

Damage assessment and relocation as tools for preserving business during martial law

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Abstract

The article is devoted to studying the problems of damage assessment and business relocation under martial law in Ukraine. The article uses literature and document analysis methods, including a review of recent studies on damage assessment and business relocation and an analysis of relevant legal acts and international standards.

The authors examine the legal framework governing the process of assessing the damage caused by armed aggression and the mechanisms for compensating it.

The methodological aspects of evaluation, including standardised and independent approaches, are analysed, emphasising the importance of adherence to national and international standards. The main stages of the valuation process are described: preparation, actual valuation, and report. Particular attention is paid to the problems of accounting for changes in the value of money over time and regional differences in economic conditions.

The article examines the role of international organisations and standards in ensuring transparency and reliability of damage assessment. The importance of establishing the International Register of Losses in The Hague as an important tool for documenting losses and ensuring accountability for armed aggression is emphasised.

Particular attention is paid to the issues of business risk insurance in wartime and investment insurance against war risks. The role of such organisations as the Multilateral Investment Guarantee Agency in supporting the investment climate in Ukraine is analysed.

The importance of effective damage assessment and business relocation as key tools for maintaining economic stability, minimising losses and preserving the potential for future recovery and development of Ukraine under martial law is emphasised. The need to further improve the methodology for assessing losses and compensation mechanisms to ensure fair compensation and increase confidence in the country's economic recovery process is highlighted.

Keywords: martial law; relocation; damage assessment; insurance; risk; accounting.

1. Introduction

In the context of martial law, Ukrainian businesses face extraordinary challenges related to the recording and assessment of damage, as well as the need for relocation. The destruction of infrastructure, loss of access to markets and resources, destruction or property damage complicate normal business operations, resulting in significant economic losses. Effective damage assessment and development of a relocation strategy are important for maintaining economic resilience and supporting the development of the national economy during and after the war, which requires the introduction of new approaches and standards.

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2. Literature review

The issue of damage assessment and business relocation under martial law has attracted the attention of scholars and practitioners, especially in the context of events in Ukraine. The research on this topic covered various areas, in particular: accounting (Kostiakova A. [3], Cherednichenko T. [7]), ecology (Didukh Y. [1]), demography (Prystupa M., Nekliuenco T., Lutskevych N. [5]), national economy (Kosaretskyi E., Sotnyk V., Sliusarenko A. [2]). Despite the growing interest in this topic, the issues of relocation and the specifics of damage assessment remain insufficiently researched. These aspects require further in-depth analysis and study.

3. Methodology research

The article analyzes the framework and procedures for assessing war-related damages in Ukraine using systematic and analytical approaches.

The research primarily utilizes document analysis of legal frameworks, including the Methodology for Assessing Damage and Losses approved by the Ministry of Economy of Ukraine and relevant resolutions of the Cabinet of Ministers.

To identify the effectiveness and quality of damage assessment mechanisms and compensation procedures, the method of generalization, and grouping was used. Using the method of critical analysis and comparison, the current methodologies for damage assessment were evaluated and areas for improvement were identified. In particular, taking into account the obtained results and using objective logic, the necessity of aligning national assessment procedures with international standards was substantiated, and a position was developed regarding the need for better coordination between national and international compensation mechanisms.

The article uses the method of generalization, assessment, and grouping to identify and position challenges that have a negative impact on the implementation of damage assessment procedures. Considering the results of research by various methods and their generalization, it is possible to organize the damage assessment process more effectively, optimize the methodological framework for evaluating war-related losses, and improve their legislative regulation in Ukraine.

The article aims at disclosing the problematic issues of damage assessment and business relocation during martial law.

4. Results

The Methodology for Assessing Damage and Losses as a Result of the Armed Aggression of the Russian Federation was approved by the joint order of the Ministry of Economy of Ukraine and the State Property Fund of Ukraine dated 18.10.2022 No. 3904/1223. The main objectives of the damage assessment are: to determine the amount of damage to be used in criminal proceedings in accordance with Ukrainian law; to enable affected parties to file claims for compensation for material damage; to prepare expert assessments and quantify damages for submission to international courts, both individually and collectively.

The date of the assessment of damages should be consistent with the provisions of the Commercial Code of Ukraine, which provides for it to be carried out on any date preceding or coinciding with the submission of a claim or demand for compensation, but not earlier than 24 February 2022. The timetable ensures that all calculated damages are substantiated in the immediate context of the ongoing hostilities, providing a standardised basis for compensation claims and remedies. This methodological approach is a significant step in systematically addressing the financial consequences of the war, providing a consistent and legally sound basis for claims, and supporting Ukraine's goals of economic recovery and justice.

