Reparations for Conflict-Related Harms in Ukraine: The Crucial Role of Businesses

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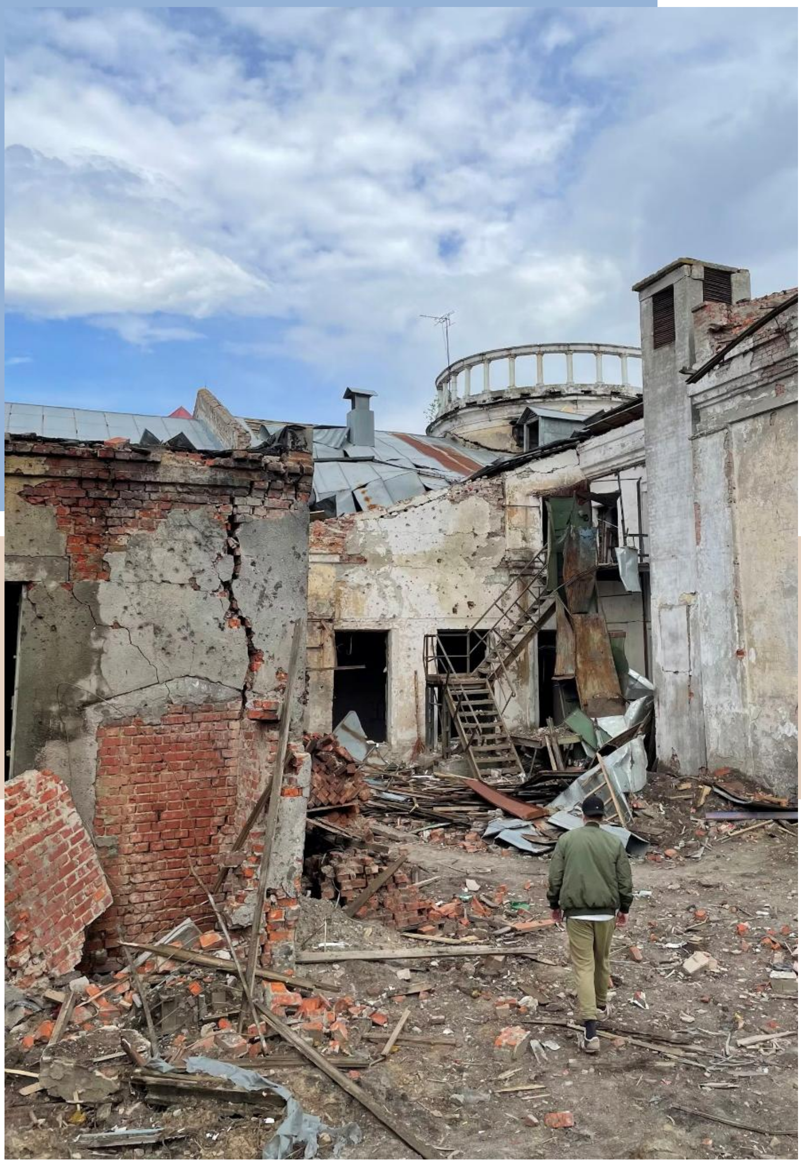

Engaging Businesses in Repairing War-Related Damages

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Policy Report

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Front Page Photo Credit: Anzhela Bets, Unsplash https://unsplash.com/photos/a-man-is-walking-through-a-destroyed-building-LJ3l4ij3q8M
The building of a cinema and youth center in Chernihiv, Ukraine that was destroyed by an aerial bomb in March 2022. Chernihiv, Chernihiv Oblast, Ukraine

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Executive summary

This policy report analyses potential pathways for involving businesses in reparations for conflict-related harms in Ukraine resulting from Russia's war of aggression. While principal responsibility for providing reparations for the international human rights and humanitarian law violations lies with Russia, businesses which have caused or contributed to harms in Ukraine may also owe reparations to victims. Businesses may have caused or contributed to gross human rights and humanitarian law violations, for example by supplying dual-use products to the aggressor's military or by enabling financial transactions crucial to the functioning of the Russian war economy. Ukraine has an opportunity to raise the bar in holding businesses accountable for war related harm and enhancing standards for positive business involvement in reparations efforts. With reconstruction and recovery costs assessed at almost $588 billion as of the end of 2025, and efforts to involve businesses in remediation so far limited, this policy report maps accountability-based and voluntary pathways and incentive models for securing reparations from businesses.

There are different types of business involvement in conflict-related harms and in their connection to such harms. Businesses may be liable to provide reparations if it is established that they have caused or contributed to gross human rights or international humanitarian law violations committed in Ukraine. What will constitute the most appropriate or promising pathways to reparation will depend on the form and degree of business involvement, among other factors. We identify three main accountability-based pathways for seeking reparations from businesses. First, in Ukraine, tort litigation can be a pathway to seek reparations from businesses that have caused, jointly caused or economically benefitted from the aggression. Despite the challenges in establishing causal links, Ukrainian tort law might offer sufficient flexibility for novel interpretation and evolution of secondary and joint liability in line with the expectations of the UN Guiding Principles on Business and Human Rights (UNGPs).

Second, options for home state accountability routes are outlined. A tort or civil liability claim could be brought in the home states of foreign businesses. In some European jurisdictions, such as France, human rights due diligence (HRDD) legislation might directly allow civil liability claims. HRDD legislation in other European jurisdictions, such as Norway, may indirectly enable remediation if the relevant regulator requires the business to provide reparations to remediate the harms caused in breach of the HRDD responsibilities.

Third, the OECD Responsible Business Conduct National Contact Points offer an accessible non-judicial grievance mechanism. The process may result in a mediated settlement leading to remedies for victims and may potentially reach businesses less closely linked to harms than only those ‘most responsible’.

In addition to accountability-linked pathways, we identify routes for businesses to contribute to reparations programmes as well as post-conflict reconstruction and development through voluntary contributions, or as part of incentive-based or taxation schemes initiated by the Ukrainian Government. There are a variety of reasons why international businesses may wish to support reparations schemes for conflict-related harms, including corporate social responsibility, strengthening reputation or goodwill, and, as appropriate, promoting legal certainty by extinguishing the possibility for later claims. Likewise, the Ukrainian Government may see value in introducing incentive-based schemes to encourage international businesses seeking to invest in Ukraine to support reparations efforts. Here, the options we explore in the report include: settlements relating to frozen corporate assets, where companies contribute a proportion of frozen assets to reparations in exchange for the return of the remainder; corporate tax incentives, extending Ukraine's existing wartime income tax and VAT exemptions for defence and humanitarian donations to cover contributions to reparations programmes; and a mandatory reparations levy on businesses of a certain size entering or operating in the Ukrainian market — an approach recommended but not implemented in other transitional justice contexts — designed carefully to avoid deterring investment.

The Report concludes by considering the modalities, legitimacy and efficiency principles that should guide and govern reparation funds. On where funds should be deposited, we highlight that decision-making should be guided by the principles of effectiveness and transparency. Institutional options include establishing a dedicated Ukrainian reparations fund; allowing bespoke, victim-centred and transparent governance; channelling funds into the Ukrainian state budget through existing mechanisms such as the asset-collection regime before the High Anti-Corruption Court; depositing assets with a future compensation fund associated with the Council of Europe's planned International Claims Commission; or using other existing international mechanisms such as the ICC Trust Fund for Victims.

To ensure legitimacy and efficiency, any reparations body requires a sound legal basis established by national legislation, political commitment and inter-agency coordination; meaningful stakeholder engagement — including victims, affected communities and businesses — in design, operations, monitoring and oversight; and effective outcomes that transparently match beneficiaries' immediate and longer-term needs, to available resources.

I. Introduction

On 24 February 2022, Russia launched a full-scale invasion of Ukraine in direct violation of the UN Charter, with forces crossing into the country from Belarus in the north, Russia in the east and Crimea in the south. This transformed and significantly exacerbated a prior conflict in eastern Ukraine following Russia's 2014 invasion and later "annexation" of Crimea and ongoing support to pro-Russian separatist forces in the Donetsk and Luhansk regions. More than four years after the 2022 full-scale invasion, the unlawful aggression continues, with widespread reports of Russian forces perpetrating violations of the laws of war and massive crimes against the civilian population, including widespread killings, arbitrary detention, torture, inhuman treatment and sexual violence, disappearances and forced deportations of children.[1] Unrelenting missile and drone strikes carried out by Russian forces have unlawfully targeted critical civilian infrastructure, including residential buildings, schools, hospitals, energy facilities and transport networks and continue to cause destruction across the country, environmental damage as well as significant economic losses. As of 31 December 2025, the total cost of reconstruction and recovery in Ukraine was assessed at almost $588 billion over the next decade.[2] These figures will only increase as the strikes continue.

Notwithstanding that the principal responsibility for the unlawful aggression and its consequences lies with Russia, there are other actors who may also bear responsibility for harms which derive from conduct attributable to them. Businesses are often not neutral bystanders during conflict, and this is no exception with respect to the Russian full-scale invasion of Ukraine. Some business activities might support civilians during an armed conflict, such as enabling access to essential services or infrastructure. However, other business activities might cause or contribute to gross human rights or humanitarian law violations, such as the sale of dual-use products to the military of an aggressor state which are then deployed in ways that cause widespread civilian harm. Some businesses will have supported the Russian war economy by maintaining their corporate operations in Russia. including by operating Russian subsidiaries, facilitating foreign currency transactions and/or failing to suspend their operations when doing so is the appropriate outcome of businesses' heightened (HRDD) responsibilities.[3]

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[1] See, e.g., UNGA, Support for lasting peace in Ukraine, UN Doc A/ES-11/L.17 (18 February 2026); UNGA, Report of the Independent International Commission of Inquiry on Ukraine, UN Doc A/HRC/52/62 (25 September 2023); *Ukraine and the Netherlands v. Russia [GC],* App Nos 43800/14, 8019/16, 28525/20 et al., 9 July 2025; OSCE/ODIHR, Eighth Interim Report on reported violations of international humanitarian law and international human rights law in Ukraine (16 December 2025) <https://odihr.osce.org/sites/default/files/documents/publications/2026/02/8th%20Interim%20Report_final_web.pdf>; ICC, Situation in Ukraine, ICC-01/22 <https://www.icc-cpi.int/situations/ukraine>.

[2] World Bank, Government of Ukraine, European Union, and the United Nations, *Ukraine: Fifth Rapid Damage and Needs Assessment*, RDNA5, Main Report February 2022 - December 2025 (February 2026) <https://documents1.worldbank.org/curated/en/099022026094036395/pdf/P514499-22f93f3a-4278-42bc-b907-db9553d12069.pdf>.

[3] See, e.g., Anton Moiseienko, Emily Bell, Matthew Neuhaus and Dmytro Koval, 'War Funders and Profiteers: Economic Complicity in International Crimes in Ukraine and Beyond', Australian National University Centre for International and Public Law (2025) <https://law.anu.edu.au/files/2025-01/War%20Funders%20and%20Profiteers_Web.pdf>; 'Stop Doing Business with Russia', <https://leave-russia.org/>; B4Ukraine, 'Corporate Complicity: How Global Firms Bankrolled Russia's War Chest in 2024' (August 2024) <https://b4ukraine.org/pdf/B4Ukraine_Report_2025.pdf>; International Partnership for Human Rights (IPHR), Independent Anti-Corruption Commission (NAKO), Truth Hounds, and Global Diligence, 'Terror in the Details: Western-made Components in

In the report: 'Which Businesses Owe Reparations for Staying in Russia? A Policy Report on Business and Human Rights Responsibilities to Ukraine,' it was argued that foreign businesses that failed to meet their heightened HRDD responsibilities and continued operations in, or supply chain connections to, the Russian economy, might owe reparations for human rights and humanitarian law violations they caused or contributed to.[4] However, to date, efforts to ensure that businesses meet these responsibilities to remediate and repair have been limited. This is due both to a porous legal framework that is challenging to enforce and to the lack of adequate and appropriate venues to pursue accountability.

In this Report, we analyse potential pathways for involving businesses in reparations for conflict-related harms in Ukraine resulting from the Russian war of aggression. These pathways reflect and also depend upon the different types and degrees of business involvement in and/or connection to conflict-related harms. We consider civil liability and other domestic law mechanisms to pursue claims against businesses before Ukrainian courts and before the courts of the home states of foreign businesses. We also consider the potential for extant or planned courts or administrative bodies mandated to assess conflict-related harms in Ukraine to issue reparations orders against businesses, and the modalities for them to do so.

Depending on the type and degree of businesses' involvement, different pathways to reparations will be more appropriate or promising. In addition to accountability-linked pathways, we also identify routes for businesses to contribute to reparations processes as well as post-conflict reconstruction and development through voluntary contributions, or as part of incentive-based or taxation schemes initiated by the Ukrainian Government. There are a variety of reasons why international businesses may wish to support reparations schemes for conflict-related harms, including corporate social responsibility, strengthening reputation or good-will, and, as appropriate, promoting legal certainty by extinguishing the possibility for later claims. Likewise, the Ukrainian Government may see value in introducing incentive-based schemes to encourage international businesses seeking to invest in Ukraine to support reparations efforts.

