

## COMPULSORY EXPROPRIATION AND PROPERTY COMPENSATION UNDER MARTIAL LAW IN TRANSITIONAL JUSTICE

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### **Abstract**

The article examines the specifics of legal regulation of compulsory property expropriation under martial law and the mechanisms for ensuring fair compensation in the context of developing a transitional justice system in Ukraine. The analysis is based on the provisions of the Constitution of Ukraine, legislation on martial law, mobilization, and national defense, as well as the practices of the Supreme Court of Ukraine and standards established by the European Court of Human Rights. This approach allows for outlining the key principles, conditions, and procedural limits of permissible state interference with private property rights during wartime. It is demonstrated that, from the perspective of international law and the rule of law principle, compulsory property expropriation can be considered lawful only in the presence of genuine public necessity, provided that a clearly defined procedure is followed and mandatory compensation is ensured—either before or after the cessation of martial law. Particular attention is paid to challenges in documenting acts of expropriation, determining property value, judicial protection of owners' rights, and the application of Article 1 of Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms. The article argues that effective and predictable compensation mechanisms are a necessary component of transitional justice, as they ensure the actual restoration of violated rights, foster trust in state institutions, and allow for balancing public interests with private rights during wartime and post-conflict reconstruction. In this regard, the study substantiates the feasibility of implementing digital tools for recording expropriations, creating a unified registry of relevant acts, standardizing approaches to property valuation, and developing stable budgetary mechanisms for compensation. It is concluded that the further development of legal regulation of compulsory property expropriation should be based on a combination of constitutional guarantees of property rights, international human rights protection standards, and the institutional needs of post-war reconstruction and long-term state resilience in conditions of armed conflict and post-conflict transition.

**Keywords:** transitional justice; compulsory expropriation; martial law; right to judicial protection; democratic state.

### **1. Introduction**

The full-scale invasion of the Russian Federation into the territory of Ukraine has led to the introduction of a special legal regime of martial law, under which the state was compelled to mobilize a wide range of available resources to ensure defense and maintain national security. In this context, a particularly important role is played by the

mechanism of compulsory expropriation or seizure of property belonging to natural and legal persons to meet defense needs. By its nature, such a mechanism constitutes an extraordinary legal measure, involving direct interference in the sphere of private property – one of the fundamental rights recognized and guaranteed at both the constitutional and international law levels.

The Constitution of Ukraine enshrines the principle of inviolability of private property rights, while simultaneously allowing for their restriction in exceptional cases. In particular, pursuant to Article 41, compulsory expropriation of property is permissible only in the presence of public necessity, provided that the procedure established by law is followed and mandatory prior and full compensation for the value of such property is ensured. Similar approaches can be observed in the provisions of Article 1 of Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms, which requires the state to ensure a reasonable and fair balance between the interests of society and the rights of the owner. Therefore, even under martial law, the state retains the obligation to act within the limits of legality, to adhere to the principle of proportionality, and to prevent arbitrary restrictions of property rights.

At the same time, an analysis of the practice of applying norms regulating compulsory property expropriation during martial law reveals a number of systemic problems. These include, in particular, the lack of clarity in the concept of "public necessity," the heterogeneity and fragmentation of normative regulation, the absence of centralized electronic accounting of expropriation decisions, difficulties in confirming ownership rights over destroyed or damaged objects, as well as the untimeliness of compensation payments and the reduction of their real value due to inflation. The combination of these factors significantly complicates the effective implementation of constitutional guarantees and, at the same time, creates preconditions for deviations from international standards of human rights protection.

These problems acquire particular significance in light of the formation and development of the concept of transitional justice, which is designed not only to respond to the consequences of armed conflict but also to ensure the restoration of violated rights, hold perpetrators accountable, and rebuild public trust in government in the post-war period. In this regard, the institution of compulsory property expropriation should be considered not solely as an instrument for operational defense needs, but as a component of restorative justice, which implies real, timely, and adequate mechanisms for compensating inflicted damage.

The protection of property rights in conditions of armed conflict and exceptional legal regimes has already become the subject of active scholarly discussion. For example, in the study by M. Hryhorchuk and co-authors, *Protection of Property Rights during the Russian-Ukrainian War: Theoretical and Legal Analysis* (2023), national and international standards of permissible interference in the property sphere are analyzed in detail, with an emphasis on the absence of a comprehensive compensation model during wartime as a factor undermining the rule of law.

