. These members are distinguished by their experience and multidisciplinary expertise necessary for the smooth operation of the Registry, particularly in the fields of law, international relations, reparations and war claims, and accounting^[24]. In accordance with statutory provisions, members of the Registry's Board of Directors act individually, are independent and impartial in the performance of their functions, and are ready to perform their duties effectively^[25]. The body convenes at least quarterly, and its tasks include: bearing responsibility for the performance of the Registry's functions, proposing rules and regulations governing the Registry's work and implementing them accordingly, including particularly with regard to defining the categories of claims, the procedure for receiving, processing and registering claims, the format of claim forms and the requirements for evidence for each category of claims, to be approved by the Conference. Additionally, the Board of Directors of the Registry retains the final authority to determine the eligibility of claims for inclusion in the Registry, based on recommendations from the Executive Director. It may also perform any other function necessary to fulfill the mandate of the Registry, which is not vested by the Articles of Incorporation of the Conference Registry to the Executive Director or the Secretariat^[26].

The Executive Director is nominated at the request of Ukraine and approved by the Secretary General of the Council of Europe. He serves as the official representative of the Registry and is entrusted with the authority to act on its behalf. The Executive Director has the authority to enter into contracts and agreements on behalf of the Registry of Damages^[27].

²² See Article 5.5.3 of the Registry's Articles of Incorporation.

²³ On November 16, 2023, the representative of Poland, Aleksandra Mężykowska, PhD, was elected to the Board of the Registry.

²⁴ See Article 6.6.1 of the Registry's Articles of Incorporation.

²⁵ See Article 6.6.4 of the Registry's Articles of Incorporation.

²⁶ See Article 6.6.5 of the Registry's Articles of Incorporation.

²⁷ In light of Article 7, paragraph 7.2 of the Registry's Articles of Association, agreements entered into by the Executive Director on behalf of the Registry with national or international bodies, providing for the coordination of evidence gathering or any exchange of information on claims or evidence, are subject to approval by the Board of Directors.

In addition, the Executive Director: is responsible for supervising and administering the work of the Registry's Secretariat, together with the Secretariat, provides substantive, technical, administrative, and organizational support for the work of the Conference and the Board of Directors, including being responsible for the ongoing cooperation and preparation of their meetings, and is responsible for forwarding claims to the Board of Directors for approval of entries in the Registry. The Executive Director also cooperates with relevant national and international authorities on various issues related to the work of the Registry and the process of collecting claims and evidence. In addition, the Executive Director cooperates with the governments of the Kingdom of the Netherlands and the Ukraine on various administrative matters related to the work of the Registry. Furthermore, the Executive Director performs other functions assigned to him by the Statute of the Registry^[28].

The Secretariat is comprised of administrative and technical staff members who provide support to the activities of the Executive Director and the Board of Directors. It handles the day-to-day operations of the Registry, including processing claims, collecting evidence, and organizing meetings and documentation. It also facilitates communication between the Registry's various bodies and external partners.

The inaugural meeting of the Registry was held in The Hague from December 11-15, 2023, during which, among other things, the Registry's chairman and vice-chairman were elected. Robert Spano^[29] of Iceland was elected to the Board of Directors of the Registry of damages caused by the Russian Federation's aggression in Ukraine.

4 | Challenges and problems

As the above analysis indicates, the establishment of the Registry has already encountered challenges. Management of the mechanism is also likely to face adversity. Key challenges include the Russian Federation's

²⁸ See Article 7.7.4 of the Registry's Articles of Incorporation.

²⁹ He has served as President of the European Court of Human Rights in Strasbourg. He is currently a member of the Panel of Arbitrators and Conciliators of the World Bank's International Center for Settlement of Investment Disputes.

lack of cooperation, concerns regarding sovereignty and state immunity, documentation of damage, and the management of large volumes of data and evidence in conflict environments. The developers of the registry will face numerous challenges, as the international community faces political, legal, and logistical difficulties.

