

## INTERNATIONAL COMPENSATION MODELS FOR COMPENSATION FOR DAMAGE CAUSED BY ARMED AGGRESSION AS TOOLS FOR THE PROTECTION OF HUMAN RIGHTS

### Anatoliy Shevchenko

Department of Theory and History of State and Law  
State Tax University  
08200, 31 Universytetska Str., 31, Irpin, Ukraine  
e-mail: [shevchenko2757@ukr.net](mailto:shevchenko2757@ukr.net)  
<https://orcid.org/0000-0003-2663-9892>

### Yurii Badakhov

Department of Public and Private Law  
National Academy of Management  
03153, 15 Ushynskogo St., Kyiv, Ukraine  
e-mail: [badakhov@gmail.com](mailto:badakhov@gmail.com)  
<https://orcid.org/0009-0003-5938-8716>

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### Abstract

The article provides a comprehensive analysis of international compensation models for compensation for damage caused by military actions, with a special emphasis on the activities of the International Criminal Court. The legal nature of reparations as a tool for restoring the violated rights of victims as a result of international crimes is investigated. The main types of reparations are disclosed, in particular, restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition, as well as the features of their application in international practice. The mechanisms for implementing reparations in the activities of the ICC are analyzed, including the role of the Trust Fund for Victims. Particular attention is paid to the analysis of the Court's modern practice, which demonstrates the gradual formation of a comprehensive approach to compensation for damage. International compensation mechanisms operating outside the ICC are investigated, in particular, the activities of the UN Compensation Commission and the creation of the Register of Damages for Ukraine as an element of the future compensation system. Their legal nature, functional features and significance for the formation of an effective compensation model are determined. Separately, the main problems of implementing international compensation mechanisms are analyzed, including limited financial resources, the complexity of implementing decisions, and institutional restrictions. It is established that existing mechanisms do not always provide full and timely compensation for victims. In this regard, the need to improve international compensation models through their institutional integration and expansion of funding sources is substantiated. Special emphasis is placed on the relevance of the researched issues for Ukraine in the context of armed aggression and the need to form an effective system of compensation for damage. As a result, a conclusion is formulated on the expediency of combining mechanisms of international criminal justice and specialized compensation instruments. It is substantiated that a comprehensive approach to compensation for damage is a key prerequisite for restoring the rights of victims and ensuring justice

**Keywords:** international criminal law, reparations, compensation for damage, International Criminal Court, armed conflict, military conflict, Ukraine.

## 1. Introduction

Modern military and armed conflicts are accompanied by large-scale violations of human rights and the norms of international humanitarian law, which creates an urgent need to form effective, fair and accessible mechanisms for compensating victims. The massiveness and systemic nature of such violations, their long-term consequences for individuals and communities, as well as the complexity of bringing perpetrators to justice, make the issue of not only punishment, but also the restoration of violated rights, compensation for material and non-material losses, and the rehabilitation of victims relevant. In this context, international compensation models acquire special importance as tools for restoring justice, aimed at ensuring a balance between the interests of victims, the state and the international community. They include various forms of reparations - from individual monetary compensation to collective recovery programs, symbolic measures of recognition and guarantees of non-repetition. The development of such models takes place within the framework of international criminal law, international humanitarian law and human rights law, which determines their complex and interdisciplinary nature (Kaniemberh-Sandul, 2022).

A special role in the formation of modern approaches to compensation for damage is played by international judicial institutions, which not only establish the fact of the commission of international crimes, but also form standards of reparations (Vazhna, 2016). In this context, the International Criminal Court plays a key role, the activities of which combine the functions of bringing to individual criminal responsibility and ensuring compensation for damage to victims. The introduction of reparations mechanisms in its practice has become an important step in the development of international justice focused on the victim. At the same time, the effectiveness of such mechanisms remains limited due to a number of objective and subjective factors, in particular the complexity of identifying victims, limited financial resources, problems with the implementation of court decisions, as well as dependence on the political will of states (Voitsikhovskiy et al., 2025). This necessitates the search for alternative and additional compensatory instruments, including those outside the framework of international criminal justice.

This issue is of particular relevance in the context of modern international conflicts, in particular in connection with the aggression against Ukraine, which caused significant human losses, destruction of infrastructure and large-scale economic losses. Under such circumstances, the issue of forming an effective international compensation model capable of ensuring real compensation for damage goes beyond the limits of a purely theoretical discourse and acquires practical significance.