Ukraine has an opportunity to raise the bar in holding businesses accountable for war-related harms and enhancing standards for positive business involvement in reparations efforts. However, none of the options proposed in this report are fail-safe or simple to implement. Many will require resources, law reform or the revision of regulatory frameworks. Some of the options may require a careful balancing of the interests involved in making Ukraine as attractive as possible for foreign investment while simultaneously ensuring that entrants to the Ukrainian economy contribute to the reparative needs of a country still immersed in conflict.

Russia's Shahed-136 Attacks', <https://stories.iphronline.org/terror-in-the-details/index.html>; IPHR, NAKO and Hunterbrook Media, 'Parts of the Problem: Tracing Western Tech in Russia's Deadliest Jets' <https://iphronline.org/articles/parts-of-the-problem-tracing-western-tech-in-russias-jets/> (July 2025); IPHR and NAKO, 'Enabling War Crimes? Western-Made Components in Russia's War Against Ukraine' <https://www.iphronline.org/wp-content/uploads/2023/02/Enabling-War-Crimes-report-final.pdf> (2023).

[4] Tara Van Ho and Anil Yilmaz Vastardis, 'Which Businesses Owe Reparations for Staying in Russia? A Policy Report on Business and Human Rights Responsibilities to Ukraine', <https://repository.essex.ac.uk/41769/1/Which%20Businesses%20Owe%20Reparations%20for%20Staying%20in%20Russia%20%282%29.pdf> (September 2025).

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II. Reparations for Conflict-Related Harms: Law and Practice

It is a general principle of law that a wrongdoing state is required to make reparations for the harms which result from internationally wrongful acts.[5] This includes reparations for harms resulting from the unlawful use of force as part of the *jus ad bellum* (the laws regulating whether a state is justified in going to war)[6] as well as those harms which result from violations of the *jus in bello* (the law that governs the way in which warfare is conducted), including the commission of war crimes and crimes against humanity during armed conflicts, as well as serious violations of international human rights law.[7]

As a matter of principle, the wrongdoers are required to make "full" reparation for the damages caused by their wrongful acts, which relates both to the quantum and quality of reparations, which, in the context of gross violations of human rights and serious violations of international humanitarian law, have been recognised to include measures of restitution, compensation, rehabilitation, satisfaction and guarantees of non-recurrence.[8] This general principle of "full" reparations was articulated by the Permanent Court of International Justice in the *Factory at*

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[5] Art 31, ILC, Articles on the Responsibility of States for Internationally Wrongful Acts, 'Report of the International Law Commission on the work of its 53rd session' (23 April-1 June and 2 July-10 August 2001) UN Doc A/CN.4/SER.A/2001/Add.1 [ARS]; *Chorzów Factory (Germany v Poland)* (Merits) PCIJ Rep Series A No 17, 29.

[6] The UNGA has noted, in the case of the full-scale invasion of Ukraine, that state responsibility for the unlawful use of force involves the duty to make 'reparation for the injury, including any damage' caused. [UNGA Res A/ES-11/5, para 2 (15 November 2022)]. See also, *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. USA)* (Merits) [1986] ICJ Rep 14, (4) and (13) and *Armed Activities on the Territory of the Congo (Dem. Rep. Congo v. Uganda)*, Reparations Judgment, [2022] ICJ Rep 13, paras 145, 173, 214. See also, EECC, Final Award, Ethiopia's Damages Claims, Decision of 17 August 2009, RIAA, Vol. XXVI, p 731, para 322.

[7] Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, UNGA Res 60/147 (16 December 2005) [Basic Principles and Guidelines], part IX; ICRC, 'Customary International Law Database' (undated) Rule 150 <www.icrc.org/customary-ihl/eng/docs/home>. See also, *Armed Activities on the Territory of the Congo (Dem. Rep. Congo v. Uganda)*, Reparations Judgment, ibid, paras 52, 72, 405.

[8] Basic Principles and Guidelines, ibid.

Chorzów case: 'reparation must, as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed.'[9]

While wrongdoing states will bear the primary responsibility for repairing the harms caused and they may also be required to ensure access to effective remedies for victims whose rights have been infringed by other actors including businesses,[10] these other actors may also bear responsibility for any roles they played in the wrongdoing. This includes businesses whose presence, operations and commercial relationships impacted upon the applicable conflict or repression dynamics. Businesses may directly perpetrate, facilitate or benefit from gross human rights violations and serious violations of international humanitarian law.[11] Research consistently demonstrates that some of the most egregious business-related human rights harms occur precisely in situations of armed conflict and other widescale violence.[12]

While corporate involvement has usually not taken the form of direct physical perpetration,[13] it has nonetheless often constituted a critical enabling condition for the commission of violations.[14] Claims have been pursued both before the courts of transitioning states and—more frequently, in light of the institutional, political, and capacity constraints affecting many such jurisdictions—transnationally, typically before the courts of businesses' home states.

There are examples of courts holding businesses liable to pay reparations for the harms they caused or significantly contributed to in conflict or related contexts.[15] For example, in 2024, a

[9] *Chorzów Factory (Germany v Poland)* (Merits) PCIJ Rep Series A No 17, 29, 47.
[10] Committee on the Rights of the Child, General Comment No 16, State obligations regarding the impact of the business sector on children's rights, UN Doc CRC/C/GC/16 (2013), paras 4, 5(c). See also, Committee on Economic, Social and Cultural Rights, General comment No 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, UN Doc E/C.12/GC/24 (2017) paras 15, 40, 44.
[11] See, e.g., Andrew Clapham and Scott Jerbi, 'Categories of Corporate Complicity in Human Rights Abuses' (2001) 24 *Hastings Intl & Comp L Rev* 339; Anita Ramasastry, 'Corporate Complicity: From Nuremberg to Rangoon – An Examination of Forced Labour Cases and Their Impact on the Liability of Multinational Corporations' (2002) 20 *Berkeley J Intl Law* 91; See also, Leigh Payne, Gabriel Pereira and Laura Bernal-Bermúdez, 'The Business of Transitional Justice' in Jens Meierhenrich et al (eds), *Oxford Handbook of Transitional Justice* (OUP 2025) 684.
[12] See, e.g., UNGA, 'Report of the Special Representative of the Secretary General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, John Ruggie – Business and Human Rights in Conflict-Affected Regions: Challenges and Options Towards State Responses' (27 May 2011) UN Doc A/HRC/17/32, para 5; Human Rights Council, 'Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework' (21 March 2011) UN Doc A/HRC/17/31 (UNGPs) commentary to principle 7.
[13] See, e.g., Jennifer Zerk, 'Corporate Liability for Gross Human Rights Abuses: Towards a Fairer and More Effective System of Domestic Law Remedies – A Report Prepared for the Office of the UN High Commissioner for Human Rights' (2012) 24, <https://www.ohchr.org/sites/default/files/Documents/Issues/Business/DomesticLawRemedies/StudyDomesticLawRemedies.pdf>.
[14] See, e.g., Payne, Pereira and Bernal-Bermúdez (n 11), 684.
[15] Discussed in Eric Mongelard, 'Corporate civil liability for violations of international humanitarian law,' (2006) 88 (863) *Intl Rev Red Cross* 665. See also, the findings of the Corporate Accountability and Transitional Justice database, as incorporated into Payne, Pereira and Bernal-Bermúdez (n 11). See also, the Lafarge judgment, Paris Correctional Court, 13 April 2026 <https://www.justiceinfo.net/wp-content/uploads/Proces-Lafarge_fiche-de-delibere_13-04-2026_v2.pdf>; Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, ICJ Advisory Opinion, para 279 (19 July 2024). See also, the proceedings brought in

United States court ordered Chiquita to pay more than USD 38 million in compensatory damages to Colombian plaintiffs, finding the company liable for providing substantial assistance in the form of cash payments and other means of support to paramilitary groups responsible for extrajudicial killings, torture, enforced disappearances, and other crimes against humanity perpetrated against civilians in the Urabá region of Colombia.[16] More recently, a US court ordered BNP Paribas to pay USD 20.75 million in damages to Sudanese plaintiffs for harm suffered as a result of the bank's provision of critical financial infrastructure and banking services , between 1997 and 2007, that facilitated gross human rights violations committed by the former government of Omar al-Bashir in Darfur, Sudan.[17] There are also instances in which criminal proceedings brought against corporate actors have used adhesion procedures to connect compensation proceedings, thereby enabling victims to seek reparations for the harm suffered in connection with the offences for which accused persons are convicted.[18] Such proceedings may also result in the imposition of fines or asset forfeiture on convicted businesses or business persons.[19] However, the allocation of fines and asset forfeiture for the benefit of the victims of the crimes facilitated by corporate actors is contingent upon the applicable legal requirements in each domestic legal system.[20] In practice, the earmarking of such funds for reparative purposes has proven highly complex, often constrained by prosecutorial discretion and limited political will.

There are also settlement procedures, some stemming directly from civil claims processes and others negotiated independently, in which businesses have agreed to partake in reparations processes.[21] Furthermore, some settlements have been negotiated with

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Argentina against Siderca S.A. concerning the enforced disappearance of Oscar Orlando Bordisso, a company worker who was disappeared in 1977 after leaving the workplace. In 1995, his wife, Ana María Cebrymsky, successfully brought a civil claim against the company, which was ordered to pay compensation for the harm suffered.

[16] US District Court for the Southern District of Florida, *John Doe 1 et al. v. Chiquita Brands International, Inc.*, Case No 08-MD-01916 (10 June 2024). Note, at the time of writing this was under appeal.

[17] US District Court for the Southern District of New York, *Kashef, et al. v. BNP Paribas, et al.*, Case No 1:2016cv03228 (17 October 2025).

[18] Note however that these are not always easily accommodated within criminal law proceedings. See, e.g., the *Lundin* case, where the Stockholm District Court decided to separate damage claims from the main criminal trial given the perceived complexity of the civil claims. See, Fanny Holm, 'Reparations for Corporate Involvement in War Crimes: The Lundin Trial and Prospects for Victims' Justice' (2024) 9 *Business and Hum Rts J* 402.

[19] See, 'Lafarge Pleads Guilty to Conspiring to Provide Material Support to Foreign Terrorist Organizations' (US Attorney's Office, Eastern District of New York, 18 October 2022) <https://www.justice.gov/usao-edny/pr/lafarge-pleadsguilty-conspiring-provide-material-support-foreign-terrorist>.

[20] Typically, fines and forfeited assets are transferred to the state treasury to finance public expenditure, rather than to meet individualised reparation needs.

[21] See, e.g., *Wollheim v. I.G. Farben*, originally filed in the Frankfurt am Main Regional Court (LG, Landgericht) in November 1951 which ultimately resulted in a settlement [summarised at <http://www.wollheim-memorial.de/en/das_verfahren_wollheim_gegen_ig_farben>]. See also *In re Holocaust Victim Assets Litigation*, F.Supp.2d 139, 141-42 (E.D.N.Y. 2000) with the settling defendants listed as Credit Suisse and UBS AG, the largest Swiss banks, and each of their former and current corporate parents, subsidiaries, affiliates, and branches, and *In re Nazi Era Cases Against German Defendants Litigation*, 198 F.R.D. 429 (D.N.J.2000) as well as the list of 6,500 companies that ultimately contributed to the German Foundation Remembrance, Responsibility, Future (EVZ) at <https://www.stiftung-evz.de/en/who-we-are/history/donators/>. On Holocaust restitution and corporations see generally, Leora Bilsky, *The Holocaust, Corporations, and the Law: Unfinished Business* (University of Michigan Press, 2017). Many of the claims brought in US courts

prosecution services. An example is the negotiations with Volkswagen Brazil concerning the company's alleged involvement in the repression of workers during the 1964-1985 military dictatorship.[22] In September 2020, an agreement was reached under which the company agreed to pay R$36.3 million and to publish a public statement in widely circulated newspapers on the facts ascertained in the investigations and the subject matter of the agreement, in exchange for the formal closure of the civil claims.

Transitional justice processes have also sought to engage businesses. In Colombia, under Law 1448 of 2011 (the 'Victims and Land Restitution Law'), sums established in judicial decisions as a consequence of companies' illegal financing of organised armed groups may be channelled into the domestic reparations programme.[23] After finding that businesses and businesspeople had provided financial and military support to successive Liberian governments in return for illegal economic benefits, the Liberian Truth and Reconciliation Commission proposed that the envisaged Reparations Trust Fund be financed, *inter alia*, through judgments against 'economic criminals'. It identified three principal avenues: (i) the recovery of unpaid tax arrears from timber, mining, petroleum, and telecommunications companies that had evaded fiscal obligations under the Taylor regime; (ii) funds obtained from economic actors sentenced by Liberian courts to pay restitution or other financial penalties; and (iii) the use of criminal and civil confiscation mechanisms in foreign jurisdictions to repatriate misappropriated Liberian assets.[24] Recommendations for corporate engagement in transitional justice reparations processes have also been advanced in Timor-Leste,[25] Ghana,[26]

against multinational companies were resolved through settlements, for example the claims against Chiquita by US nationals alleging the company's complicity in the kidnapping and murder of missionaries by Colombian paramilitary groups; against General Motors by South Africans in connection with abuses committed under the apartheid regime; against ExxonMobil by Indonesian villagers alleging complicity in murder, torture, and rape committed by members of the Indonesian military hired to protect its operations in Aceh; and against Unocal by Burmese villagers alleging complicity in forced labour, forced displacement, and other abuses committed by the Myanmar military in connection with the Yadana gas pipeline project.