Specific attention to compensation issues is given by J. Unruh in *Socio-legal Instabilities in Ukraine's Wartime Compensation Law* (2024), where it is emphasized that the instability of current legal regulation is caused by the fragmentation of procedures and the absence of unified approaches to the assessment of incurred damages. Similar conclusions are found in the works of K. Skrynnikova (2024), dedicated to the analysis of property rights restrictions during martial law, as well as A. Khrebtova (2022), who draws attention to the risks of excessive expansion of state discretionary powers in the absence of clearly defined procedural guarantees.

At the same time, despite a significant number of scholarly publications, the issue of a comprehensive correlation between compulsory property expropriation, compensation mechanisms, and instruments of transitional justice, as well as the problem of digitizing relevant procedures and creating a unified register of expropriation

decisions, remains insufficiently studied. This necessitates further scholarly and legal analysis, taking into account both the provisions of national legislation and the practice of the European Court of Human Rights.

The purpose of this article is a comprehensive study of the legal regulation of compulsory property expropriation under martial law, an assessment of the effectiveness of existing compensation mechanisms and their compliance with constitutional and international standards of property rights protection, as well as the development of proposals for improving relevant procedures within the framework of establishing a transitional justice system in Ukraine.

To achieve this purpose, the following tasks are set:

- to analyze the constitutional and international legal foundations of compulsory property expropriation;
- to characterize the specifics of normative regulation of expropriation and compensation procedures under martial law;
- to identify key gaps and conflicts in current legislation and law enforcement practice;
- to assess the compliance of national compensation mechanisms with the standards of the European Court of Human Rights;
- to substantiate directions for improving the legal regulation of compulsory property expropriation as an integral component of transitional justice.

## **2. Literature Review**

The issue of protecting property rights in conditions of armed conflict and the application of extraordinary legal regimes has in recent years occupied a prominent place in both domestic and foreign legal scholarship, particularly in connection with the full-scale armed aggression of the Russian Federation against Ukraine. In contemporary legal doctrine, primary attention is focused on questions regarding the permissibility of state interference in the sphere of private property, the scope of compensation guarantees, and the compliance of such interference with international human rights standards.

A significant contribution to the development of a theoretical and legal understanding of the protection of property rights during wartime has been made by M. Hryhorchuk and co-authors in their work *Protection of Property Rights during the Russian-Ukrainian War: Theoretical and Legal Analysis* (2023). The authors thoroughly examine national and international standards governing interference with private property rights and substantiate the thesis that the absence of a unified compensation mechanism in conditions of armed conflict poses serious threats to the principle of the rule of law and legal certainty. The work also emphasizes structural shortcomings in existing damage compensation procedures and the need for their systemic reform.

Further development of this issue is reflected in J. Unruh's study *Socio-legal Instabilities in Ukraine's Wartime Compensation Law for Damaged and Destroyed Residential Property* (2024), which analyzes the socio-legal instability of Ukraine's compensation legislation in wartime conditions. The author convincingly demonstrates that the fragmentation of procedures, the absence of unified approaches to property valuation, and the lack of standardized methodologies for determining damages significantly restrict owners' access to effective means of legal protection. These problems are considered not only from a formal-legal perspective but also from a broader social standpoint.

Ukrainian scholars also devote substantial attention to the issue of restrictions on property rights during martial law. For instance, K. Skrynnikova (2024), in analyzing the constitutional and legal nature of these restrictions, emphasizes the key role of the principles of legal certainty and proportionality as safeguards against excessive state interference in the property sphere. Similarly, A. Khrebtova (2022) investigates

the transformation of the legal regime of property under extraordinary circumstances and warns against the risks of weakening procedural guarantees in cases where the discretionary powers of public authorities are expanded.

An important element of the scholarly discussion is also judicial practice. Decisions of the Supreme Court of Ukraine issued in 2024 indicate the gradual formation of an approach to the direct application of Article 1 of Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms, particularly in cases related to delays in compensation payments or insufficient amounts of compensation. At the international level, fundamental guidelines for assessing the legality and proportionality of interference with property rights have been established in the case law of the European Court of Human Rights, notably in *Sporrong and Lönnroth v. Sweden* and *James and Others v. the United Kingdom*.