Thus, the study of international compensation models for compensation for damage caused by military actions, taking into account the practice of the International Criminal Court and other international mechanisms, is an important direction of modern legal science, aimed at increasing the effectiveness of the protection of the rights of victims and the development of international justice.

Despite the development of international criminal justice, the problem of effective compensation for damage caused by military actions remains one of the most complex and controversial in modern legal science and practice. The scale of violations accompanying armed aggression, as well as their complex nature (combination of material, moral and environmental damage) significantly complicate the formation of universal and effective compensation mechanisms.

Existing international instruments for compensation for damage are characterized by fragmentation, limited financial resources, complexity of access procedures for

victims and difficulties in implementing decisions. A significant part of compensation mechanisms is ad hoc in nature and is created to resolve specific situations, which makes it impossible to form a stable and predictable system for restoring the rights of victims.

An additional problem is the gap between the establishment of international criminal responsibility and the actual receipt of compensation by victims. Even in cases of decisions issued by international judicial institutions, their implementation often depends on the cooperation of states, the availability of assets of convicted persons or the political will of the international community. As a result, victims are often left without effective compensation, which undermines trust in international justice.

This problem becomes particularly acute in the context of modern armed conflicts, primarily in Ukraine, where the amount of damage caused is unprecedented. This highlights the need to find new approaches to the formation of compensation models that would combine the capabilities of international criminal justice, interstate mechanisms and national legal instruments.

Thus, there is an objective need for a comprehensive scientific study of international compensation models aimed at identifying their shortcomings, identifying areas for improvement and forming an effective system of compensation for damage caused by military actions.

The purpose of the article is a comprehensive study of international compensation models for compensation for damage caused by military actions, taking into account modern trends in the development of international law. Special attention is paid to determining the role of the International Criminal Court in the formation and implementation of effective reparations mechanisms for victims of international crimes. The study is intended to analyze the legal nature, types and features of the application of compensation instruments in international practice. A separate task is to identify problems in the functioning of existing compensation mechanisms and assess their effectiveness. The study is also aimed at determining the prospects for the development of international compensation models, in particular in the context of modern armed conflicts. Special emphasis is placed on the possibilities of implementing relevant mechanisms in the legal system of Ukraine. As a result, it is intended to form scientifically based proposals for improving the system of compensation for victims.

The scientific novelty lies in the comprehensive approach to the analysis of international compensation models, which combines institutional and functional approaches. The paper argues that the effectiveness of compensation mechanisms depends on their integration into the broader system of international justice, and also proposes the author's vision of the role of the ICC as an element of the global system of compensation for damage.

## **2. Literature Review**

The issue of compensation for victims of international crimes and armed aggression is at the intersection of several branches of international law international criminal law, international humanitarian law and human rights law, which determines the interdisciplinary nature of scientific research in this area. Despite a significant array of scientific publications, a comprehensive comparative analysis of international compensation models in the context of the activities of the International Criminal Court and their applicability to the situation in Ukraine remains insufficiently developed in domestic legal science. The fundamental principles of international legal responsibility of states and mechanisms for compensation for damage have been studied mainly in foreign doctrine (Vazhna, 2016). The adoption by the UN International Law Commission of the Articles on the Responsibility of States for Internationally Wrongful Acts in 2001, which codified the principle of full compensation for damage as a universally binding consequence of a wrongful act, was decisive for the development of this area. This document and the practice of its application in the decisions of the International Court

of Justice of the United Nations in particular in the cases of Nicaragua v. USA, Hungary v. Slovakia, Democratic Republic of the Congo v. Uganda and Costa Rica v. Nicaragua have formed the normative and doctrinal basis on which modern researchers rely when analyzing the compensatory obligations of states. Among domestic scholars who have made a significant contribution to the study of the legal nature of international responsibility and reparations, Voitsikhovsky, Kolomiets and Vatamanyuk should be highlighted first of all. In their joint work, dedicated to compensation for damage as a form of international legal responsibility of Russia for armed aggression against Ukraine, a comprehensive analysis of the compensatory mechanism was carried out in the context of the experience of the UN Compensation Commission and the possibilities of its adaptation for Ukraine were substantiated. The authors convincingly prove that the UNCC model, which provided payment of over 52.5 billion US dollars for over 2.7 million claims of victims of Iraqi aggression, can serve as a guideline for the formation of a similar mechanism for damages caused by the Russian Federation.