The Russian Federation's lack of cooperation poses a significant political challenge in the context of international relations and accounting for violations of international law norms. Russia frequently disregards the authority of international courts, such as the International Criminal Court and the International Court of Justice, hindering the investigation and prosecution of those responsible for international law violations. This obstruction hinders efforts to access crucial documents and evidence that could substantiate Russia's involvement in the hostilities and the subsequent destruction. This obstruction poses a significant challenge not only to the functioning of international organizations but also to the broader efforts of the international community to uphold global security^[30].

Furthermore, Russia is conducting active disinformation campaigns aimed at undermining the credibility of international institutions and presenting an alternative version of events. These activities hinder the international community's efforts to ascertain the truth and hold accountable those who are responsible^[31]. Russia's restriction of access to key evidence and witnesses located on its territory is another complicating factor, significantly impeding international investigations. The downing of flight MH17 is a prime example of this issue^[32].

There are also issues of sovereignty and state immunity, which are identified in the literature as major barriers to the enforcement of international justice. Sovereign immunity is a legal doctrine that protects states from being sued in the courts of other states. Consequently, even in situations of grave human rights violations, those responsible may evade accountability by claiming to be acting on behalf of a state. This dynamic often creates a tension between the principle of state sovereignty, a fundamental tenet of international law, and the established obligations to protect human rights.

³⁰ For a more extensive discussion, see Erica Lonergan (née Borghard) and Shawn Lonergan, *The Impact of Russia's War in Ukraine on Global Security* (New York: Carnegie Endowment for International Peace, 2022).

³¹ Thomas Rid, *Active Measures: The Secret History of Disinformation and Political Warfare* (New York: Farrar, Straus and Giroux, 2020).

³² Lucas Edward, *Deception: The Untold Story of East-West Espionage Today* (New York: Walker & Company, 2012).

This tension often leads states to claim that any external interference in their internal matters constitutes an infringement on their national sovereignty, thereby complicating the efforts of international bodies to ensure justice is served^[33]. The complexity of international agreements and the need for many states to ratify them further complicates their implementation and enforcement^[34].

It is important to acknowledge that documenting damage during an ongoing conflict presents numerous technical and logistical challenges. In war zones, access to combat areas is often impossible due to the danger to humanitarian workers, researchers, and journalists, which significantly limits the ability to accurately document damage^[35]. Conflicts often result in infrastructure destruction, which hinders access to affected areas and complicates the reliable documentation of damage, as evidenced by the case of infrastructure destruction in Syria. Furthermore, parties involved in the conflict may also engage in the manipulation of information or the restriction of access to specific areas, thereby further complicating independent documentation of events.

Given the issues related to the newly established Registry, it should be noted that there may also be logistical problems related to the management of large amounts of data and evidence. Given the ongoing armed conflict in Ukraine, the individuals and institutions involved face challenges regarding data organization and analysis, data security, and international coordination. The processing, storage, and analysis of voluminous data sets necessitates advanced technological infrastructure and specialized tools and software. The collection of data in conflict situations, where conditions are often challenging, introduces further complications in data organization^[36]. Ensuring the security of collected data is crucial to protect it from loss, damage, or unauthorized access, which is another challenge in conditions of armed conflict. It is imperative to ensure the security of collected data against cyberattacks and unauthorized access, especially in contexts where adversaries may attempt to sabotage information

³³ Hazel Fox, *The Law of State Immunity* (Oxford: Oxford University Press, 20015).

³⁴ Jan Klabbers, „The Law of Treaties”, [in:] *International Law* (Cambridge: Cambridge University Press, 2020), 45-72.

³⁵ For more on documenting damage during armed conflict, see *War and Public Health*, ed. Barry S. Levy, Victor W. Sidel (New York: Oxford Unity Press, 2007), 29-55, 135-152.

³⁶ *Data management in conflict. Modern solutions* (n.m.w., 2020).

systems^[37]. Effective data management necessitates the collaboration and coordination of numerous international organizations, governmental entities, and non-governmental agencies. However, bureaucratic and procedural challenges often hinder this cooperation, which can result in delays in documenting and accounting for breaches^[38].