Despite the significant increase in scholarly publications, comprehensive studies that integrate analyses of mechanisms of compulsory property expropriation, compensation procedures, digitalization of administrative processes, and transitional justice instruments remain scarce. The existence of this scholarly gap underscores the relevance and scientific novelty of the present research.

### **3. Materials and Methods**

The methodological foundation of this study is based on a doctrinal approach to the analysis of legal phenomena, combined with elements of comparative law and interdisciplinary analysis. The choice of this methodology is determined by the complex legal nature of the institution of compulsory property expropriation under martial law, which lies at the intersection of constitutional, administrative, and international human rights law, as well as contemporary concepts of transitional justice. The research primarily focuses on the analysis of normative regulation, judicial practice, and doctrinal approaches, without employing empirical data collection methods.

To achieve the stated objectives, the study employs a comprehensive set of general scientific and specialized legal methods of inquiry. At the initial stage of the research, systemic and structural methods were applied, which allowed for the identification and organization of the elements of the legal mechanism of compulsory property expropriation, including the provisions of the Constitution of Ukraine, legislative acts, and subordinate normative documents. The application of these methods enabled the tracing of interconnections between different levels of legal regulation and the identification of the fragmentation of existing compensation mechanisms.

A central position in the methodological toolkit was occupied by the formal-legal method, through which the content, structure, and legal terminology of the Constitution of Ukraine, laws regulating the legal regime of martial law and compulsory property expropriation, as well as acts of the Cabinet of Ministers of Ukraine, were analyzed. Particular attention was paid to clarifying the legal content of such categories as “public necessity,” “compulsory expropriation,” and “compensation,” as well as to the examination of procedural guarantees for the protection of property owners’ rights.

A separate line of the research involved the analysis of judicial practice, aimed at assessing the application of relevant legal norms in court activities. Within this analysis, relevant decisions of the Supreme Court of Ukraine, as well as key precedents of the European Court of Human Rights concerning interference with the right to peaceful enjoyment of property, were examined. This allowed for an assessment of the degree of compliance of national law enforcement practice with international human rights protection standards.

Furthermore, the study employed a comparative law method to analyze international standards established within the framework of the Convention for the Protection of Human Rights and Fundamental Freedoms, in particular the provisions of Article 1 of Protocol No. 1. The use of this method facilitated the identification of general

principles relevant to assessing the permissibility of interference with property rights in conditions of extraordinary circumstances.

The research was carried out in stages and included the systematization of normative sources, analysis of judicial practice, review of scholarly publications, and formulation of proposals aimed at improving legal regulation. The chosen methodology ensured the logical consistency of the study, the substantiation of the conclusions reached, and their scientific relevance.

#### **4. Results and Discussion**

The right to private property belongs to the category of fundamental human rights, without which the full functioning of a democratic state and a market economy would be impossible. Its protection ensures the autonomy of the individual, the stability of civil turnover, and the predictability of economic relations. At the same time, in crisis situations, particularly during wartime, the state may be compelled to intervene in the sphere of property rights to ensure defense and national security. For this reason, the legal system must contain effective safeguards against arbitrariness and guarantees of compensatory nature with respect to such interventions.

In the constitutional model of Ukraine, the right to private property is considered one of the basic guarantees of an individual's legal status, the restriction of which is permitted only in the presence of clearly defined grounds and in accordance with established procedures. Pursuant to Article 41 of the Constitution of Ukraine, deprivation of property rights cannot be arbitrary, and compulsory expropriation of property is allowed exclusively in exceptional cases related to public necessity, provided that the procedure is regulated by law and full compensation for the value of the expropriated property is ensured (Verkhovna Rada of Ukraine, 1996). The content of this constitutional provision reflects the legislator's attempt to reconcile the public interests of the state with the need to adequately protect the rights of property owners. The granting of the state's right to intervene in the property sphere does not have independent significance but is conditioned by the existence of procedural and substantive safeguards aimed at preventing arbitrariness. Thus, even under the legal regime of martial law, the right to private property does not lose its constitutional essence and may be limited only within the framework of the law and with compensatory intervention.