A separate area of scientific research is the analysis of the activities of the International Criminal Court as an institution that combines the functions of criminal prosecution and provision of reparations. A significant contribution to the development of this issue was made by Vyhna, who studied the issue of defining the concept of the international crime of aggression and the effectiveness of the ICC mechanisms in protecting human rights. The author argues that the adoption of a unified definition of aggression at the universal convention level is a necessary prerequisite for increasing the effectiveness of the fight against this crime, in particular in terms of bringing to justice and compensating victims. Kanyenberg-Sandul in her research analyzes the evolution of the international justice system and determines their role in shaping standards of responsibility for international crimes.

The legal nature of restitutionary and compensatory measures as instruments for restoring violated rights was studied by Kozachenko and Musychenko. In their joint work, it is substantiated that restitution and compensation are independent types of criminal law measures that have deep historical roots in Ukrainian law, but remain insufficiently developed in current legislation. These conclusions are of direct importance for understanding the mechanisms of compensation for damage in the context of international criminal justice.

The issue of forming an effective system of international legal protection of Ukraine in conditions of armed aggression is the focus of attention of a number of domestic specialists in public international law - in particular Chentsov, Vysotsky, Tsirot and other researchers who analyze the legal instruments for holding the aggressor state accountable at various international platforms. Their works form an important theoretical context for understanding the place of Ukraine in the system of international compensation mechanisms. At the same time, an analysis of the scientific literature indicates the presence of significant gaps in the study of the issue under study. First, most of the existing works focus either on general issues of international responsibility of states, or on the analysis of individual mechanisms - the ICC, the ECHR, the UNCC - outside their systemic relationship. Second, a comparative analysis of various compensation models from the standpoint of their institutional effectiveness and practical accessibility for victims remains practically absent in domestic doctrine. Thirdly, the issues of integrating international compensation mechanisms with national legal instruments of Ukraine require a separate scientific study taking into account current regulatory changes - in particular, the ratification of the Rome Statute and the creation of a Register of Damages for Ukraine.

Thus, despite the existence of separate thorough studies on related issues, a comprehensive analysis of international compensation models for damages from armed aggression, which would combine institutional, functional, and comparative approaches with a focus on the needs of Ukraine, remains a relevant scientific task, to

which the proposed study is devoted.

## 2. Materials and Methods

The source base of the study is a complex of international legal acts, judicial practice and doctrinal sources, which together provide the necessary normative and empirical basis for the analysis of international compensation models.

The basis of the normative base is universal international legal acts that define the principles of state responsibility and mechanisms for reparation for victims of armed aggression. First of all, these are the Articles on the Responsibility of States for Internationally Wrongful Acts, adopted by the UN International Law Commission in 2001, which codify the general principle of full reparation for damage as a mandatory consequence of a violation of international law. An equally important source is the Rome Statute of the International Criminal Court of 1998 - the main normative act that regulates both criminal prosecution for international crimes and reparations mechanisms for victims, including the activities of the Trust Fund for Victims. The Geneva Conventions of 1949 and their Additional Protocols are used as a fundamental source of international humanitarian law, which enshrines the obligations of the parties to the conflict to protect the civilian population and compensate for the damage caused. The UN Charter and Security Council resolutions, on the basis of which the UN Compensation Commission (UNCC) was established, constitute the normative basis for the analysis of out-of-court compensation mechanisms.

A separate group of sources consists of international agreements and institutional documents that directly relate to the compensation mechanism for Ukraine, in particular the founding documents of the Register of Damages for Ukraine (RD4U), established in 2023 under the auspices of the Council of Europe, as well as treaty articles 1654 and relevant resolutions of the UN General Assembly on the consequences of the aggression of the Russian Federation against Ukraine.

The empirical basis of the study is the practice of international judicial institutions. The key decisions of the International Court of Justice of the United Nations are analyzed, in particular in the cases of "Nicaragua v. USA", "Hungary v. Slovakia", "Democratic Republic of the Congo v. Uganda" and "Costa Rica v. Nicaragua", which have formed doctrinal standards of compensation for damage in international law. The practice of the ICC in terms of the award of reparations and the activities of the Trust Fund for Victims is studied. The UNCC statistical data on the results of its activities after the aggression of Iraq against Kuwait - in particular, on the volumes of payments made and the number of applications considered - which serve as a comparative reference point for assessing the effectiveness of compensation mechanisms are also used. The doctrinal basis is the works of domestic and foreign specialists in the field of international criminal law, human rights law and international humanitarian law.