The procedure for compensating individuals and legal entities for losses caused by armed aggression is set out in the Resolution of the Cabinet of Ministers of Ukraine "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" of 20.03.2022, No. 326. This regulatory document establishes a legal framework for assessing and compensating damages for the destruction of property, lost profits and other financial losses caused by the war. The resolution defines in detail the roles of various state bodies in processing claims, ensuring transparency and providing the necessary support to affected parties to obtain compensation in both the national and international legal framework.

The standardised assessment is carried out by a decision of a state or local government body authorised by the Cabinet of Ministers of Ukraine. This decision sets a specific date for the valuation to ensure compliance with the legal framework. An independent valuation may be carried out under an agreement between the appraiser and the plaintiff, which may include the injured persons, their representatives, heirs or relevant state authorities. Both standardised and independent appraisals require comprehensive reporting in electronic or paper form, following strict procedural guidelines. The reports must be signed by all experts involved and confirmed by the responsible authority or organisation.

It is important to ensure that all assessments comply with both national and international standards, which is of particular importance for claims brought before international tribunals. The Guidelines set out requirements for the content and form of damage assessment reports, including a detailed description of the assets, the extent of the damage and the methodology used for the assessment. These measures help to create a common basis for claims, promoting transparency and reliability in determining the economic impact of the conflict.

The methodological framework for determining the damage caused by armed aggression envisages a systematic approach consisting of three main stages: preparation, assessment and reporting. The preparatory stage includes data analysis, determination of reliability and signing of contracts for independent assessment. The valuation stage requires a detailed examination, often classification, of market data to establish a valuation. The reporting stage involves the preparation of

comprehensive or summary reports in accordance with international standards, especially for claims filed in international courts. This process ensures transparency and consistency with national and international law requirements for compensation claims.

An important challenge in assessing the damage caused by armed conflict is to accurately account for changes in the value of money over time. Fluctuations in inflation, interest rates and other economic variables can significantly affect the real value of the damage incurred. If these factors are not properly adjusted, the estimate may be either overstated or understated. A miscalculation could result in unfair compensation and falsify the credibility of claims, particularly in an international legal context where accurate financial quantification is essential to substantiate losses and ensure fair outcomes.

Existing differences in economic conditions can vary significantly between regions, complicating the adaptation process. Inconsistent methodologies or outdated economic data can exacerbate these differences, potentially leading to conflicting estimates and lengthy litigation. To address these issues, it is important to apply rigorous discounting or inflation adjustment procedures based on current economic indicators to align valuations with current realities. Such an approach provides a more accurate and fair basis for compensation that reflects a more accurate amount of loss over time.

Although Ukraine is actively developing its own laws and regulations on assessing war damage and compensation, the involvement of international organisations and compliance with international standards remain important. One of the main steps in this direction was the creation of the International Register of Damages Caused to Ukraine by Russian Aggression, which will be located in The Hague. This registry is an important tool for achieving justice and accountability for the significant destruction caused by the war [4; 6].

The register is the first component of a comprehensive compensation mechanism that will include the establishment of a Compensation Commission and a Compensation Fund. The Commission will consider individual claims for compensation from Russia by individuals, companies and the Ukrainian state. The Fund, in turn, will collect resources, including confiscated Russian assets, to pay claims determined by the Commission. The importance of this Register is underscored by its role in creating a transparent and legally sound pathway for Ukraine to seek reparations under international law.

Given the need to comply with international norms and rules, the International Valuation Standards (IVS) [8] may be useful in the context of damage assessment. They ensure transparency, reliability and professional competence of valuations, which increases their credibility both in the domestic and international legal environment. For Ukraine, alignment with the IVS can help ensure that war-related damage assessments are recognised and accepted in the global legal and financial environment, facilitating fair claims for compensation and strengthening investor confidence in the accuracy and fairness of assessments.

In determining the basis of compensation for war-related losses, three main categories should be considered: damage to or destruction of assets and businesses, expropriation of assets and businesses, and economic losses incurred. The appropriate basis of measurement depends on the specific circumstances. For expropriated profitable assets or companies, market value may be the most appropriate basis for calculating compensation. For damaged or destroyed assets, such as buildings or machinery, replacement cost may be more appropriate. Both valuation bases provide structured methods to ensure fair financial compensation.

Despite the fact that Ukraine has developed legal and regulatory documents related to the assessment of damage caused by military operations, there are still a number of uncoordinated aspects. For example, in most cases, there are no standardised procedures or detailed guidelines. In addition, closer alignment of these laws with international standards, such as the International Valuation Standards, could improve their recognition in the global legal context. Ensuring greater transparency in access to data and improving legal processes for compensation claims would further strengthen Ukraine's ability to achieve fair and efficient results in assessing damages.

Business risk insurance in times of war is aimed at ensuring effective management of state assets, reducing corruption risks, and improving transparency and quality of asset management, which helps to reduce uncertainty and increase trust in the state governance system, which is especially important in times of war and economic instability. This approach also helps to stabilise the economic situation and creates the preconditions for recovery and growth after the end of martial law.

