

Information Note - Shelter Assistance Partner engagement with people in light of The Ukraine Law on Compensation for Damaged and Destroyed Property

Background

The Ukraine Parliament passed the [Law on Compensation No. 2923-IX¹](#) (Law No. 2923-IX) in March 2023 and the President of Ukraine signed the law on 23 March 2023. Law No. 2923-IX sets forth a mechanism for compensation for property both damaged and destroyed after 24 February 2022 (the start of the full-scale war). Law No. 2923-IX discusses the types of property and provides general information on who and for what type of property is eligible for compensation.²

[Resolution No. 381³](#) was approved by the Ministry of Cabinet Affairs on 21 April 2023. Resolution 381 is a by-law for Law No. 2923-IX and contains information on the operational processes for applying for and receiving compensation (assistance) to repair damaged property only.⁴

Objective of Information Note

The availability and option for some people to receive compensation (assistance) through Law No. 2923-IX presents important questions about how humanitarian shelter assistance organizations should proceed with provision of shelter repairs and how organizations should communicate and engage with beneficiaries.

To address these questions, the Shelter NFI Cluster and Housing, Land and Property Technical Working Group under the Protection Cluster developed this Information Note for shelter partners.

In making this Information Note, we emphasize that the assistance from shelter partners and humanitarian organizations is to complement – and not compete with – the Government of Ukraine’s compensation mechanism set forth in Law No. 2923-IX. We provide this information to support our partners as they act in this complementary role and to support persons who may not be eligible to receive support under the Government of Ukraine’s compensation mechanism set out in Law No. 2923-IX.

The objectives of this Information Note are:

1. To provide shelter and protection partners with current (and as of this date) information about Law No. 2923-IX on compensation and the associated Resolution No. 381 (compensation procedure for damaged property only) so that they are better informed about who qualifies for compensation under the current legal framework.
2. To provide partners with guidance on what to communicate to people we work with and for about the Ukrainian law on compensation and the associated Resolution No. 381 so that the people can make an informed decision on the possible impact of accepting light, medium or major shelter repairs on their ability to apply for Government of Ukraine compensation.

¹ [Ukraine Law No. 2923-IX](#) on compensation for damage to and destruction of certain categories of real estate as a result of hostilities, terrorist acts, sabotage caused by the armed aggression of the Russian Federation against Ukraine and the State Register of Property Damaged and Destroyed as a Result of Hostilities, Terrorist Acts, Sabotage Caused by the Armed Aggression of the Russian Federation against Ukraine. (23 March 2023).

² Use of the word “compensation” in this Information Note shall be understood as “support to cover expenses related to repairs and restoration”, as stated in the Law No. 2923-IX itself.

³ [Ukraine Cabinet of Ministers Resolution No. 381](#): Procedure for providing compensation for the restoration of certain categories of real estate damaged as a result of hostilities, terrorist acts, sabotage caused by the armed aggression of the Russian Federation, using the electronic public service “eRestoration”. (21 April 2023)

⁴ Compensation for damaged property as set forth in Law No. 2923-IX and Resolution No. 381 is the first stage of the Government of Ukraine’s reconstruction plan: the eRecovery programme. This programme falls under project “Hope”, a joint project with The Ministry of Development of Communities, Territories and Infrastructure of Ukraine and the World Bank.

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Guiding Principles for Information Note

The guiding principles for this Information Note are the humanitarian imperative and the principle of “do no harm”. In addition, this Note is guided by the definition of Humanitarian Protection⁵; and the key elements of Protection Mainstreaming⁶.

What we know and do not know about the Ukraine Law on Compensation (Law No. 2923-IX) and by-law (Resolution No. 381) on compensation for damaged property

Compensation Law No. 2923-IX and Cabinet of Ministers Resolution No. 381, taken together, contain information on eligibility to apply for and receive compensation for damaged property only. Broadly, Resolution No. 381 sets forth information on i) categories of real estate that qualify, ii) definitions of ‘damaged objects’, iii) who can be a recipient and who is disqualified from compensation, iv) priority groups for compensation, and v) how compensation shall be used. Resolution No. 381 also sets forth the operational processes for applying for and receiving compensation for damaged property.