The methodological basis of the study is a complex of interrelated general scientific and special legal methods, the application of which in combination ensured the comprehensiveness and scientific reliability of the results obtained.

The dialectical method was applied as a general philosophical approach, which allowed us to consider international compensation mechanisms not as static legal constructs, but as institutions that are in constant development under the influence of changes in the international legal order, the transformation of armed conflicts and the evolution of law enforcement practice. It is through this lens that we can trace how the system of international compensation for damage gradually became more complicated and institutionally enriched from the 1949 Geneva Conventions to the establishment of the ICC in 1998 and the creation of RD4U in 2023.

The system-structural method was used to analyze international compensation models as elements of a single multi-level system of international justice. Thanks to this method, the functional relationships between the individual institutional components

of this system were established, and the place of each of the mechanisms in the general architecture of compensation for damage to victims of armed aggression was also determined.

The formal-legal method was used to analyze the normative content of international legal acts primarily the Rome Statute, the Articles of the UN Charter on State Responsibility, the Geneva Conventions, and the founding documents of compensation bodies. This method made it possible to accurately establish the content of legal norms that determine the grounds, procedure, and limits of compensation for damage to victims, as well as to identify conflicts and gaps in the current regulatory framework.

The comparative-legal method was used to compare various international compensation mechanisms with each other according to the criteria of legal nature, institutional structure, accessibility for victims, and practical effectiveness. A comparative analysis of the UNCC experience in compensating for damage from Iraqi aggression and the mechanism being formed for Ukraine made it possible to identify both common features and fundamental differences that are of practical importance for developing an optimal compensation model.

The hermeneutic method was used to interpret the practice of the ICC in terms of awarding reparations, as well as to interpret the decisions of the International Court of Justice, which formulated key doctrinal standards of compensation for damage. This method proved to be particularly productive in the analysis of the decision in the Chorzów Factory case, where the Permanent Chamber of International Justice formulated the principle according to which compensation is an inherent consequence of the breach of an international obligation. The methods of analysis and synthesis provided the systematization of scientific approaches to understanding the nature of international compensation mechanisms, the generalization of the results of the study of individual institutions and the formulation of conclusions on ways to improve the system of compensation for damage, taking into account the needs of Ukraine. The comprehensive application of the above methods ensured the internal consistency of the study, the objectivity of its results and the validity of the formulated conclusions and proposals.

### **3. Results and Discussion**

International compensation models represent a multi-level system of legal mechanisms aimed at compensating for material and non-material damage caused as a result of international crimes and armed aggression. Such models are formed at the intersection of international criminal law, international humanitarian law and human rights law, which determines their complex and interdisciplinary nature. They can be implemented both at the individual and collective levels, and their main goal is not only to compensate for the damage caused, but also to restore violated rights, rehabilitate victims and ensure justice. The normative basis of the modern system of international compensation for damage is the Articles on the Responsibility of States for Internationally Wrongful Acts, adopted by the UN International Law Commission at its fifty-third session in 2001 and submitted to the General Assembly as part of the Commission's report (A/56/10). Article 31 of this document establishes the general principle that the responsible State is obliged to make full reparation for the damage caused by the internationally wrongful act, including any material or moral loss [3]. The obligation to make full reparation is the second general obligation of the responsible State arising from the commission of an internationally wrongful act. The doctrinal basis for this principle was laid down by the Permanent Court of International Justice in the Chorzów Factory case, where the court formulated the fundamental principle that a breach of an obligation entails an obligation to make reparation in due form, and that reparation is an integral part of the failure to apply the Convention [3]. The further