[22] See, e.g., 'Volkswagen in Brazil: Automobile Group Collaborated with Military Dictatorship,' ECCHR, <https://www.ecchr.eu/en/case/volkswagen-in-brazil-automobile-group-collaborated-with-military-dictatorship/>; Thierry Ogier, 'In Brazil, It's Reparation Time for Volkswagen' (JusticeInfo.Net, 6 October 2020) <https://www.justiceinfo.net/en/45592-brazil-reparation-time-volkswagen.html>.

[23] See, *Ley 1448 del 2011 por la cual se dictan medidas de atención, asistencia y reparación integral a las víctimas del conflicto armado interno y se dictan otras disposiciones* (adopted 10 June 2011, entered into force 10 June 2011) art 177.

[24] See, 'Truth and Reconciliation Commission of the Republic of Liberia, Volume Three' <https://www.trcofliberia.org/resources/reports/final/volume-three-3_layout-1.pdf>, 43-44. Note, however, that these recommendations were not implemented.

[25] See, 'Final Report of the Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR)' <https://chegareport.org/Chega%20All%20Volumes.pdf> 2620.

[26] See, 'National Reconciliation Commission of Ghana, National Reconciliation Commission, Final Report' <https://atjhub.csvr.org.za/wp-content/uploads/2021/08/2004-Final-Report.pdf>, 169. Ghana's Commission reported on, *inter alia*, alleged corporate involvement in torture and extrajudicial killings.

Rwanda,[27] and Sierra Leone.[28] However, the implementation of these recommendations concerning business contributions to reparations has encountered resistance from certain governments bolstered by the structural 'veto power' of business actors.

At present, these various examples are more the exception than the rule, though the practice continues to develop. This exceptional dynamic reveals a mismatch between the complex and interconnected realities of violence on the ground — within which economic actors may exercise considerable influence — and the comparatively narrow accountability horizons traditionally embraced by reparations processes.

II.1 Challenges to implement adequate and effective reparations in Ukraine

All conflict-related reparations programmes present implementation challenges. These typically stem from the large number of victims, some of whom will have minimal access or ability to participate in discussions about reparations and some who remain displaced or who may have different visions of what reparations they require. It also concerns the limited funds when compared to the damages incurred. Infrastructure and reconstruction needs may also compete with the psychosocial, rehabilitative, economic or justice-related needs of individual victims and communities in the conflict or post-conflict context.

In the case of Ukraine, there is the added complexity of an ongoing conflict with new instances of victimisation occurring at the same time as discussions about reparations advance, and without any agreement by Russia as the principal wrongdoer to engage in a reparations process. There remains debate about whether, and if so, with what restrictions if any, assets frozen pursuant to sanctions regimes may be confiscated. This debate concerns both the private assets of named Russian individuals and Russian Central Bank / state assets. Even if it would become possible to confiscate such assets, there is no clarity about the usages to which the assets should be put, and whether reparations to victims of the conflict feature high on the list of priorities.[29]

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[27] See, Law No. 2/1998 of 22 January 1998 Establishing a national Assistance Fund for Needy Victims of Genocide and Massacres Committed in Rwanda Between 1 October 1990 and 31 December 1994, art 12. Specifically, registered businessmen were required to contribute at least 10,000 RWF (retailers), 50,000 RWF (wholesalers), or 100,000 RWF (manufacturers, importers, and international transporters). Companies and public or commercial entities were also subject to mandatory contributions, set at a minimum of 20,000 RWF for limited companies and 100,000 RWF for public establishments, parastatals, and commercial companies other than limited companies. Discussed in Felix Mukwiza Ndahinda, 'Debating and Litigating Post-Genocide Reparations in the Rwandan Context' in Carla Ferstman and Mariana Goetz (eds), *Reparations for victims of genocide, war crimes and crimes against humanity: Systems in place and systems in the making*, (2nd edn, Brill Nijhoff 2020).

[28] See, 'Report of the Sierra Leone Truth & Reconciliation Commission, Volume 2' <https://rscsl.org/download/volume-2/> 269. The Commission's findings framed corporate complicity primarily in structural and systemic terms, concluding that the business elite, along with successive political elites, was involved in the plundering of national assets, notably mineral resources, thereby contributing to the dynamics of conflict and violations.

[29] For a summary of why the repurposing of frozen assets has effectively stalled, see Lyra Nightingale and Natalia Kubesch, 'Symposium on Advancing Effective and Comprehensive Reparation for Victims of the War in Ukraine: Asset Recovery for Ukraine – The Long Road', *Opinio Juris* (May 2026) <https://opiniojuris.org/2026/05/29/symposium-on-advancing-effective-and-comprehensive-reparation-for-victims-of-the-war-in-ukraine-asset-recovery-for-ukraine-the-long-road/>. See also, International Crisis Group, 'A Frozen Conflict: The Dilemmas of Seizing Russia's Money for Ukraine' (17 June

The Ukrainian claims landscape is already highly complex. Without a clear or transparent system to determine how and with what priorities any accessible assets should be allocated, those individual victims and victims' groups with the quietest voices risk being marginalised. There is also a risk that assets will be allocated to address short-term pressures without careful accounting of long-term reparative needs.

Cases which may result in reparations orders related to international human rights or humanitarian law breaches are already being adjudicated before regional and international courts (the European Court of Human Rights,[30] the International Court of Justice,[31] the International Criminal Court[32]) and are anticipated before the Special Tribunal for the Crime of Aggression should it become a reality.[33] Tort claims related to the full-scale invasion have been filed by individuals and local businesses in Ukrainian courts and have led to awards for damages against Russia (though these have yet to be implemented).[34] There are also investment and arbitral claims before specialist arbitral bodies.[35] This is further complicated by the Council of Europe Register of Damage for Ukraine, which is amassing data on potential claims in different categories, with these eventually to be assessed and determined by a claims commission (already contemplated but not yet in force).[36] The International Criminal Court may also issue reparations awards against any convicted perpetrators, with the Trust Fund for Victims supporting the implementation of those awards and providing complementary support for victims. Criminal and civil claims will also potentially be pursued before national courts outside of Ukraine based on universal jurisdiction.

II.2 Key challenges to engage corporations in reparations efforts in Ukraine

There are numerous challenges associated with engaging corporations in reparations efforts.[37] Here, we highlight some of the key challenges that arise in conflict settings. First, the framework for corporate responsibility is an area of rapid and ongoing development. While a growing body of international and domestic standards has significantly clarified corporate responsibilities with respect to preventing and redressing human rights harms, these standards — many of which are authoritative yet non-binding — remain fragmented and only

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2025) <https://www.crisisgroup.org/qna/europe-central-asia/caucasus/russia-internal-ukraine/frozen-conflict-dilemmas-seizing-russias-money-ukraine>.

[30] See e.g., *Ukraine and the Netherlands v. Russia* (Grand Chamber), App nos 8019/16, 43800/14, 28525/20 and 11055/22, 9 July 2025. Though Russia has stopped collaborating with the Court, it still has a legal obligation to pay damages if ordered by the Court as part of an award of "just satisfaction".

[31] See, e.g., the pending case of *Ukraine v. Russian Federation (Allegations of Genocide).*

[32] The ICC investigation opened on 2 March 2022 and at the time of writing, six warrants of arrest had been issued. See, <https://www.icc-cpi.int/situations/ukraine>.

[33] See <https://www.coe.int/en/web/special-tribunal-ukraine/frequently-asked-questions>.

[34] See, Bohdan Karnaukh, 'Working Paper 1: Overview of the Ukrainian Legal Framework,' EBHR and EHRC July 2026 (annexed to this Report).

[35] See e.g. *Rinat Akhmetov v. The Russian Federation (II)* (PCA Case No. 2025-02); *NPC Ukrenergo v. Russian Federation* (PCA Case No. 2020-17); *JSC DTEK Krymenergo v. the Russian Federation* (PCA Case No. 2018-41).

[36] See, <https://rd4u.coe.int/en/>.

[37] Human Rights Council, 'Report of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises – Implementing the Third Pillar: Lessons from Transitional Justice Guidance by the Working Group' (8 June 2022) UN Doc A/HRC/50/40/Add.4.

partially articulated when it comes to questions of corporate complicity and reparation duties, particularly in conflict, post-conflict and transitional justice contexts.

Second, and connected to the above, there are limited venues to bring a legal claim against a transnational corporation for impacts felt in Ukraine, coupled with limited enforcement power against defendants.[38] Most international jurisdictions that adjudicate reparations claims for human rights and humanitarian law violations are directed exclusively at state responsibility (the ICJ, regional human rights courts and UN treaty bodies), whereas international criminal jurisdictions are directed at individual criminal responsibility, with reparations judgments directed at the convicted perpetrators only. What remains is civil claims in Ukraine (where the injury was experienced) or the home states of the responsible foreign businesses, which will depend on the legal framework in the countries concerned.

The third challenge involves the power wielded by businesses, which may impede or weaken efforts to hold them accountable. This dynamic has been described as the 'veto power' of business settings.[39] This veto power can be intertwined with the political and economic calculations and agendas of governments, particularly the concerns that pursuing corporate accountability may jeopardise access to private-sector cooperation and investment deemed essential for post-conflict reconstruction and recovery.[40] These power dynamics have also impeded accountability in situations where businesses faced with the prospect of legal scrutiny have used intimidatory tactics against claimants and/or the organisations supporting claimants to deter lawsuits from being initiated or to force claimants to drop their suits prematurely. This can create a chilling effect for exposing wrongdoing and pursuing remedies.

Fourth and finally, even where a business is willing to cooperate in the remediation of harms they have contributed to, operationalising remediation in practice for one business actor may be complicated due to complex conflict factors and the widespread and serious nature of the harms.

III. Accountability-based Routes to Reparation

In this section, we consider the different civil liability, private law and non-judicial pathways to pursue claims for reparation against businesses for any role they may have played in fostering the Russian full-scale invasion and ensuing war. We consider pathways under Ukrainian domestic law and pathways that exist under the legal systems of the home states of foreign businesses and the non-judicial accountability mechanism established by the Organisation for Economic Co-operation and Development (OECD) National Contact Points.

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[38] See section III.1 below.
[39] See, Payne, Pereira and Bernal-Bermúdez (n 11). The authors argue that in transitional justice contexts, the strong veto power exercised by businesses, coupled with limited international pressure for corporate accountability, may nevertheless be counterbalanced through the mobilisation of victims and civil society actors, as well as through the innovative use of legal tools by institutional actors, including judges, prosecutors, and members of truth commissions. This bottom-up dynamic is conceptualised by the authors as an 'accountability from below' or 'justice from below' model.
[40] See, e.g., Joris van de Sandt and Marianne Moor, 'Peace, Everyone's Business! Corporate Accountability in Transitional Justice: Lessons for Colombia' (PAX 2017) <https://paxforpeace.nl/wp-content/uploads/sites/2/import/import/peace-everyone-s-business-pax.pdf> 16.

Civil liability frameworks, such as tort law or delict, have played a prominent role in seeking remedies for human rights harms linked to business activities. Despite the limited success to date, mainly due to procedural barriers and substantive challenges to establish liability,[41] civil claims remain an important pathway to secure remedies from businesses that are most closely linked to gross human rights violations in conflict settings. Similarly, the proliferation of HRDD legislation across Europe has created additional pathways to accountability and remedy. The following sections will analyse how these frameworks could support accountability and reparations.

III.1 Ukraine

Tort litigation in Ukraine is a possible pathway for securing reparations from businesses involved in gross human rights violations in the context of Russia's war of aggression. This is because the locus of the harms is in Ukraine.[42] Damages caused by the hostilities – death, injuries, displacement and other losses suffered by civilians, destruction of housing and other civilian infrastructure, loss of property, and other harms – will typically have materialised on Ukrainian territory. Consequently, Ukrainian courts will have jurisdiction over claims for compensation even where the defendant is a foreign corporation and the alleged wrongful conduct (for example, financing, logistical support, or corporate decision-making) took place entirely outside Ukraine. To date, higher Ukrainian courts have not had occasion to engage in a detailed and systematic analysis of this jurisdictional basis in the specific context of war-related tort claims against foreign corporate defendants, yet this may change.