The interpretation of Article 41 of the Constitution of Ukraine should be carried out in systemic connection with the principle of the rule of law and the requirements of proportionality. The idea of proportionality presupposes that the state must apply the least burdensome measures necessary to achieve a legitimate objective and avoid imposing an excessive burden on a particular owner. Legal doctrine emphasizes that "public necessity" as a basis for compulsory expropriation must not be merely declarative, but real and objectively substantiated; it should arise from specific defense needs rather than from abstract considerations of expediency (Skrynnikova, 2024). Importantly, the category of "public necessity" itself cannot serve as a universal justification for any intervention, as this creates a risk of diluting constitutional guarantees.

The Constitutional Court of Ukraine, in its practice, proceeds from the principle that restrictions on property rights are permissible only when there is a legitimate aim, legality, and the preservation of the essence of the right itself (Constitutional Court of Ukraine, 2005). This principle has practical significance in martial law situations: even if the state operates under heightened threats, interventions cannot transform into unpredictable or discretionary practices without a proper legal basis. Instead, both the decision-making authorities and the procedure, forms of documentation, methods of valuation, and rules of compensation must be clearly defined.

The approaches enshrined in national constitutional law generally correspond to the standards developed in the practice of international human rights bodies. In its jurisprudence, the European Court of Human Rights consistently holds that state

interference in the sphere of property rights cannot be arbitrary and must be assessed according to a set of interrelated criteria. Such interference must be based on an appropriate legal foundation, justified by general interest needs, and must not disrupt the proper balance between public objectives and the rights of the individual owner (European Court of Human Rights, 1982; European Court of Human Rights, 1986).

Central to this context is the concept of proportionality of interference, which in the Court's practice is realized through the requirement to maintain a balance of interests. This involves not only formal legality of state measures but also their actual impact on the individual's situation. If the interference imposes an excessive or unjustified burden on the owner, it cannot be considered compatible with the guarantees of the Convention. Therefore, compensation mechanisms must be not merely declarative but designed to ensure the real, effective, and predictable restoration of violated property rights.

It should be noted that the standards of the European Court of Human Rights concern not only the "existence of a law" but also the quality of that law, namely its accessibility, predictability, and capacity to prevent arbitrariness. In the context of martial law, this manifests in the necessity of clear procedures and transparent rules for compensation. If the law formally permits expropriation but does not provide an effective mechanism for valuation and payments, the risk of violations of Article 1 of Protocol No. 1 increases significantly (European Court of Human Rights, 1982; European Court of Human Rights, 1986).

In Ukrainian judicial practice, the provisions of Article 1 of Protocol No. 1 are increasingly used as a direct legal basis for restoring violated property rights in cases of non-payment, delayed payment, or disputes regarding compensation. The Supreme Court, in a number of decisions, emphasizes the necessity of ensuring the effectiveness of the compensation mechanism and the inadmissibility of imposing a disproportionate burden on the owner due to deficiencies in state administration or budgetary limitations (Supreme Court of Ukraine, 2024a; Supreme Court of Ukraine, 2024b). This approach is important because it demonstrates that even under extraordinary circumstances, the state cannot evade fulfilling its compensation obligations solely due to the complexity of the situation. Thus, the constitutional foundations of compulsory expropriation of property perform two interrelated functions. First, they allow the state to meet defense needs. Second, they form a system of guarantees for private property, which must not be nullified even in wartime (Verkhovna Rada of Ukraine, 1996; Constitutional Court of Ukraine, 2005). It is precisely at this intersection that defense interests and human rights converge: the greater the powers of the state, the stronger the procedural safeguards and compensation mechanisms must be.

Compulsory expropriation or seizure of property during martial law has a complex nature and relies on a system of interrelated normative acts. The basic legal framework in this sphere is provided by the Law of Ukraine "On the Legal Regime of Martial Law," which defines the general mechanisms of state functioning under a special regime, allowing temporary restrictions on certain rights and freedoms for the purposes of defense and national security (Verkhovna Rada of Ukraine, 2015). The provisions of this Law set the framework within which special property-related procedures are applied.