development of this principle is reflected in the practice of the International Court of Justice — in particular in the cases of *Nicaragua v. USA* [8], *Slovakia v. Hungary* [9], *Democratic Republic of the Congo v. Uganda* [10] and *Costa Rica v. Nicaragua* [11] — which confirm that reparation is a universal obligation of a state that has violated international law, regardless of its consent to recognize such a violation. In accordance with the *erga omnes* principle, a violation of a peremptory norm of international law poses a threat not only to an individual state, but also to the entire system of international legal order [12, p. 10]. An important stage in the formation of the normative framework for international reparation was the adoption of the Geneva Conventions on August 12, 1949 in Geneva at a Diplomatic Conference with the participation of representatives of more than 60 states of the world. Today, the Geneva Conventions and their Additional Protocols are the foundation of international humanitarian law and unite all states in the world [1]. It is these documents that laid the principle of responsibility for harm caused to the civilian population during armed conflicts, and thereby prepared the ground for the further development of international compensation mechanisms. International mechanisms for the protection of human rights provide for various forms of reparations, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. Each of these forms has its own legal nature and specific application depending on the nature of the harm caused. Restitution is aimed at restoring the previous state that existed before the commission of the wrongful act; compensation covers material and moral damages that cannot be compensated through restitution; rehabilitation involves the provision of medical, psychological and social assistance to victims; satisfaction provides a symbolic recognition of responsibility; guarantees of non-repetition are preventive in nature and are aimed at preventing future violations.

To implement international compensation mechanisms, it is fundamentally important to establish a causal link between the unlawful act and the damage caused, as well as to determine the circle of persons entitled to compensation. As noted by O. V. Kozachenko and O. M. Musychenko, restitution and compensation are a new type of criminal law measures for modern national criminal legislation, although the historical development of the legislation that operated on Ukrainian lands indicates the existence of similar measures in previous historical eras [2, p. 463]. This conclusion emphasizes that compensation mechanisms have deeper roots than is commonly believed and are not a purely new creation of international law. The central place in the modern system of international compensation is occupied by judicial institutions, primarily the International Criminal Court. Its activities began on the basis of the Rome Statute, adopted on July 17, 1998 in Rome by 120 states [4; 5]. For the first time in history, states have recognized the jurisdiction of the permanent international criminal court as an independent body to prosecute persons who have committed the most serious crimes. The Rome Statute entered into force on July 1, 2002; Ukraine ratified it on August 21, 2024, and for it it entered into force on January 1, 2025. The fundamental feature of the ICC is that it combines the functions of criminal prosecution and providing reparations to victims through the mechanism of the Trust Fund for Victims. As K. A. Vyhna notes, the ICC is one of the most significant institutions of international criminal law, which is constantly developing and influences the mechanisms for investigating international crimes and protecting human rights. The author also points to the urgent problem of the lack of a unified definition of aggression at the universal convention level, which reduces the effectiveness of the fight against this crime [6, p. 33]. Along with the ICC, the International Court of Justice, the principal judicial organ of the United Nations, plays an important role in the system of international justice, in accordance with Article 92 of the UN Charter [7]. O. K. Kanenberg-Sandul characterizes the modern system of international justice as one that is implemented through the International Court of Justice, the European Court of Human Rights, and the International Criminal Court, each of which performs specific functions in the general architecture of human rights protection and accountability [13,

p. 319]. The common denominator for all these institutions is the principle confirmed in numerous decisions: reparation is a universal and unconditional obligation of the offending state, the implementation of which does not depend on its good will. Along with judicial institutions, specialized extrajudicial mechanisms play an important role in the system of international reparation. The most striking example of their effectiveness is the United Nations Compensation Commission (UNCC), established after Iraq's armed aggression against Kuwait in 1991. The Commission, operating under the mandate of the UN Security Council, considered over 2.7 million applications and made payments totaling over 52.5 billion US dollars. Financing was provided by deductions from Iraqi oil exports, which guaranteed the stability and predictability of payments. As A. V. Voytsikhovsky, Y. M. Kolomiyets and R. V. Vatamanyuk note, this experience has proven the effectiveness of a compensation mechanism based on the principles of international law, a specialized institutional structure and the availability of a guaranteed source of funding [12, p. 14]. It was the UNCC model that largely determined the approach to the creation in May 2023 in The Hague of the Register of Damage for Ukraine (RD4U) - an international mechanism under the auspices of the Council of Europe, designed to document claims for compensation for damage caused by the aggression of the Russian Federation [14]. The register accepts applications from state bodies, legal entities and individuals, stores data in a secure database and ensures their further use in a future compensation fund or legal proceedings. Applications are submitted through a digital platform developed jointly with the Ukrainian authorities. RD4U is the first international mechanism of its kind, purposefully focused on compensation for damage caused by the aggression of a specific state, and constitutes the legal basis for future compensation payments, and also records the scale of destruction for the purposes of legal liability and historical memory. Despite the development of the institutional framework, the implementation of international compensation mechanisms faces a set of systemic problems. Firstly, limited financial resources and the absence of guaranteed sources of their formation make it impossible to provide full and timely compensation in cases of large-scale armed conflicts. Secondly, the complexity of identifying and verifying the circle of victims makes it difficult for real victims to access compensation procedures. Thirdly, the implementation of decisions of international judicial institutions depends on the cooperation of states and the availability of assets of convicted persons, which in practice often makes their implementation impossible. Fourth, political factors can block or significantly slow down the functioning of even technically advanced compensation mechanisms. Taken together, these problems demonstrate that the modern international compensation system does not yet provide full and effective compensation in the context of large-scale armed aggression. This necessitates the further improvement of existing mechanisms, the expansion of their financial base and institutional integration — primarily in the context of the formation of a full-fledged compensation system for Ukraine.