A main challenge associated with reparations claims against businesses that are alleged to have caused or contributed to war-related damage is the attribution of liability. Like many other civil liability systems, to hold an actor liable for harm, Ukrainian tort law requires an assessment of the defendant's fault (or other legally relevant grounds of liability),[43] and the establishment of a causal nexus between the defendant's conduct and the harm suffered by the claimant.[44] A successful tort claim allows for the individualisation of responsibility and compensation: the defendant would be held liable specifically for the damage it caused or to which it materially contributed. From the perspective of reparations, this feature is particularly important, as it ensures that compensation corresponds to actual harm rather than merely taking the form of a general or symbolic contribution. However, it is also these same features that may limit the availability of civil liability as a means to seek reparations from businesses for their contribution to widespread and gross human rights violations. This is due to the widespread and diffuse nature of the harms and the difficulties to establish the necessary link of causation or contribution between the acts or omissions of the business and the specific harms suffered in Ukraine.

[41] See e.g. Anil Yilmaz Vastardis and Emma Baldi, 'Litigating Human Rights Harm in Global Value Chains: Evolving Pathways to Corporate Accountability' in Chambers et al (eds), *Cambridge Handbook on Business and Human Rights Litigation* (CUP 2026).
[42] Jurisdiction in civil cases involving a foreign element is governed by The Law of Ukraine "On Private International Law" No. 2709-IV, of 23 June 2005, which, in Article 76 confirms the jurisdiction of Ukrainian courts to hear claims for cases concerning compensation for harm caused in Ukraine.
[43] See, B. P. Karnaukh, *Fault as a precondition for civil-law liability,* Pravo, 2014. Available at <https://zenodo.org/records/15649241> (In Ukrainian).
[44] B. Karnaukh, *Causation in Tort Law*. Kharkiv: ECUS, 2025. Available here (In Ukrainian).

Tort litigation against businesses supporting the Russian aggression remains exceptionally rare in Ukrainian judicial practice. To date, there have only been a few reported cases in which war victims have sought to pursue civil claims against corporate actors for damage linked to the aggression. The overwhelming majority of tort claims filed since 2022 have been directed against the Russian Federation itself.[45] An apparent, though limited, exception to this general pattern can be observed in a small number of cases originating from a single locality – the city of Kryvyi Rih – where plaintiffs brought claims not only against the Russian Federation, but also against two Russian state-owned banks operating in Ukraine: Joint-Stock Company "International Reserve Bank" and Public Joint-Stock Company "Joint-Stock Commercial Industrial and Investment Bank."[46] In these cases, plaintiffs did not advance specific arguments demonstrating how the activities of the banks were causally connected to the concrete harm suffered. The sole basis for including the banks as defendants was their ownership by the Russian Federation and their prior operation within Ukraine. Ukrainian courts consistently rejected these claims insofar as they concerned the banks, while upholding them against the Russian Federation. This jurisprudence underscores the centrality of causation and fault in Ukrainian tort law and highlights the evidentiary challenges inherent in claims against corporate actors for indirect involvement in aggression.

Several factors may explain the limited use of tort law to date as a pathway for engaging businesses in repairing war-related damage. One factor is structural and relates to the litigation culture. Ukraine does not have a strong tradition of strategic tort litigation, particularly against large corporate actors. Civil litigation in Ukraine has historically been perceived primarily as a means of resolving private disputes rather than as an instrument for addressing large-scale societal harms or systemic wrongdoing.

Another factor is the lack of a developed and coherent doctrine of secondary liability under Ukrainian tort law.[47] This gap has important consequences for claims against businesses allegedly involved in the Russian aggression. Corporate actors are rarely direct perpetrators of gross human rights violations or war-related atrocities. Their involvement is typically indirect and may take the form of financial support, logistical assistance, supply of goods or services, payment of taxes to the aggressor state, or other forms of facilitation. Holding such actors liable requires legal concepts capable of capturing indirect participation in wrongdoing.

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[45] B. Karnaukh, 'Can Tort Law Handle War? Reflections on Private Litigation for War-Related Damages in Ukraine,' (2025) 8(4) *Access to Justice in Eastern Europe,* 476-93; B. Karnaukh, 'Exploring the Limits of Ukrainian Tort Law from Business and Human Rights Perspective,' (2024) 2(26) *Theory and Practice of Jurisprudence*, 6–25.

[46] Case no 213/4211/21, Judgment of Ingulets District Court of Kryvyi Rih, Dnipropetrovsk Region, 24 January 2023; Case no 213/1774/21, Judgment of Ingulets District Court of Kryvyi Rih, Dnipropetrovsk Region, 11 April 2023; Case no 213/1772/21, Judgment of Ingulets District Court of Kryvyi Rih, Dnipropetrovsk Region, 11 April 2023; Case no 213/2112/21, Judgment of Ingulets District Court of Kryvyi Rih, Dnipropetrovsk Region, 11 April 2023; Case no 214/6840/22, Judgment of Saksagansky District Court of Kryvyi Rih, Dnipropetrovsk Region, 14 April 2023; Case no 215/294/21, Judgment of Ternivskyi District Court of Kryvyi Rih, Dnipropetrovsk Region, 8 June 2022; Case no 212/4039/21, Judgment of Zhovtnevy District Court of Kryvyi Rih, Dnipropetrovsk Region, 21 June 2022.

[47] See, B. Karnaukh, 'Ukraine: the untapped potential of tort law.' in E. Aristova & U. Grusic (eds.), *Civil remedies and human rights in flux: Key legal developments in selected jurisdictions*. Oxford, London, New York: Hart Publishing, 2022, 331-49.

In comparative terms, this function is performed by doctrines such as aiding and abetting, complicity, accessory liability, vicarious liability, or other forms of secondary responsibility. In Ukrainian law, however, these concepts remain underdeveloped in the field of civil liability. While criminal law recognises various forms of complicity, tort law has not yet developed a systematic framework for attributing civil liability to actors who substantially contribute to harm caused by others.[48] Scholarly engagement with these issues has intensified only recently, largely as a response to the challenges posed by the war. As a result, courts currently lack a well-established doctrinal toolbox for addressing civil claims based on indirect involvement in war-related harm.

Article 1190 of the Civil Code of Ukraine (CC) provides:

> "Persons whose joint actions or omissions have caused damage are jointly and severally liable to the victim. At the request of the victim, the court may determine the liability of the persons who jointly caused damage, in proportion to the degree of their fault."

The pivotal issue, therefore, concerns the interpretation of the notion of **"joint infliction"** of damage.[49] In the context of war-related harm, this question may be reformulated as follows:

> ***Under what conditions can damage caused by the armed aggression of the Russian Federation be regarded as having been inflicted jointly by the Russian state and a business corporation that supported or facilitated that aggression?***

Article 1190 CC does not itself define what constitutes joint infliction of damage. Nor has Ukrainian jurisprudence developed a coherent and general theory clarifying this concept. Instead, judicial practice has evolved in a fragmented and context-dependent manner.

Two main categories of cases can be identified in which courts regularly apply Article 1190 CC. The first category concerns traffic accidents. In its interpretative guidance, the Plenary of the High Specialised Court of Ukraine explained that, where two vehicles collide, a distinction must be drawn between damage caused by the drivers to each other and damage caused to third parties, such as passengers or pedestrians. Damage suffered by the drivers themselves is compensated according to the degree of fault of each driver, pursuant to Article 1188 CC. In contrast, damage inflicted on third parties is compensated regardless of fault and is considered to have been jointly inflicted by the drivers within the meaning of Article 1190 CC.[50]

The second category of cases concerns compensation for damage resulting from a criminal offence committed by several accomplices.[51] In such situations, courts generally proceed from the premise that damage caused by a crime committed in complicity is jointly inflicted.

[48] B. Karnaukh, (2025). *Causation in Tort Law*. Kharkiv: ECUS, 2025, pp. 365 ff. Available here (In Ukrainian).
[49] B. Karnaukh, 'Exploring the Limits of Ukrainian Tort Law from Business and Human Rights Perspective,' (2024) 2(26) *Theory and Practice of Jurisprudence*, 6–25.
[50] Plenum of The High Specialized Court of Ukraine for the Consideration of Civil and Criminal Cases, Resolution of 1 March 2014 no. 4 "On certain issues of application of legislation by courts in resolving disputes over compensation for damage caused by a source of increased danger".
[51] Case no 0909/4190/12 (Judgment of the Civil Cassation Court, 26 September 2018); Case no 753/21343/14-ts (Judgment of the Civil Cassation Court, 04 June 2021); Case No 740/967/16-ts (Judgement of the Civil Cassation Court, 29 May 2019); Case no 6-168цс13 (Judgment of the Supreme Court of Ukraine, 12 February 2014).

The relationship between these two strands of jurisprudence is not entirely clear. It remains ambiguous whether joint infliction of damage in tort law necessarily presupposes the existence of criminal complicity, or whether it may arise independently of criminal liability. Where damage results from a criminal offence committed by several persons, courts tend to equate joint infliction in tort law with complicity in criminal law, thereby requiring intentional conduct on the part of all tortfeasors. In contrast, where damage results from conduct that does not amount to a criminal offence – such as harm caused to third parties by colliding vehicles – joint infliction is interpreted more broadly and does not require common intent. In such cases, one of the tortfeasors may have acted negligently, yet joint and several liability still applies.

This dual understanding leaves the precise meaning of joint infliction unclear in cases falling outside these established categories. The problem is particularly acute in the context of war-related damage, where corporate actors are unlikely to meet the stringent criteria of criminal complicity, yet may nonetheless have played a substantial role in facilitating the harm. Recognising a broader understanding of joint infliction under Article 1190 CC – one that encompasses substantial contribution to harm without requiring common criminal intent – would significantly enhance the capacity of Ukrainian tort law to address indirect corporate involvement in war-related damage. Such an interpretation would remain consistent with the text of the Civil Code and with the reparative logic of tort law, while avoiding the doctrinal constraints inherent in criminal-law concepts of complicity.

Against this background, the general impression is that the reparative potential of tort law remains underutilised. Existing judicial practice suggests that Ukrainian tort law is capable, in principle, of accommodating claims arising from armed aggression, but that its application has so far been largely confined to claims against the aggressor state itself.[52] This does not exhaust the potential of tort law as a mechanism for engaging businesses in repairing war-related damage. To the contrary, there remains significant untapped potential, particularly if doctrinal developments concerning secondary liability and jurisdictional issues are further advanced.

Integrating the Business Responsibility to Respect Human Rights into Ukrainian Tort Jurisprudence

One potential way to advance the reparative potential of Ukrainian tort law for business-related gross human rights violations is to draw on the UNGPs. Ukraine has committed to the implementation of the UNGPs[53] and has embedded in its National Strategy for Human Rights the objective of ensuring corporate responsibility to respect human rights.[54] This includes the goals of strengthening 'the capacity of public authorities and local governments to implement

[52] Bohdan Karnaukh, 'Working Paper 1: Overview of the Ukrainian Legal Framework,' EBHR and EHRC July 2026 (annexed to this Report).
[53] Olena Uvarova, The National Baseline Assessment on Business and Human Rights in Ukraine (Kharkiv &Kyiv: Yaroslav Mudryi National Law University, Danish Institute for Human Rights & Ministry of Justice of Ukraine, 2019); Ihor Konopka, 'Ukrainian Business and Human Rights Strategy: A Breakthrough Delayed,' (2024) 9 *Business & Hum Rts J* 169-175.
[54] Konopka, ibid, 170.

the [UNGPs]' and providing 'access to judicial and non-judicial remedies to protect human rights from violations related to business activities.'[55]

Implementing these commitments involves, *inter alia*, alignment of domestic law with Pillars II and III of the UNGPs, respectively focusing on the business responsibility to respect human rights and access to remedy. Pillar III's foundational principle, Principle 25, provides that 'States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy.' The UNGPs recognise that legal barriers to remedy might emanate from the rules on attribution of legal responsibility, which may facilitate avoidance of accountability.[56] In recognition of the attribution challenges emanating from complex business structures or the indirect role played by businesses in contributing to or enabling state-led violations, in Pillar II, the UNGPs structure business responsibility through the so-called "participation terms" to address these complexities.[57] Principle 13 provides that business responsibility to respect human rights requires businesses to avoid not only causing but also contributing to adverse human rights impacts through their activities. It further provides that businesses should 'seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships.' Business relationships are understood to include any entities within their value chain, including states.[58] Under the UNGPs, business responsibility to respect human rights captures impacts that the business has caused or contributed to, or those directly linked to its operations. For adverse impacts caused or contributed to, Principle 22 states that businesses 'should provide for or cooperate in their remediation through legitimate processes.' Where a business is directly linked to an adverse impact, the business is not required to remediate but might take a role in doing so.