According to Article 15 of the aforementioned Law, during martial law, compulsory expropriation or seizure of property of private individuals and legal entities may be carried out for state defense needs with simultaneous or subsequent compensation of its value (Verkhovna Rada of Ukraine, 2015). Several aspects are important in this formulation. First, expropriation must be functionally linked to "defense needs," that is, not any state needs, but specifically those of a defense nature. Second, the law allows for both simultaneous and subsequent compensation, which corresponds to wartime realities but simultaneously creates risks of delayed payments, devaluation of compensation, and accumulation of post-war state obligations to citizens.

Decision-making authority regarding compulsory expropriation is assigned

to the military command in coordination with military administrations or local self-government bodies, depending on territorial jurisdiction. This mechanism is intended to ensure operational efficiency and the rapid mobilization of resources necessary for defense, while preserving elements of civil oversight and interaction with local authorities (Supreme Court of Ukraine, 2024a). However, in practice, the multiplicity of coordinating subjects can generate problems: unclear demarcation of competence, varying administrative practices across regions, formalistic document handling, and difficulty for the owner in identifying the responsible entity in case of a dispute.

The detailed procedure for implementing compulsory expropriation or seizure of property is established by Resolution No. 998 of the Cabinet of Ministers of Ukraine, which sets out the procedure for documenting decisions, preparing acts, describing the object, determining its condition and value, and rules for transferring property (Cabinet of Ministers of Ukraine, 2012). From the perspective of property owners' rights guarantees, the expropriation act has fundamental importance: it is the primary document confirming the fact of seizure, recording the characteristics of the property, and serving as the basis for compensation. The mandatory participation of a representative of local authorities and the owner (or their representative) is intended to ensure adversarial involvement and prevent unilateral description of the property. However, in wartime, the physical participation of the owner is often complicated (evacuation, occupation, lack of access), which increases the risks of formalization of procedures and potential disputes regarding the content of the act, completeness of the description, or accuracy of the valuation.

The normative framework also includes the Law of Ukraine "On the Transfer, Compulsory Expropriation or Seizure of Property under Martial or Emergency Legal Regimes" No. 4765-VI, which details the legal grounds, procedure, and compensation guarantees in the event of the application of such measures during martial or emergency regimes (Verkhovna Rada of Ukraine, 2012). Interpreted systemically with the Constitution, this legislation aims to ensure that any expropriation maintains a compensatory nature and does not amount to *de facto* confiscation.

Compensation for expropriated property is a key guarantee of compliance with the constitutional standard. Resolution No. 998 provides for two primary modes of compensation — prior (before actual expropriation) and subsequent (after expropriation, when immediate payment is impossible) (Cabinet of Ministers of Ukraine, 2012). Prior compensation most closely corresponds to the literal content of Article 41 of the Constitution, as it minimizes the burden on the owner and reduces the risk of violating the "fair balance." Subsequent compensation is a wartime necessity but requires the strongest safeguards to prevent delay from turning into *de facto* refusal of compensation.

If property is expropriated without prior compensation, the owner may apply to the competent authority after the end of martial law for compensation from the state budget (Verkhovna Rada of Ukraine, 2012). This mechanism appears logical, but it concentrates a number of practical problems. First, there is the issue of proof: the owner must have documents confirming ownership and expropriation, as well as valuation documents. Second, after martial law ends, a significant number of claims may accumulate, objectively delaying consideration and payments. Third, inflationary processes and market value changes may result in compensation, determined based on preliminary valuation, failing to correspond to the actual value at the time of payment.

Property valuation is a central element of the compensation mechanism. In theory, it should ensure the most accurate reflection of the object's value, considering its technical condition, degree of wear, functional purpose, and other characteristics (Cabinet of Ministers of Ukraine, 2012). In practice, however, valuation often becomes a source of disputes due to combat restrictions, limited access to market comparables, document scarcity, and differing approaches among evaluators. Therefore, scholarly works emphasize the need for standardization of approaches; otherwise, the

compensation mechanism remains fragmented and socially unstable (Unruh, 2024).