In the modern era, the establishment of analogous entities has only occurred with the consent of the Russian Federation or through a decision by the UN Security Council, which includes the Russian Federation as one of its permanent members. Consequently, the primary challenge for the Registry is the absence of an international precedent for such a body. While there are parallels with the United Nations Compensation Commission, which was established following the invasion of Iraq and the occupation of Kuwait in 1990-1991, the Registry's uniqueness lies in the number of expected claims related to damages in Ukraine. Notably, it will be the first registry of its kind to be housed on a secure digital platform.

However, under international law, a state that violates these norms is obligated to pay compensation, and states therefore have the right to create such a compensation body without the consent of the offender.

5 | Importance of the Register

In the context of armed conflicts, quantifying damages and establishing due process for reparations is a formidable challenge. As with any armed conflict, the war in Ukraine has also resulted in numerous human rights violations since the first day of the invasion. Bombs, rockets, and missiles rained down on Ukrainian towns and villages, destroying civilian infrastructure and critical infrastructure, including more than half of Ukraine's power grid. There have been and continue to be reports of murders, rapes, and torture. There have also been reports of forced deportations and looting.

³⁷ For more on this topic, see Massimo. Marelli, „Hacking Humanitarians: Defining the Cyber Perimeter and Developing a Cyber Security Strategy for International Humanitarian Organizations in Digital Transformation” *International Review of the Red Cross*, No. 102 (2020): 367-387.

³⁸ *International Coordination in Evidence Management* (n.m.w., 2019).

The comprehensive reconstruction of Ukraine is contingent upon ensuring justice for the victims of Russian aggression.

The Registry will provide millions of victims with the opportunity to seek fair compensation. This will instill a sense of optimism and provide a foundation for the pursuit of fair compensation. The Registry's establishment is a significant step in ensuring that Ukraine receives appropriate compensation for losses incurred due to Russian aggression. Documenting and recording damages is crucial for future compensation processes and taking legal action against the Russian Federation.

The literature indicates that the processes of calculating damages and establishing reparations after armed conflicts face numerous difficulties, both technical and legal. According to De Greiff, a key challenge is the collection and verification of damage evidence and the determination of direct and indirect losses suffered by victims. The process is further complicated by the fact that damages can be both tangible and intangible, requiring different methods of assessment and approaches to compensation^[39]. Mężykowska emphasizes that the pursuit of compensation through formal channels provides victims with both material benefits and symbolic recognition of their suffering and loss. This process is crucial for building lasting peace and social reconstruction in Ukraine, as justice plays a fundamental role in the processes of reconciliation and reconstruction after armed conflicts^[40].

6 | Conclusions

February 2024 marked two years since the start of Russia's full-scale invasion of Ukraine and the eleventh year of war between the two countries. The war has resulted in an unparalleled level of suffering and destruction, affecting not only Ukraine but also the global community. Consequently, the Russian Federation must be held accountable for its aggression against Ukraine. It is imperative that the Russian Federation assume full responsibility for the human and material losses incurred as a result of its unlawful actions on the global stage.

³⁹ De Greiff, *The Handbook of Reparations*, 35 and n.

⁴⁰ Mężykowska, „Establishment of the Registry of Damage”, 16.

In less than a year, significant progress was made, including the establishment of the Registry's bodies and the Board's approval of the initial Registry Regulations. These regulations encompassed rules for filing, processing, and entry of claims, as well as categories of claims eligible for inclusion in the Registry. The Board also approved a list of categories and eligibility criteria.

The historic decision to establish the Registry, backed by a coalition of countries, is another international initiative in support of Ukraine. The Registry will pave the way for the future creation of an international comprehensive compensation mechanism for victims of Russian aggression. This milestone on the road to justice and compensation for Ukraine and Ukrainians who have suffered immeasurably as a result of the aggression is a significant development. It is important to note that calculating damages and establishing due process for reparations is extremely difficult in armed conflicts. The comprehensive reconstruction of Ukraine hinges on ensuring that the victims of Russian aggression feel they have received justice. The Registry offers a ray of hope for millions of victims, providing a pathway to justice and reparation for the injustices endured.

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