Guidance from the Office of the High Commissioner for Human Rights (OHCHR) on improving access to remedy for business-related harms recommends that domestic private law regimes '(a) communicate clearly the different modes and degrees of contribution to the harms perpetrated by a third party that will give rise to secondary liability: and (b) are clear as to the extent to which the principles for assessing secondary liability are applicable to companies.'[59] The guidance further emphasises the need to separate causes of action based on secondary liability from the primary wrongdoer breaches and that secondary liability should not be contingent upon a judicial finding of liability on the part of the primary wrongdoer.[60]

In cases involving businesses that have contributed to gross human rights or international humanitarian law violations committed during Russia's war of aggression in Ukraine, Ukrainian courts have a unique opportunity to develop secondary liability principles and operationalise Ukraine's commitment to implementing the UNGPs in judicial practice. Even where secondary

[55] Decree of the President of Ukraine №119/2021 on the National Strategy for Human Rights.
[56] UNGP Principle 26 Commentary.
[57] Tara Van Ho and Anil Yilmaz Vastardis, 'Which Businesses Owe Reparations for Staying in Russia? A Policy Report on Business and Human Rights Responsibilities to Ukraine' (n 4) 10.
[58] UNGP Principle 13 Commentary.
[59] Report of the UN High Commissioner for Human Rights to the UN Human Rights Council 32nd session, 'Improving Accountability and Access to Remedy for Victims of Business-Related Human Rights Abuse' A/HRC/32/19, 10 May 2016, 18.
[60] Ibid.

liability principles are developed to address business complicity in harms, individual tort claims might not be suitable to comprehensively address widespread violations. However, they can play a reparative role in holding the most responsible businesses to account for serious harms. For instance, businesses that directly or indirectly supply the Russian military with equipment, technology and other dual-use goods, four years into the Russian war of aggression, can be deemed, under the UNGPs framework, to be knowingly contributing to the harm inflicted by the Russian army in Ukraine. Another caveat to bear in mind is that even a successful tort claim against a foreign business in Ukraine may provide only limited access to an effective remedy where the defendant lacks assets in Ukraine and the judgment must be enforced overseas. In such situations, pursuing a civil claim in the business' home state might offer better enforcement prospects, though this pathway presents its own challenges, discussed below. We now turn to accountability pathways that can be pursued in the home states of foreign businesses.

III.2 Home states of foreign businesses

Where a business that has caused or contributed to war-related human rights harms in Ukraine is a foreign corporation, it may be possible to seek remedies in the home state of that corporation. The home state in this context would be the state in which the foreign corporation is incorporated, domiciled, or headquartered. In the context of transnational or multinational enterprises (MNE), the home state will often correspond to the jurisdiction in which the parent company is headquartered or incorporated.

a. Civil liability

The prospects of obtaining a remedy in the state where the harms occurred may be slim.[61] In such cases, victims of business-related human rights harms have sought to rely on the civil liability systems of home states to seek remedies against MNEs. Litigation before home state courts can form part of a broader litigation strategy, pursued simultaneously or sequentially before host state or third-state courts, and/or regional human rights bodies. While it may be preferable for victims to access a remedy in Ukraine, home state litigation can play an important complementary role. Depending on the jurisdiction, it may be possible to pursue group claims to repair large-scale harms which is not possible under Ukrainian law. At present there is no class action mechanism under Ukrainian law. While multiple plaintiffs can join suit in a single case, there are no procedural advantages afforded to them, nor can the judgment be used by other injured persons who were not plaintiffs. Home state litigation may also be more advantageous for it may allow claims against a better-resourced entity in its home country where most of its assets are located, as opposed to a claim in Ukraine against a potentially defunct or under-resourced subsidiary.

While civil litigation before home state courts has encountered various legal and practical barriers, some progress has been made in several jurisdictions that has enhanced the prospects of access to remedy. A key legal barrier is the difficulty to establish the jurisdiction

[61] See, Emma Baldi, Working Paper 3: The Role of 'Home States' in Facilitating Access to Reparation for Victims of Gross Human Rights Violations in Ukraine,' EBHR and EHRC July 2026 (annexed to this Report).

of home state courts to adjudicate overseas harms,[62] possibly inflicted by a subsidiary of the MNE that may also be incorporated overseas. Substantively, the separate legal personalities of the parent and its subsidiary and the limited liability of the former may also make it challenging to hold a parent company liable for harms emanating from the subsidiary.[63] Also, practically, transnational litigation can be lengthy and costly, frequently placing it beyond the reach of overseas victims, who may also face language barriers. Relatively short statutes of limitation applicable to civil claims in many jurisdictions may also undermine accountability efforts.[64] These challenges are often compounded in conflict-related situations due to the difficulties to collect or preserve evidence during ongoing hostilities, restricted access to affected areas, the destruction of infrastructure and documentation, and the practical barriers facing victims to travel out of the conflict zone to initiate or participate effectively in litigation.[65]

Despite these obstacles, there is a growing reliance on civil litigation in the home states of MNEs to remediate business-related human rights harms.[66] Civil claims have relied on a variety of legal bases, including specialised statutes — such as the French Law on Duty of Vigilance,[67] and the Torture Victim Protection Act (TVPA)[68] and the Trafficking Victims Protection Reauthorization Act (TVPRA) in the United States[69] — as well as tort law, contract law, and/or other domestic causes of action.

Some cases have achieved meaningful outcomes, demonstrating that home state litigation can play an important role. Tort law, and particularly negligence, has been the most relied upon area of law used to seek remedies from MNEs for human rights harms in cases lodged in countries with a common law tradition. Claimants typically receive support from specialised NGOs and/or are represented by law firms experienced in business and human rights claims. In the UK, the US, and France, recent years have seen courts establishing important precedents that enhance the prospects of civil claims against parent companies or leading

[62] Michael Bader, Miriam Saage-Maaß and Carolijn Terwindt, 'Strategic Litigation against the Misconduct of Multinational Enterprises: An Anatomy of Jabir and Others v KiK' (2019) 52 *Verfassung in Recht Und Übersee* 156, 161.
[63] Anil Yilmaz Vastardis and Rachel Chambers, 'Overcoming the Corporate Veil Challenge: Could Investment Law Inspire the Proposed Business and Human Rights Treaty?' (2018) 67 *Intl & Comp L Q* 389–423, 389-90.
[64] Bader, Saage-Maaß and Terwindt (n 62).
[65] For a more detailed discussion of barriers to home state litigation, see Emma Baldi, Working Paper 3: The Role of 'Home States' in Facilitating Access to Reparation for Victims of Gross Human Rights Violations in Ukraine,' EBHR and EHRC July 2026 (annexed to this Report).
[66] Bader, Saage-Maaß and Terwindt (n 62) 156,157.
[67] LOI n° 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre.
[68] Torture Victim Protection Act of 1991, Pub. L. No. 102–256, § 2(a), 106 Stat. 73 (codified at 28 U.S. Code § 1350). In June 2026, the US Supreme Court closed the possibility to bring claims against those who aid and abet torture under the Act in its judgment on *Cisco Systems Inc et al v Doe* et al 609 U.S. (2026).
[69] Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457 (codified at 18 U.S. Code §§ 1581–1596).

brands.[70] Key examples include the *Vedanta*[71] *and Dyson*[72] cases in the UK, the *Chiquita*[73] and *BNP Paribas*[74] cases in the US and the *Yves Rocher*[75] case in France.

In *Vedanta,* a case filed by 1,826 Zambian citizens against Vedanta (as the English parent company) and its Zambian subsidiary Konkola Copper Mines plc, the plaintiffs argued that Vedanta and its Zambian subsidiary were liable under the common law of negligence and breach of statutory duty for the harms suffered due to water pollution caused by their operation of the Nchanga Copper Mine.[76] The UK Supreme Court was asked to determine whether English courts had jurisdiction to hear the claim. This required the Court to assess, *inter alia*, whether a parent company may owe a duty of care to third parties harmed by the operations of its overseas subsidiary. The Court held that if it can be shown that the parent has assumed responsibility in respect of its subsidiary's activities harming the plaintiffs, it might owe a duty of care to them. To assess whether the parent assumed responsibility in this way, the Court would look at 'the extent to which, and the way in which, the parent availed itself of the opportunity to take over, intervene in, control, supervise or advise the management of the relevant operations … of the subsidiary.'[77] Statements made in corporate sustainability reports published by the parent company and the parent's conduct in providing guidance, monitoring, and training to the subsidiary may indicate the level of involvement by the parent in the subsidiary's policies and procedures on sustainability, health and safety, and human rights matters.[78] In a later case, *Okpabi v Shell*,[79] the Court reiterated and expanded this jurisprudence.

Most recently, this case law was further expanded in *Limbu v Dyson*, where the Court of Appeal, following *Vedanta* decided that a tort claim related to forced labour allegations in a Malaysian supplier of Dyson could be heard in England, showing that a brand may owe a duty to the workers in its supplier's factory, when the former is responsible for the promulgation and oversight of the standards and policies applicable in its supply chain.[80] Both the *Vedanta* and *Dyson* decisions focused on the preliminary matter of whether the cases could be heard in England rather than assessing the defendants' liability. However, these cases did set a precedent on when liability might arise in the context of MNE operations, including along their global value chains. The positive findings on jurisdiction led to the defendant companies offering to settle the cases. While these settlements remain confidential and prevented a ruling on the substance, they arguably allowed plaintiffs to access remedies sooner than would have been otherwise.

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[70] For a detailed mapping of cases, see Business and Human Rights Centre, Lawsuit Profiles Database: <https://www.business-humanrights.org/en/from-us/lawsuits-database/>.
[71] *Vedanta Resources PLC and another (Appellants) v Lungowe and others (Respondents)* [2019] UKSC 20.
[72] *Limbu & Ors v Dyson Technology Limited* & Ors [2024] EWCA Civ 1564.
[73] US District Court for the Southern District of Florida, *John Doe 1 et al. v. Chiquita Brands International, Inc.*, Case No 08-MD-01916 (10 June 2024).
[74] US District Court for the Southern District of New York, *Kashef, et al. v. BNP Paribas, et al.*, Case No 1:2016cv03228 (17 October 2025).
[75] *Sherpa, Action Aid, Petrol-Is et al v Yves Rocher Group* (Judgment) Paris Court of Justice, 12 March 2026.
[76] *Vedanta v Lungowe* [2019] UKSC 20 [3].
[77] Ibid [49].
[78] Ibid [49].
[79] *Okpabi and Others v Royal Dutch Shell plc and Another* [2021] UKSC 3.
[80] *Limbu & Ors v Dyson Technology Limited* & Ors [2024] EWCA Civ 1564.

The cases discussed above show that home state litigation may offer a realistic pathway to seek reparations from foreign corporations which have caused or contributed to war-related damage in Ukraine. In this respect, in 2025, Ukrainian plaintiffs filed civil lawsuits in Dallas, Texas, against several US technology corporations, alleging that the microchips they manufactured were found in Russian missiles and Iranian-made drones used in deadly attacks on Ukraine. The plaintiffs argued that the defendants' conduct, allegedly allowing components to be diverted through intermediaries to Russia and Iran in violation of US export control regulations, amounts to "negligence" and "gross negligence."[81] The plaintiffs sought over USD 1 million each in damages for 'the deaths of family members, severe physical injuries, and the lasting psychological trauma that followed [the] attacks.'[82] The cases were initially filed in a state court in Dallas, but were later moved to the Texas federal court. In July 2026, the lawsuits were dismissed by a Texas District Judge because the plaintiffs failed to plausibly plead causation between the defendants' conduct and their injuries.[83] The judgment of the court illustrates the limitations of existing civil liability doctrines for holding businesses accountable for human rights harms they might have contributed to. Despite this unfortunate ruling, the legal battle is likely to continue as the District Judge granted the plaintiffs leave to amend and resubmit their claims.[84] On the substance, the court held that the plaintiffs did not plausibly show that the defendants' 'act or omission was a substantial factor in bringing about the injuries, and without it, the harm would not have occurred.'[85] The court stated that the presence of components from numerous other companies in the weapons that harmed the plaintiffs undermined the plausibility of the claims. Additionally, the District Judge held that the defendants' conduct was too remote from the harms to be a substantial factor in bringing about the injuries, as the components were 'sold and distributed at an unspecified time, directly or indirectly, to unknown state actors and/or companies located in various countries who used these components to create weapons that were then supplied to Russia and ultimately used to harm plaintiffs in Ukraine.'

Despite the mixed evidence from home state civil liability claims, there is an important role to be played by home states of MNEs to ensure that existing avenues for civil liability remain open and accessible to Ukrainian plaintiffs to seek reparations for war-related harms. The UN Working Group on Business and Human Rights has emphasised that home states of MNEs may contribute to transitional justice efforts by 'removing barriers to transnational civil litigation.'[86] In practical terms, this would require home states to keep open the possibility for Ukrainian plaintiffs to access legal aid or similar arrangements that would allow access to adequate legal representation and consider whether their rules on jurisdiction or statutes of limitation pose undue barriers to plaintiffs. In substantive terms, home states should develop

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[81] <https://www.wattstrialfirm.com/watts-law-firm-news/lawsuit-filed-against-texas-instruments-amd-intel/>.