The Law of Ukraine "On Amendments to the Tax Code of Ukraine and Other Legislative Acts of Ukraine Regarding the Validity of Norms for the Period of Martial Law" No. 3497-IX of 22.11.2023 outlines legal provisions aimed at increasing the transparency, accountability and efficiency of state-owned enterprises in Ukraine. The Law obliges the disclosure of financial and operational information about state-owned enterprises, establishes clear guidelines for their management and introduces mechanisms for public control. The law is part of a broader legislative effort to reform the public sector and bring it in line with international standards. Investment insurance against war risks in Ukraine is a critical mechanism designed to mitigate the financial uncertainty faced by investors due to the ongoing war. Insurance typically covers risks such as property damage, expropriation and business interruption caused by war-related events. The availability of such insurance is an important condition for encouraging both domestic and foreign investment in Ukraine, especially in regions affected by or near active hostilities.

The insurance system is often supported by international organisations, such as the Multilateral Investment Guarantee Agency (MIGA) [9], and national agencies that provide guarantees and coverage to investors. International organisations work in cooperation with the Ukrainian government to ensure that insurance products are reliable and meet the needs of investors facing increased risks due to the war.

By offering protection against potential losses, investment insurance helps to stabilise the investment climate in Ukraine, making it more attractive to investors who might otherwise be deterred by high levels of uncertainty and risk, which in turn supports broader economic recovery and development efforts in Ukraine by ensuring that capital continues to flow to critical sectors, even in the face of the ongoing conflict.

Investment insurance is an important component of Ukraine's strategy for economic recovery and development and business support. By providing a safety net for investors, it ensures that important projects, including those in infrastructure, energy, and industry, can continue despite the risks associated with the war. Such decisions not only contribute to economic resilience but also play an important role in the country's long-term recovery and growth trajectory.

5. Conclusion

Effective damage assessment and business relocation in a time of war is an important element in maintaining Ukraine's economic resilience. These tools allow businesses to adapt to new realities, minimise losses and preserve the potential for future recovery and development. The introduction of valuation methodologies aligned with international standards facilitates fair compensation for losses and increases the credibility of the compensation process. The establishment of the International Register of Losses in The Hague ensures the documentation of losses and accountability for armed aggression, which supports Ukraine's efforts to achieve justice in compensation and economic recovery.

Referens:

1. Didukh, Ya.P. (2022), «Ekosystemnyi pidkhid do otsinky zbytkiv, zavdanykh voennymy diiamy», *Visnyk NAN Ukrainy*, No. 6, pp. 16 – 25, doi: 10.15407/visn2022.06.016.
2. Kosaretskyi, Ye., Sotnyk, V. and Sliusarenko, A. (2023), «Study of the impact of military actions on the national economy of Ukraine: faktychni zbytky ta vtraty», *Visnyk naukovykh prats Tsentru viiskovo-stratyvistychnykh doslidzhen ChNU imeni Ivana Cherniakhovskoho*, No. 2 (78), pp. 74–79.
3. Kostyakova, A.A. (2023), «Naukove obgruntuvannia ta praktychni aspekty vyznachennia shkody ta zbytkiv, yikh otsinka ta oblik v umovakh voyennoho stanu», *Zbirnyk naukovykh prats Tavriiskoho derzhavnoho ahrotekhnolohichnoho universytetu imeni Dmytra Motornoho, ekonomichni nauky*, No. 3 (49), pp. 95–101, doi: 10.31388/2519-884X-2023-49-95-101.
4. *Ministerstvo yustytzii Ukrainy*, «Mizhnarodnyi reiestr zbytkiv, zavdanykh Ukraini rosiiskoiu ahresieiu, bude roztashovanyi u Haazi», [Online], available at: <https://minjust.gov.ua/news/ministry/mijnarodniy-reestr-zbitkiv-zavdanih-ukraini-rosiyskoyu-agresieyu-bude-roztashovanyi-u-gaazi>
5. Prystupa, M., Nekliuienko, T. and Lutskevych, N. (2022), «Sotsialno-demohrafichna kryza v Ukraini vnaslidok viiny: stan, naslidky ta shliakhy podolannia», *Visnyk Luhanskoho natsionalnoho universytetu imeni Tarasa Shevchenka, pedahohichni nauky*, No. 6 (354), pp. 147–152.
6. «Register of losses for Ukraine», *RD4U*, [Online], available at: <https://rd4u.coe.int/uk/>
7. Cherednichenko, T. (2023), «Oboviazkove provedennia inventaryzatsii v umovakh voyennoho stanu», *Scientific Collection «InterConf»*, No. 180, pp. 53-55.
8. International Valuation Standards (IVS), Official edition, London, [Online], available at: <http://www.afo.com.ua/doc/ivsc-effective-31-jan-2022.pdf>
9. «World Bank Group Guarantees», *MIGA*, [Online], available at: <https://www.miga.org/>