The contents of this Note focus primarily on the eligibility of persons to receive compensation through Law No. 2923-IX. In addition to eligibility requirements, there are processes or steps that persons need to take as they are filing their applications for compensation. These processes are outlined in the annexed flowchart. **Partners must make it a priority to read and understand the information about Law No. 2923-IX and Resolution No. 381.**

Key points:

- The compensation mechanism applies to damaged residential property but excludes apartments in a building with damage to the common area.
- The compensation mechanism is only for real estate damaged after 24 February 2022.
- The compensation mechanism is only for damage to real estate objects on the territory controlled by the Government of Ukraine and damaged as a result of hostilities, terrorist acts, and sabotage caused by the armed aggression of the Russian Federation.
- The compensation mechanism is not available for persons who have already made repairs to their damaged property. *(It may be possible to apply for and receive compensation if the person has made some repairs to their damaged property⁷, but there are additional repairs that can be identified by the inspection as qualifying repairs).*
- The compensation mechanism provides a maximum of 200,000 UAH. The decision on actual allocation shall be taken by respective commissions.
- The application must include information on ownership of the property and the ownership is verified by the Commission who decides on the compensation application.
- There are priority groups listed in para. 5, Resolution No. 381, described in the attached flowchart. This does not preclude a person who is not in a priority group from applying for compensation.

⁵ [IASC Policy on Protection in Humanitarian Action](#): “All activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law (i.e., International Human Rights Law, International Humanitarian Law, International Refugee law).

⁶ [Global Protection Cluster: Key Elements of Protection Mainstreaming](#): Prioritize safety and dignity, and avoid causing harm, Ensure meaningful access, Accountability, Participation and empowerment

⁷ See <https://erecovery.djia.gov.ua/#faq>, which states that if partial repairs are done, compensation is available to bring the object into habitable condition.

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Issues that Law No. 2923-IX and Resolution No. 381 raises for Shelter Partners

As noted above, the availability and option for some people to receive compensation through Law No. 2923-IX presents important questions about how shelter partners should proceed, communicate and engage with the people we work with and for to ensure that they receive information about the Government compensation mechanism and about shelter repairs offered by the partner.

The primary objective of humanitarian shelter actors is to ensure that people live in a property that is habitable and adequate for their shelter needs. All humanitarian actors should ensure that protection is a central component of interventions and the principle of “do no harm”. These are complementary objectives that can only be achieved by proactive actions to ensure that persons have the up-to-date information to make an informed decision about shelter repair options.

Recommendations and guidance for shelter partners working with people whose housing is damaged

- If your organization has legal assistance and counseling capacity, coordinate with the legal assistance teams when speaking with affected people about their options to apply for the government compensation mechanism vs. receiving assistance through an organization that provides shelter repair.
- Inform affected people of the Government compensation mechanism (Law No. 2923-IX and Resolution No. 381) that is available and existing criteria.
- Explain to affected people the Compensation Law, the eligibility requirements, the maximum amount available through the compensation mechanism, and the process for applying and receiving compensation (see flowchart).
- If the affected people qualify for Government compensation under Resolution No. 381, discuss with them i) the process for assessment and repairs provided by shelter actors, ii) how it is different from the Government compensation mechanism, and iii) the possible impact of resorting to humanitarian shelter repairs on eligibility for compensation under Resolution 381.
- If the affected people do not qualify for compensation, explain to them the process for assessment and repairs provided by shelter partner.
- Explain clearly to affected people that, at the present time, they may be disqualified from receiving compensation under Resolution 381 if the shelter organization makes repairs to their property (para. is up-to-date for the Resolution 381 as of 07.06.2023).
- Ask affected people if they clearly understand all available options for shelter repairs – the Government compensation mechanism and shelter partners assistance – to determine if they can make an informed decision on how to proceed.
- Document these discussions.
- If the affected person decides to proceed with a shelter repair intervention, consider requesting the person to sign a statement similar to this:

[Shelter organization] has informed me about the Government of Ukraine Law No. 2923-IX and Resolution 381 on compensation and my eligibility to apply for and receive compensation for my damaged property through this mechanism. [Shelter organization] has also informed me about the services that the organization will provide. Through this communication and dialogue with [Shelter organization] and through my own exploration, I am able to make an informed decision to accept the services of [Shelter organization]. I am aware that by accepting the services of

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[Shelter organization], I may not be eligible to apply for the compensation mechanism through the Government of Ukraine Law No. 2923-IX and Resolution 381.

FINAL IMPORTANT NOTES:

If a person applies for government compensation, receives it, and uses the compensation money to repair their residence, this does not disqualify the person from later seeking and receiving assistance from a shelter organization. Each humanitarian organization has its own criteria for interventions.

The information in this Note is up to date at the time of publication but may change. If the information does change due to amendments to Law No. 2923-IX or Resolution No. 381, the Note will be revised and re- published to reflect this.