[82] Ibid; <https://www.business-humanrights.org/en/latest-news/ukrainian-citizens-file-lawsuits-against-us-chipmakers-whose-products-were-found-in-russian-drones-used-in-deadly-attacks-on-ukraine/>.

[83] *Shumylo et el., v Texas Instruments Incorporated et al*., *Northern District of Texas*, 1 July 2026, 3:25-cv-03400, 14.

[84] Ibid, 20-21.

[85] Ibid.

[86] UN Human Rights Council, 'Implementing the Third Pillar: Lessons from Transitional Justice: Guidance by the Working Group: Report of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises' (8 June 2022) UN Doc A/HRC/50/40/Add.4 (report by the UN Working Group on Business and Human Rights) [77].

their civil liability frameworks in line with their duty to protect human rights vis-à-vis business activities and enhance access to remedies, articulated in Pillars I and III of the UNGPs. The recent judgment in *Shumylo et el., v Texas Instruments* provides a clear illustration of the need to progressively interpret civil liability doctrines for alignment with the UNGPs.

b. Human rights due diligence legislation and remedies

Existing HRDD legislation provides multiple avenues to seek accountability and remedies from in-scope companies established in the relevant jurisdictions and which may be linked to gross human rights violations in Ukraine. In recent years, several European jurisdictions introduced domestic legislation solidifying human rights responsibilities of businesses by requiring them to carry out HRDD to identify, prevent, mitigate and remediate adverse human rights impacts. The personal and material scope of these laws differs from one jurisdiction to another.[87] Some of these laws focus on issues such as child labour or conflict minerals, whereas others have a more general coverage. Many of these laws lack a specialised civil liability regime but may contain penalties or sanctions for in-scope businesses if they fail to meet their responsibilities under the legislation. Such penalties would not typically translate into reparations for rightsholders, as they are designed similarly to administrative fines that are paid into the state budget. Complaints mechanisms attached to these laws may also result in orders to the company to take remedial action.[88] But even where a specialised civil liability regime is not included in HRDD legislation, duties imposed under these laws might give rise to liability under general tort law if a business's failure to fulfil its due diligence obligations gives rise to harm.[89]

The 2017 French Duty of Vigilance Law is the only general HRDD law to contain a dedicated civil liability provision for harms emanating from a business's failure to fulfil its vigilance duties. In applying the law, the Paris Judicial Court recently found the company Yves Rocher liable for failing to comply with its duties under the French Duty of Vigilance Law.[90] It was held that the parent company failed to take appropriate measures to prevent human rights abuses in its Turkish subsidiary. It also failed to include these risks in its vigilance plan, which is required under the Duty of Vigilance Law. The Paris court ordered the parent company to compensate the trade union and six former employees. The judgment was hailed as historic,[91] as the first French judgment to hold a parent company liable for human rights violations in its subsidiary's operations abroad. It was, however, deemed a partial success from the perspective of reparations, as much of the employees' case was dismissed due to an earlier settlement agreement entered into under Turkish labour law with the subsidiary of Yves Rocher. To avoid the risk of double compensation, the court dismissed those claims in their entirety. According to the critics, the settlements under Turkish law arose from a different legal basis than the

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[87] OECD (2026), 'Mapping social and environmental due diligence legislation,' *OECD Business and Finance Policy Papers*, No. 101, OECD Publishing, Paris, <https://doi.org/10.1787/bac11241-en>.
[88] German Federal Office for Economic Affairs and Export Control, 'Organising, Implementing and evaluating complaints procedures: Guidance on the complaints procedure under the German Supply Chain Due Diligence Act,' (2022).
[89] Douglass Cassel, 'Outlining the Case for a Common Law Duty of Care of Business to Exercise Human Rights Due Diligence', (2016) 1 *Business & Hum Rts J* 179.
[90] <https://www.asso-sherpa.org/verdict-yves-rocher-turkiye>.
[91] Iyes Igiehon and Claudia Cavicchioli, 'Landmark French ruling finds cosmetics company liable for failing in its duty of vigilance', Linklaters 27 April 2026, <https://sustainablefutures.linklaters.com/post/102mqyt/landmark-french-ruling-finds-cosmetics-company-liable-for-failing-in-its-duty-of>.

parent company's vigilance duties and did not cover moral damages, unlike the French judgment that awarded both pecuniary and non-pecuniary damages.[92] In light of this evolving jurisprudence, companies which fall within the scope of the Vigilance Law and might have contributed to conflict-related human rights harms in Ukraine could potentially be held accountable for failing to implement their vigilance duties and liable to pay damages to victims harmed as a result of their failure.

III.3. Non-judicial accountability route: OECD responsible conduct national contact points

National Contact Points (NCPs) operating under the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (OECD Guidelines or Guidelines)[93] offer a relatively accessible non-judicial grievance mechanism. One of the key functions of the NCPs is their power to handle complaints (so-called 'specific instances') of alleged non-compliance with the Guidelines by MNEs, including their Chapter IV dedicated to human rights responsibilities of MNEs. Rights-holders or other parties with a legitimate interest[94] such as civil society representatives, can raise grievances and seek a resolution for harms arising from an MNEs failure to comply with the Guidelines.

While NCPs were not conceived as mechanisms to provide direct access to remedies for business-related human rights harms,[95] they might support certain remedial outcomes by facilitating dialogue between the parties through voluntary[96] and non-adversarial procedures and enabling an agreed solution to the specific grievance at hand.

The process is initiated by the submission of a complaint alleging non-compliance with the OECD Guidelines. NCPs may receive complaints concerning alleged non-compliance by MNEs operating in or from the country where the NCP is established, including for conduct involving overseas operations or business partners.[97] The mechanism is more accessible than judicial mechanisms and applies less stringent standards when assessing corporate conduct than those required for a finding of legal liability, thus also potentially enabling accountability for businesses less closely linked to the harms than those 'most responsible'. Yet, its voluntary nature limits its promise as an avenue for reparations. NCPs cannot order or impose reparations in the way that a court can. But NCP proceedings can enable reparative outcomes where the respondent company voluntarily commits to providing a remedy in the context of a mediated agreement. Where companies decline to engage in the process, withdraw from

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92 Pinar Kara, 'The Promise and Limits of the Yves Rocher Judgment: Civil Liability in Risk-Based Dur Diligence" *Völkerrechtsblog,* 8 May 2026, <https://voelkerrechtsblog.org/the-promise-and-the-limits-of-the-yves-rocher-judgement/>.
93 See, 'OECD Guidelines for Multinational Enterprises on Responsible Business Conduct' (OCED, July 2023) <https://www.oecd.org/en/publications/oecd-guidelines-for-multinational-enterprises-on-responsible-business-conduct_81f92357-en.html>.
94 OECD Guidelines Commentaries on the Implementation procedures, para 33
95 Kinnari Bhatt and Gamze Erdem Türkelli, 'OECD National Contact Points as Sites of Effective Remedy: New Expressions of the Role and Rule of Law within Market Globalization' (2021) 6 *Business & Hum Rts J* 423, 426.
96 OECD Guidelines Commentaries on the Implementation Procedures, para 25.
97 'Stocktaking Report on the OECD Guidelines for Multinational Enterprises' 74; Karin Buhmann, 'Confronting Challenges to Substantive Remedy for Victims: Opportunities for OECD National Contact Points under a Due Diligence Regime Involving Civil Liability' (2023) 8 *Business & Hum Rts J* 403, 409.

mediation, or fail to reach an agreement with complainants, NCPs are unable to ensure that affected individuals or communities obtain redress.

Remedial outcomes facilitated through NCP processes tend to consist of companies' commitments to amend internal policies, strengthen HRDD processes, provide training, or establish or improve internal grievance mechanisms.[98] There have also been a few cases in which complainants obtained compensation.[99] The NCP process and outcomes may generally provide other forms of redress to complainants in the form of: (1) exposing the truth and an acknowledgment of wrongdoing; and (2) guarantees of non-repetition where the NCP recommendations contain steps the company should take to improve its respect for human rights. While these measures may only partially address the harm suffered, they can advance satisfaction and prevention of future harms.

Research suggests that successful NCP cases emerge not from the inherent strength of the mechanism, but from a convergence of favourable contextual, institutional, and political factors.[100] These include a highly accessible NCP process for complainants, including linguistic and financial support, the independence and transparency of the NCP, strong political commitment and institutional capacity within the 'home state', and a willingness on the part of the company to engage in good faith. External factors — such as sustained public scrutiny, media attention, and civil society mobilisation — have also been shown to play a decisive role in bringing companies to the negotiating table and sustaining engagement throughout the process.

Past NCP claims relating to conflict situations

Conflict-related claims brought before NCPs thus far involved allegations of MNEs:

(1) providing goods, services, technology, or infrastructure that were used by states or non-state actors to commit violations of IHL and IHRL;[101]
(2) maintaining business relationships with states or non-state actors responsible for serious human rights violations in conflict situations.[102] These allegations have often arisen in the context of joint ventures, supply chains involving conflict-sensitive natural resources, or financial relationships with state authorities engaged in armed conflict or

[98] See, 'Remedy Remains Rare: An Analysis of 15 Years of NCP Cases and Their Contribution to Improve Access to Remedy for Victims of Corporate Misconduct' (OECD Watch, 2015) 17-19, <https://www.oecdwatch.org/wp-content/uploads/sites/8/2015/06/Remedy-Remains-Rare.pdf>.
[99] see, e.g., *EC and IDI v Australia and New Zealand Banking Group* and *Former Employees of Bralima v Bralima and Heineken* discussed below). In a few cases, claimants were also able to secure in-kind reparation. See, e.g., *Chima Williams & Associates (CWA) and Advocates for Community Alternatives (ACA), on behalf of Egbema Voice of Freedom, v ENI S.p.A.* and *ENI International BV and Paracatu Neighboring Associations v Kinross Brasil Mineração*.
[100] See, Bhatt and Erdem Türkelli (n 95).
[101] See, e.g., *Lawyers for Palestinian Human Rights v JBC* (alleged supply of products and machinery used in the demolition of Palestinian property and in settlement-related construction); *Committee Seeking Justice for Alethankyaw v Telenor* (provision of telecommunication towers allegedly used by the Myanmar military to launch attacks against Rohingya civilians); *SOMO representing 474 Myanmar CSOs v Telenor ASA* (alleged disclosure of sensitive customer data to the Myanmar military junta).
[102] See, e.g., *RAID v Das Air* (alleged transportation of cobalt or other minerals sourced from conflict-affected areas in the DRC); *Christian Juhl v Bestseller AS* (alleged continued relationships with local suppliers linked to the Myanmar military); *Korean Civil Society in Solidarity with Rohingya, Korean Transnational Corporation Watch and Justice for Myanmar v POSCO* (alleged participation in joint ventures with Myanmar military conglomerates).

repression, including through tax, royalty, or licensing payments that were alleged to contribute to, or sustain, abusive practices;[103]

(3) Operating in occupied or non-self-governing territories, where companies are alleged to have contributed to breaches of the principles of self-determination and permanent sovereignty over natural resources through resource exploitation or settlement-related construction;[104]

(4) Irresponsibly disengaging from conflict-affected areas, alleging that companies' withdrawal was carried out without adequate safeguards, resulting in adverse human rights impacts for workers or affected communities;[105]

(5) Violating labour rights in conflict situations through mass dismissals and discriminatory employment decisions linked to armed conflict dynamics. [106]

The outcomes of conflict-related claims vary considerably across cases and NCPs. In some cases,[107] the process resulted in an agreement between the complainants and the MNE. Where agreements were reached or recommendations were made by the NCP, they most often included commitments by the enterprise to undertake heightened HRDD, adopt or revise internal human rights policies and codes of conduct, review corporate practices, establish or strengthen grievance mechanisms, take an active role in remediation processes, and/or engage in meaningful stakeholder engagement or further dialogue with the complainants. In a rare instance only, the agreement also included a commitment to provide financial compensation. In *Former Employees of Bralima v Bralima and Heineken*, a complaint involving a series of allegedly unfair and unlawful mass dismissals of employees in the DRC during civil war, Heineken agreed to, inter alia, provide EUR 1.1 million to former employees in compensation.[108]

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[103] But note that, for instance, in *United Tegaru Canada v East Africa Metals Inc.*, the Canadian NCP concluded that the payment of taxes or other mandatory fees could not amount to contribution of direct linkage under the OECD Guidelines. See, '*East Africa Metals Inc. and United Tegaru Canada* – Initial Assessment' (Canada's National Contact Point, 17 November 2023) <https://www.international.gc.ca/trade-commerce/ncp-pcn/2023-10-17-east-africa-metals.aspx?lang=eng>, para 26.

[104] See, e.g., *The Norwegian Support Committee for Western Sahara and Sjøvik SA* (alleged resource exploitation in Western Sahara); *Comité de Solidaridad con la Causa Árabe (CSCA) v Construcciones y Auxiliar de Ferrocarriles (CAF)* (alleged participation in a project involving the extension of a light tram line connecting Jerusalem and the settlements in the Occupied Palestinian Territory).