An additional problem is that even with an expropriation act and valuation, the owner may face payment delays or require judicial protection. Courts in such cases examine not only the formal legality of the procedure but also the reality of compensation guarantees and adherence to the requirement of fair balance (Supreme Court of Ukraine, 2024a; Supreme Court of Ukraine, 2024b). This is particularly significant when the state cites limited budgetary capacity: even in such cases, the burden of war cannot be disproportionately shifted to individual owners.

Compensation may be provided not only in monetary form but also in kind through the transfer of equivalent property (Cabinet of Ministers of Ukraine, 2012). In theory, in-kind compensation allows for faster restoration of the individual's property status, especially for production means or critical assets. However, in wartime conditions, this mechanism is applied restrictively due to resource scarcity and difficulty in selecting an "equivalent" object. Moreover, in-kind compensation can generate additional disputes regarding equivalence, quality, location, and legal regime of the transferred property.

Jurisdictional issues in disputes related to compulsory expropriation depend on the authority and subject matter of the dispute. Generally, appeals against decisions, actions, or inaction of public authorities (military administrations, local governments, or other bodies) are handled through administrative courts, whereas disputes between private entities or claims for damages may, in certain circumstances, be considered in civil or commercial courts (Supreme Court of Ukraine, 2024b). Regardless of procedural form, the standard of protection must comply with constitutional and Convention requirements. A separate set of problems concerns the digitalization and recording of expropriation acts. Currently, expropriations are often recorded primarily in paper form, creating risks of document loss, complicating oversight, and reducing transparency for both the owner and the state (Supreme Court of Ukraine, 2024b). In the context of modern approaches to digital public administration, it is important for the state to establish a unified electronic mechanism for recording, tracking, and monitoring expropriation decisions, integrated with state registers and open data (European Commission, 2023). This will not only reduce the risk of abuse but also significantly simplify proof for owners in disputes.

In light of the above, proposals are advisable regarding: (1) the creation of a unified electronic register of expropriation acts integrated into the State Register of Property Rights and the open data portal; (2) the introduction of an electronic tracking system for the document's path — from act preparation to actual compensation payment, with transparent control; (3) the unification of property valuation approaches, taking into account inflation, degree of damage, and restoration possibilities (Verkhovna Rada of Ukraine, 2012; European Commission, 2023). All these measures logically stem from the requirement of legal certainty and the need to ensure a fair balance of interests.

Particular attention should be paid to the criteria of "public necessity." Their vagueness creates scope for divergent administrative practices and potential inequality among owners: in similar situations, decisions may be made differently, and reasoning may be formalistic. Studies on property rights restrictions in Ukraine during martial law emphasize that the normative certainty of procedures and grounds is a key condition for preventing excessive state interference (Skrynnikova, 2024; Khrebtova, 2022). Therefore, legislative clarification of the criteria of public necessity and standardization of decision justification is an important direction for modernizing the mechanism.

In the broader framework of transitional justice, the institution of compulsory expropriation of property acquires additional significance. Transitional justice is aimed not only at the legal response of the state to wartime challenges but also at restoring trust in institutions, compensating harm, and establishing justice in post-war society. If expropriation occurs non-transparently, compensation is delayed or devalued, and the owner must defend their rights in court for years, this undermines the sense of

justice and exacerbates social tension. Research emphasizes that the absence of a unified and predictable compensation mechanism during wartime poses a risk to the implementation of the rule of law and to the general standard of property protection (Hryhorchuk et al., 2023; Unruh, 2024).

Furthermore, in the context of transitional justice, it is important not only that compensation occurs but also that its quality (timeliness, completeness, and fairness) meets the standard. These criteria allow for the real restoration of violated rights rather than mere formal declaration of guarantees. The practice of the European Court of Human Rights explicitly highlights the inadmissibility of imposing an “excessive individual burden” on a person; thus, the state must design the compensation mechanism so that it functions in reality, not only on paper (European Court of Human Rights, 1982; European Court of Human Rights, 1986).