#### **4. Conclusions**

The conducted study of international compensation models for compensation for damage caused by armed aggression allows us to formulate the following scientifically substantiated conclusions.

Firstly, it was established that the legal basis of the modern system of international compensation for damage is the principle of full reparation, codified in the Articles of the UN Charter on the Responsibility of States for Internationally Wrongful Acts of 2001 and confirmed by the long-standing practice of international judicial institutions - from the Chorzów Factory case to the decisions of the International Court of Justice in the cases of "Nicaragua v. USA", "Democratic Republic of the Congo v. Uganda" and others. In accordance with the *erga omnes* principle, a violation of peremptory norms of international law is a threat to the entire international legal order, and not only to a

separate affected state, which imposes a collective duty of response on the international community. This principle serves as the foundation on which all specific compensation mechanisms are built.

Secondly, the analysis of the forms of reparations showed that restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition form a complementary system, the effectiveness of which is ensured only if they are applied comprehensively. None of these forms separately is able to fully restore the violated rights of victims: restitution is not always physically possible, monetary compensation does not eliminate moral damage, and guarantees of non-repetition lose their meaning without real punishment of the guilty. That is why the modern doctrine and practice of the ICC are moving in the direction of comprehensive reparation programs that combine material and non-material elements.

Thirdly, the role of the International Criminal Court as an institution that, for the first time in the history of international law, combined the functions of criminal prosecution and reparations within a single mechanism was examined. The Trust Fund for Victims has become an important tool that allows for compensation even in the event of the insolvency of the convicted person. At the same time, the practice of the ICC has revealed significant institutional limitations: the length of proceedings, the narrowness of personal jurisdiction and the dependence on the cooperation of states significantly narrow the practical accessibility of this mechanism for victims. The ratification of the Rome Statute by Ukraine in 2024 and its entry into force on January 1, 2025 open up new legal opportunities, but their implementation requires systematic and consistent work at the national level.

Fourth, a comparative analysis of non-judicial compensation mechanisms — primarily the UN Compensation Commission and the Register of Damages for Ukraine — has shown that specialized bodies with a clear mandate, guaranteed funding and simplified access procedures are able to provide much more effective compensation than traditional judicial institutions. The experience of the UNCC, which has reviewed over 2.7 million applications and made payments worth over \$52.5 billion from deductions from Iraqi oil exports, is convincing evidence that large-scale compensation is practically feasible given the political will and institutional certainty. This experience should serve as a guide in the formation of a full-fledged compensation mechanism for Ukraine.

Fifth, a set of systemic problems has been identified that limit the effectiveness of existing international compensation mechanisms: the lack of stable sources of funding, the complexity of identifying victims, the difficulties of enforcing decisions, and the dependence on the political will of states. These problems are structural, not accidental, and cannot be eliminated within the framework of a separate mechanism without reforming the overall architecture of the international compensation system.

Summarizing the results of the study, it should be emphasized that an effective compensation system for Ukraine cannot be built on the basis of only one instrument. It requires a comprehensive approach that organically combines the capabilities of the ICC, the International Court of Justice, the ECHR, the Register of Damages, and the future specialized compensation fund, formed, among other things, from the frozen assets of the aggressor state. It is such an integrated model, based on proven international experience and taking into account the scale and specificity of the damage inflicted on Ukraine, that is the only realistic basis for ensuring fair and full compensation for millions of victims.

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