[105] See, e.g., *Publish What You Pay Australia and 245 Myanmar CSOs v Myanmar Metals* (alleged irresponsible disengagement from a joint venture in Myanmar through the selling of majority interests to a Myanmar partner); *SOMO representing 474 Myanmar CSOs v Telenor ASA* (alleged irresponsible exit from Myanmar through the sale of the local business to a Myanmar entity with a negative track record in terms of respect for human rights and majority-owned by a local business with ties with the military junta).

[106] See, e.g., *Former Employees of Bralima v Bralima and Heineken* (series of allegedly unfair and unlawful mass dismissals of employees in the DRC during civil war); *Former Employee of Philips Lighting v Philips Lighting* (alleged mistreatment and dismissal as a result of discrimination based on nationality and in relation to the conflict in Eastern Ukraine).

[107] See, e.g., *Former Employees of Bralima v Bralima and Heineken*; *The Norwegian Support Committee for Western Sahara and Sjøvik SA*.

[108] See, Roel Nieuwenkamp, 'Beer, Conflict and Compensation: Heineken-Congo Agreement' (OCED Observer, 25 January 2018) <https://www.oecd.org/content/dam/oecd/en/publications/reports/2018/01/beer-conflict-and-compensation-heineken-congo-agreement_4566d537/6441acd0-en.pdf>.

The Norwegian NCP's recent final statement in the *SOMO representing 474 Myanmar CSOs v Telenor ASA* case reflects a more robust engagement with questions of substantive remedy.[109] The complaint involved the disclosure of sensitive customer data by Telenor to the Myanmar military junta. The final statement articulates the contours of Telenor's remedial responsibilities in relation to the actual harms at issue. Despite adopting a cautious formulation as to the company's participation in the adverse human rights impacts, stating that Telenor 'may' have contributed to them, the NCP affirmed that, to the extent such contribution exists, the company bears a responsibility to provide for, or participate in, remediation commensurate with the nature and extent of its contribution to the harm.[110] The NCP expected Telenor to take an active role in remediation, including through the follow-up and implementation of the Memorandum of Understanding (MoU), which was signed between the complainants and Telenor during the mediation process.[111] The NCP further emphasised that Telenor is expected to build leverage to ensure that other responsible actors also contribute to remedy,[112] and that remediation may be pursued in cooperation with other actors linked to ICT-related impacts in Myanmar and the wider region within 'a broader remedy ecosystem'.[113] Notably, the final statement anchored these expectations in Telenor's prior acceptance, within the mediation and the MoU, of a role in remediation, particularly through the funding of an ICT Ecosystem Study and the potential establishment of an independent Myanmar digital relief mechanism aimed at providing financial and other forms of support to individuals facing digital-related risks. Ultimately, the approach of the Norwegian NCP in this instance has advanced the reparative possibilities within the NCP system.

Despite the limitations of the NCP process in enabling reparations as it is expected under international human rights law, existing conflict-related practice indicates that NCP proceedings may still play a meaningful role within a broader accountability and reparations ecosystem. NCP cases may contribute to public scrutiny of alleged corporate involvement in serious human rights abuses; offer an institutional forum for affected individuals and communities to articulate harm, formulate grievances, and advance claims for redress; catalyse political and regulatory attention and, in some cases, action by governments; exert reputational and relational pressure on companies; and help lay the groundwork for other remedial avenues, including judicial proceedings, in part by generating findings, visibility, and documentary records through the NCP process.[114]

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[109] See, Otgontuya Davaanyam, 'The Missing Pillar Found: Corporate Responsibility to Remedy in the Norwegian NCP's Telenor Decision' (Blogging for Sustainability, 4 February 2026) <https://www.jus.uio.no/english/research/areas/sustainabilitylaw/blog/2026/missing-pillar-found.html>.
[110] See, Centre for Research on Multinational Corporations (SOMO) on behalf of 474 Myanmar-Based Civil Society Organisations vs. Telenor ASA: Final Statement, para 135.
[111] This MoU ultimately did not lead to a final agreed settlement of the specific instance.
[112] See, Centre for Research on Multinational Corporations (SOMO) on behalf of 474 Myanmar-Based Civil Society Organisations vs. Telenor ASA: Final Statement (n 110) para 135.
[113] Ibid, paras 136, 150.
[114] See, e.g., *SOMO representing 474 Myanmar CSOs v Telenor ASA*. In April 2026, Justice and Accountability Initiative, filed a class action in Norway against Telenor on behalf of Myanmar customers whose data Telenor allegedly shared with military authorities, <https://www.somo.nl/myanmar-customers-sue-telenor-for-sharing-private-data-with-military/>.

Potential accountability for harms in Ukraine via NCPs

Ukraine is an adherent to the OECD Guidelines and has established an NCP within the Ministry of Economy.[115] However, available information indicates that, to date, the Ukrainian NCP has not received or handled any specific instances.[116] It should also be noted that, based on publicly available information, no instance concerning alleged corporate non-compliance with the OECD Guidelines in relation to Russia's full-scale invasion of Ukraine appears to have been submitted to any NCP to date.

While the OECD Guidelines are premised on the principle of functional equivalence among NCPs,[117] empirical research demonstrates that disparities persist in terms of procedural robustness, institutional independence, and accumulated experience in handling complex business-related human rights cases,[118] including those arising from conflict. The literature most frequently identifies the Dutch, Norwegian, UK, Canadian, and Danish NCPs as comparatively more robust. These NCPs have also dealt with a higher number of conflict-related specific instances, suggesting a degree of institutional familiarity that may be relevant when assessing strategic options for Ukraine-related cases.

The identification of potential respondents and of the factual bases of a Ukraine-related specific instance necessarily depends on context-specific evidence, which cannot be assessed within the scope of the analysis of this Report. Nevertheless, existing NCP practice offers a degree of analytical guidance as to the allegations of corporate misconduct that NCPs have considered relevant and suitable for examination in conflict-related proceedings.

From the perspective of the OECD Guidelines, conflict-related claims have tended to focus on alleged deficiencies in corporate processes and decision-making in high-risk contexts. NCP practice has recurrently scrutinised failures to conduct heightened HRDD in conflict settings, inadequate or absent stakeholder engagement, shortcomings in transparency and disclosure, and irresponsible approaches to disengagement. As conflict-related practice has gradually crystallised around these categories,[119] they may be helpful in assessing whether particular forms of corporate conduct in the context of Russia's full-scale invasion of Ukraine could

[115] See, 'Responsible Business Conduct Implications of Russia's Invasion of Ukraine – OECD Policy Responses on the Impacts of the War in Ukraine' (OECD, 28 March 2023) <https://www.oecd.org/content/dam/oecd/en/publications/reports/2023/03/responsible-business-conduct-implications-of-russia-s-invasion-of-ukraine_49d0ad80/f222a4d1-en.pdf>, 8.
[116] See, 'National Contact Points for Responsible Business Conduct in a Changing Landscape: 2024 Annual Report on NCP Activity' (OECD, 2025) <https://www.oecd.org/content/dam/oecd/en/networks/national-contact-points/OECD-2024-Annual-Report-on-NCP-Activity.pdf>, 4.
[117] See, Procedures, 58.
[118] See, e.g., Kari Otteburn, 'Reaching the Limit: Access to Remedy Through Non-Judicial Mechanisms for Victims of Business-Related Human Rights Abuses' (2024) 28 *Intl J Hum Rts* 220, 231; 'NCP Evaluations' (OECD Watch) <https://www.oecdwatch.org/indicator/#:~:text=The%20OECD%20Watch%20National%20Contact,based%20on%20the%20OECD%20Guidelines>.
[119] See, e.g., Kateryna Buriakovska and Otgontuya Davaanyam, 'Analysing Heightened Corporate Human Rights Responsibilities in the Context of OECD Case Law' in Otgontuya Davaanyam and Markus Krajewski (eds), *Exploring Corporate Human Rights Responsibilities in OECD Case Law* (Springer 2025).

plausibly fall within the scope of the OECD Guidelines and, accordingly, form the basis of a viable specific instance, subject to a fact-specific assessment.

Taken together, these considerations suggest that, while NCPs are unlikely to constitute a primary avenue for securing reparations for gross human rights abuses in Ukraine, they may nonetheless perform a strategically valuable ancillary function within a broader accountability architecture. In fact, when deployed in a targeted and complementary manner alongside judicial proceedings and other reparations frameworks, NCP processes can contribute to accountability by establishing facts and wrongdoing, generating leverage for behavioural change, and catalysing governmental attention and action. NCP outcomes in conflict-related claims previously recommended that companies cooperate with official remedy mechanisms.[120] NCPs handling complaints on the war-related damage in Ukraine can recommend MNEs to contribute to the existing reparations claims commissions or programmes on the war in Ukraine. Collectively, these elements may support remedial outcomes to address business involvement in serious violations linked to Russia's full-scale invasion of Ukraine.

IV. Alternatives to Accountability-based Routes to Reparation

Voluntary, mandatory and incentive-based routes for businesses to contribute to reparation are important components of an overall reparations ecosystem. Where responsibility-based reparations are insufficient or difficult to access, for instance due to challenges in assigning liability to responsible parties, complementary alternative mechanisms have been developed to mobilise resources to afford reparations to victims and otherwise support efforts to repair war-related damage. As Furuya notes:

> responsibility-based models alone may be insufficient, particularly when perpetrators lack sufficient assets or when responsible States refuse to acknowledge their duty. In such cases, rights to reparation risk becoming little more than 'pie in the sky'. To overcome these deficiencies, supplementary schemes have emerged whereby third-party resources—ranging from voluntary contributions by private individuals to donor funding by States—are mobilized for victims' relief. These arrangements, grounded in solidarity and humanitarian concern that transcend national or ethnic boundaries, may be described as solidarity-based reparation.[121]

Businesses may play a crucial role in such "solidarity-based reparation." These schemes may rely on the participation of or contributions from business actors with different levels of connection to the harms: those who are directly responsible, those who are more loosely

[120] See, e.g., 'Final Statement in the complaint submitted by Publish What You Pay Australia in its own name and on behalf of the Myanmar Alliance for Transparency and Accountability and the Bawdwin Labour Union against Mallee Resources Limited' (Australian National Contact Point for Responsible Business Conduct, 2 August 2023), para 10.3; 'Final Statement in PAX and others vs. Aker BP ASA and Aker ASA' (National Contact Point for Responsible Business Conduct Norway, 18 June 2025) para 107; 'Privacy International & Gamma International Uk Ltd: Final Statement after Examination of Complaint' (UK National Contact Point for the OECD Guidelines for Multinational Enterprises, December 2014), para 73.
[121] Shuichi Furuya, 'Reparations for Victims of the Conflicts in Ukraine and Gaza' (2025) 113 *QIL Zoom-in* 29-45, 31.

connected where liability is unlikely to be provable in court, and those without any connection to war-related harms. As noted earlier in this Report, businesses **directly linked** to human rights harms may take a role in the remediation of harms they are linked to.[122] This principle is clarified further by various OECD NCP findings where businesses are expected to take a role in the remediation of harms connected to their business.[123] The most appropriate route for businesses linked to harms to contribute to reparations would be through direct contributions to national or international reparations programmes. Reparations schemes also rely on contributions from business actors whose **responsibility is too diffuse to easily assign liability**, as well as business actors who have **no relationship to the harms** but wish to show solidarity and humanitarian concern.