In conclusion, compulsory expropriation of property during martial law is an exceptional state instrument applied to ensure national defense and security. Its application, however, must be based exclusively on law, justified by real needs, comply with the principle of proportionality, and be accompanied by effective compensation that restores a fair balance between public interest and the rights of the owner (Verkhovna Rada of Ukraine, 1996; Constitutional Court of Ukraine, 2005). Identified issues in law enforcement — unclear criteria for public necessity, fragmented valuation approaches, absence of electronic record-keeping, and delayed payments — indicate the need for systematic modernization of the current mechanism. The introduction of digital recording and control tools, unified valuation, and increased procedural transparency should form part of a comprehensive model capable of simultaneously meeting defense needs and ensuring the restoration of violated rights in the logic of transitional justice (European Commission, 2023; Verkhovna Rada of Ukraine, 2012).

## 5. Conclusion

The conducted research has made it possible to carry out a comprehensive analysis of the legal nature of compulsory expropriation of property under conditions of martial law and to identify the existence of a number of significant conflicts and gaps in the current regulatory framework governing this sphere. First and foremost, this concerns the absence of clearly defined and unified criteria of “public necessity” as the key ground for interference with the right to private property, which creates risks of excessive discretion on the part of public authorities and inconsistent application of legislation in practice. Under such circumstances, there is a danger that decisions on compulsory expropriation of property may be formally justified without a proper assessment of their proportionality and actual necessity.

Another substantial problem lies in the lack of a unified mechanism for the digital documentation of acts of compulsory expropriation. The predominantly paper-based nature of recording decisions, describing property, and assessing its value complicates oversight of the legality of actions taken by authorized bodies, increases the risks of loss or damage to documents, and significantly hinders the effective exercise of the owner’s right to judicial protection and compensation. Combined with the fragmented approaches to property valuation, this situation leads to legal uncertainty, whereby owners find themselves in unequal positions depending on the region, the administrative practice of a particular authority, or the availability of evidentiary materials.

Particular attention should be paid to the inability of existing compensation procedures to fully take into account inflationary processes, wartime risks, the degree of damage to property, and the objective impossibility of inspecting property in certain cases. Delays in payments, depreciation of compensation, and the complexity of proving the actual value of expropriated property effectively impose a disproportionate individual burden on owners, which contradicts both constitutional guarantees and international standards for the protection of property rights. Taken together, these factors hinder

timely and fair compensation and undermine public trust in state institutions during periods of wartime hardship.

In view of the identified problems, the article substantiates the need for a comprehensive improvement of the mechanism for compensating compulsorily expropriated property as one of the key elements of guaranteeing the right to property and shaping an effective model of transitional justice. In particular, the following measures are proposed:

- the introduction of a unified electronic register of facts of compulsory expropriation, integrated with state registers of property rights and other information systems, which would ensure procedural transparency, prevent the loss of documents, and simplify the process of proof for property owners;

- the development and legislative consolidation of a unified methodology for property valuation that would take into account the degree of damage to the object, the impossibility of inspection in areas of active hostilities, inflationary fluctuations, and wartime risks, thereby minimizing the number of disputes concerning the amount of compensation;

- a clear normative definition of the criteria of “public necessity,” which would limit the possibility of arbitrary state interference with the right to private property and ensure that decisions comply with the principle of proportionality;

- the establishment of a budgetary guarantee fund for post-war compensation, which would ensure the reality and enforceability of the state’s obligations toward property owners even under conditions of limited financial resources;

- the improvement of judicial protection procedures, in particular through the introduction of priority and expedited consideration of cases related to compensation for compulsorily expropriated property, which would contribute to the effective restoration of violated rights;

- the implementation of digital tools for recording and monitoring at all stages of expropriation, starting from the adoption of the decision and the drafting of the act and ending with the actual payment of compensation, in line with contemporary standards of public administration.

The implementation of the proposed measures would contribute to the formation of a transparent, predictable, and fair system of compulsory expropriation of property, capable of ensuring an effective balance between the defense needs of the state and guarantees of the right to private property. Such an approach would be consistent with both constitutional principles and international human rights standards as articulated in the case law of the European Court of Human Rights. In a broader perspective, improving the mechanisms of compulsory expropriation and property compensation is of fundamental importance for the development of an effective model of transitional justice in Ukraine. It is precisely through fair, timely, and full compensation that the state can demonstrate its responsibility toward citizens, restore violated rights, and strengthen public trust. In the post-war period, this will constitute an important prerequisite not only for legal but also for socio-economic recovery and the long-term resilience of the Ukrainian state.

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