There are many reasons why businesses may wish to engage (and, in some cases, are already engaging) in reparations processes, particularly:

i) **Legal Closure** – A voluntary or incentive-based scheme may reduce or eliminate the legal risk posed by potential or actual civil claims by channelling claims through a designated claims programme. There are past examples of corporate engagement in reparations programmes which were conditioned on the extinguishment of actual claims and the risk of future legal claims, typically as part of a political negotiation or a court-enforced settlement and release agreement and which did not involve any acknowledgement of liability. An important example is the agreement of German businesses to support financially the creation of the German Foundation Remembrance, Responsibility, Future (EVZ) in exchange for legal closure in relation to forced labour claims. Any claimants to the EVZ were required to waive any claims against German companies and the German State in any matter connected to Nazi-era forced labour and property damage. Also, given the large number of claims that had been filed and remained pending in US courts, a separate US-German agreement was negotiated whereby the US agreed *inter alia* to issue a Statement of Interest in any case in a US court involving claims against Germany, Austria, or German or Austrian companies that involved or related to the subjects covered under the respective compensation programmes, which would have the result of withdrawing and terminating the litigation before the compensation programmes would start.[124] Prior to the establishment of the EVZ, several German companies — including IG Farben, Krupp, AEG-Telefunken, Siemens, Rheinmetall, and Daimler-Benz — had already entered into out-of-court arrangements, mediated by the Conference on Jewish Material Claims Against Germany, establishing reparation funds and making payments to former forced labourers and Holocaust survivors.[125] These earlier initiatives were likewise conditioned on the waiver of further claims by beneficiaries.

ii) **Corporate social responsibility and general corporate culture** – Charitable donations as part of corporate social responsibility programmes — which can include financial donations, employee volunteer hours, or product gifts — help businesses improve society while boosting

[122] UNGP 22 Commentary.
[123] See n. 120.
[124] See, Roland Bank, ‘Legal Closure’, in Günter Saathoff, Uta Gerlant, Friederike Mieth and Norbert Wühler (eds), *The German Compensation Program for Forced Labor: Practice and Experiences* (Foundation Remembrance, Responsibility and Future, 2017), Ch 10, <https://www.stiftung-evz.de/assets/4_Service/Infothek/Publikationen/EVZ_Monografien_Sammelb%C3%A4nde_The_German_Compensation_Program_for_Forced_Labor.pdf>.
[125] See, van de Sandt and Moor (n 40) 60-61.

brand reputation and workforce morale. They might also enhance economic performance.[126] Research also demonstrates that businesses can be a key driver of stabilisation and development in a post-conflict context, with social responsibility initiatives contributing to the rebuilding of infrastructure and education, meeting critical needs in the energy, security, and healthcare sectors, and the revival of rural areas, among other deliverables.[127]

iii) **Positive marketing of the company to new Ukrainian consumers** – Similar to the corporate goodwill created through a strong, visible and effective corporate social responsibility framework, foreign businesses seeking to enter the Ukrainian market may see the benefit of supporting the communities where they will be seeking out new customers and corporate relationships. The same principle would also apply to local Ukrainian businesses.

Businesses can also be incentivised to participate in reparations programmes through tax breaks, preferential business terms or other methods which could be introduced in Ukraine as part of a push to increase resources for reparations. The Ukraine Government can also introduce compulsory levies on businesses who wish to enter the Ukraine market.

IV.1 Settlements with respect to frozen corporate assets

Corporate assets have already been frozen by Ukraine and by numerous countries pursuant to diverse national and multilateral sanctions regimes. These include assets of Russian privately-owned companies[128] as well as the assets of multinational or foreign-owned private companies[129] which have been seized and frozen pursuant to diverse sanctions regimes.[130] There are different proposals about how court processes can support efforts to confiscate and repurpose the assets for the purposes of reparations and reconstruction efforts.[131] While the identified options are by no means foolproof, they present a real risk to businesses that their assets will be seized and eventually disposed of pursuant to lawful court processes.

The companies' interest to mitigate those risks may serve as an incentive to negotiate with the Government of Ukraine, or other authorities responsible for the respective seizures. In this respect, companies may be incentivised to contribute a proportion of the frozen assets to a reparations programme, in return for the acquittal and restitution of the remaining proportion

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[126] Husam Ananzeh, 'The economic consequence of corporate philanthropic donations: evidence from Jordan,' (2024) 4(1) *Journal of Business and Socio-economic Development* 37–48, <https://doi.org/10.1108/JBSED-10-2022-0112>.
[127] Iaroslav Petrunenko, 'Corporate Social Responsibility and Post-War Recovery: Models of Ethical Business Engagement,' (2024) 4(3) 4 *Law, Business & Sustainability Herald* 4 <https://www.lbsherald.org/index.php/journal/article/view/74/67>.
[128] 'EU can freeze Russian assets held by trusts, court rules', Reuters, 21 May 2026 <https://www.reuters.com/business/eu-can-freeze-russian-assets-held-by-trusts-court-rules-2026-05-21/>; Michael J Kelly et al, 'Prosecution of Russian corporations for war crimes in Ukraine as a precursor to seizure of frozen corporate assets in foreign jurisdictions,' *Seizure of Russian Corporate Assets*, Public International Law & Policy Group, <https://static1.squarespace.com/static/5900b58e1b631bffa367167e/t/65b1707247caba2e860fc06d/1706127475750/PILPG+Foreign+Awards+What+Paper+Jan+24+2024.pdf>.
[129] The EU Sanctions Tracker lists numerous international companies which have been sanctioned by the EU for their Russia or Belarus linked activities, see <https://data.europa.eu/apps/eusanctionstracker/entities/>.
[130] In this Report, our focus is exclusively on privately-owned corporate income.
[131] See, Kelly et al (n.128).

of the assets. While there remain ongoing disputes on the details, the Roman Abramovich case is interesting. Prior to being sanctioned, Roman Abramovich appears to have volunteered the £2.5 billion in assets from the forthcoming sale of the Chelsea Football Club; according to a unilateral declaration of the UK Government, the 'United Kingdom will ensure that Roman Abramovich does not benefit from the sale of Chelsea Football Club in any way, and that the proceeds of such a sale are used for humanitarian purposes in Ukraine.'[132]

Similarly, other company owners at risk of future sanctions or possible lawsuits may be inclined to agree to mitigate those risks by negotiating an appropriate contribution to a reparations fund.

IV.2 Encouraging contributions to reparations through corporate tax incentives

Foreign investment in key sectors, such as infrastructure or extractive sectors, will be essential for the reconstruction of Ukraine. Large-scale private investment supports reconstruction by restoring destroyed infrastructure, re-establishing production capacities, generating employment, and facilitating technological modernisation. Incentive programmes could support attracting much needed investment in key sectors. However, they should be designed diligently to avoid lowering key labour, human rights, and environmental standards to attract investment.

Ukraine has already begun to reduce the tax burdens for businesses investing in critical sectors or projects. Such tax incentives operate by reducing the fiscal burden on businesses that voluntarily contribute financial resources, goods, or services toward defence, humanitarian assistance, and recovery-related activities. Such instruments align public policy objectives with corporate economic interests by allowing businesses to offset certain expenditures against tax liabilities, thereby lowering the effective cost of socially beneficial contributions. Two major categories of tax *stimuli* are particularly relevant: i) corporate income tax incentives and ii) value-added tax (VAT) exemptions. Together, they form a system designed to encourage both financial donations and in-kind contributions by business entities.

A war-time amendment to the Tax Code of Ukraine has temporarily removed the cap on the tax-deductible portion of corporate charitable donations for funds, goods, services, or works provided voluntarily to specified public entities for defence and humanitarian purposes.[133] The amendment covers transfers of specific categories of goods such as personal protective equipment, surveillance equipment, medicines, medical devices, hygiene products, food supplies, and other logistical materials necessary for defence and humanitarian operations. By removing the quantitative limitation on deductible contributions, the wartime amendment substantially enhances the economic attractiveness of corporate donations. Businesses are permitted to deduct the full value of eligible contributions from their taxable base, thereby reducing their corporate income tax liabilities.

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[132] UK Department for Culture, Media and Sport, 'Unilateral declaration regarding the sale of Chelsea Football Club,' 30 May 2022, <https://www.gov.uk/government/publications/unilateral-declaration-regarding-the-sale-of-chelsea-football-club/unilateral-declaration-regarding-the-sale-of-chelsea-football-club>. See also, Dmytro Sydorov and Daryna Vialko, 'Russian oligarch Abramovich promised Ukraine money from Chelsea sale. Is it realistic to get it?, *RBC-Ukraine*, 16 June 2026.
[133] Subparagraph 69.6 of Subsection 10 of Section XX "Transitional Provisions" of the Tax Code of Ukraine.

VAT regulation also plays a critical role in encouraging in-kind assistance. Under normal taxation rules, the free transfer of goods or services may be treated as a taxable supply, triggering VAT obligations. Additionally, when purchased goods are used outside business activities, taxpayers are typically required to accrue compensatory VAT liabilities under Article 198.5 of the Tax Code of Ukraine. These provisions can create significant fiscal disincentives for businesses seeking to donate goods or equipment. To address these obstacles, Ukraine introduced temporary VAT relief measures through paragraph 32-1 of Subsection 2 of Section XX “Transitional Provisions” of the Tax Code of Ukraine. Under these rules, operations involving the free transfer of goods or services to designated public entities for defence and humanitarian purposes are not classified as supplies for VAT purposes. Consequently, such transactions do not generate VAT obligations. The beneficiaries of this provision largely mirror those listed in the corporate income tax incentives and include military formations, civil protection authorities, voluntary territorial defence units, and state or municipal healthcare institutions. The VAT exemption significantly reduces the fiscal burden associated with in-kind donations, particularly those involving high-value goods such as vehicles, protective equipment, medical technologies, and specialised technical devices.

Existing corporate income tax and VAT incentives related to charitable donations and in-kind contributions mainly cover defence and, to a certain extent, humanitarian needs. To support reparations in a more direct way, these exemptions could easily be extended to cover contributions made to a domestic (or, as appropriate, international) reparations programme.

There are already several specialised regimes in Ukraine to promote investment. For instance, the Diia City regime,[134] which offers incentives such as preferential corporate tax and flexible labour contracts,[135] applies to companies engaged in a defined list of qualified digital and technology-driven activities. These activities include software development, cybersecurity, artificial intelligence, data processing, cloud computing, robotics, as well as technological innovations related to humanitarian response, such as rehabilitation and prosthetics technologies.[136] The regime covers companies engaged in the development of advanced prosthetic technologies, rehabilitation software, exoskeletons and biomedical engineering solutions. These activities help address the humanitarian consequences of armed conflict by supporting the rehabilitation of injured civilians and military personnel. By lowering regulatory barriers and encouraging investment, the regime mobilises private technological innovation to address some of the rehabilitation needs arising from the war.

In addition, Ukraine has implemented a range of policies to increase investment attractiveness, many of which form part of the national Ukraine Recovery Plan.[137] The Recovery Plan establishes sector-specific and cross-sectoral strategies intended to facilitate reconstruction, economic modernisation, and integration into European and global markets. One of the schemes under this is the Advantage Ukraine platform launched as a global

[134] specified in Law No. 1667-IX and related secondary regulations.
[135] For more detail, see Bohdan Karnaukh, ‘Working Paper 1: Overview of the Ukrainian Legal Framework,’ EBHR and EHRC July 2026 (annexed to this Report).
[136] This type of activity was added by Resolution of the Cabinet of Ministers of Ukraine No. 910 dated August 9, 2024.
[137] <https://recovery.gov.ua/en>.

investment outreach initiative.[138] The platform serves as a digital investment marketplace presenting investment opportunities across multiple sectors, including infrastructure, energy, manufacturing, defence technologies, agriculture, logistics, and digital economy sectors. Its primary objective is to facilitate matchmaking between international investors and Ukrainian public and private project sponsors, thereby accelerating the mobilisation of private capital for reconstruction purposes. In addition, Ukraine's investment facilitation and promotion office, UkraineInvest, operates as an authorised state institution tasked with providing comprehensive support to foreign and domestic investors implementing investment projects in Ukraine. It plays a key role in administering investment incentive programmes, including projects qualifying for state support under the special regime applicable to investment projects involving significant investments.[139] This special investment support regime is aimed at attracting large-scale investment projects that contribute to economic development, job creation, and technological modernisation. The regime provides investors with long-term legal stability guarantees and substantial fiscal and infrastructure incentives.[140] Though many of these guarantees are aimed at offering a secure and stable business environment to foreign investors, caution should be exercised by Ukraine to ensure the compatibility of the types and levels of stability offered to prospective investors with Ukraine's duty to protect human rights in the context of investment policy-making as articulated in the UNGPs.

While such incentive schemes might appeal to humanitarian concerns, ultimately, it should be borne in mind that they present profit-making business opportunities. Therefore, it is important for states emerging from conflict to carefully craft their investment policies to ensure that incentivisation does not translate into lowering labour, environmental and human rights standards for business or into undermining transitional justice policies.[141] In crafting incentive-based policies, Ukraine should be guided by its duty to protect human rights in the business context, as understood in the UNGPs and under international human rights law. The UNGPs, under Principle 8, expect states to ensure policy coherence across public institutions to act in accordance with the state's human rights obligations. This applies to institutions that shape business practices, such as investment, trade or labour agencies. Under Principle 9, there is a clear expectation on states to maintain adequate policy space to fulfil their human rights obligations when developing business-related policy objectives, such as investment policies or contracts.

With respect to funds coming from outside of Ukraine, whether a donation from a multinational corporation or foreign business to a Ukrainian reparations fund would benefit from a tax exemption in the sending jurisdiction would depend upon national laws in the sending country. According to the International Criminal Court Trust Fund for Victims which likewise solicits donations from private individuals and entities in a variety of jurisdictions, there is 'no international framework for cross-jurisdictional exemptions though some entities addressed

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[138] See, <https://advantageukraine.com/>.

[139] Law of Ukraine "On State Support for Investment Projects with Significant Investments in Ukraine" (Law No. 1116-IX of 17 December 2020).

[140] For more detail, see Bohdan Karnaukh, 'Working Paper 1: Overview of the Ukrainian Legal Framework,' EBHR and EHRC July 2026 (annexed to this Report).

[141] See for instance, Enrique Prieto-Rios, Juan Francisco Soto Hoyos & Juan P. Pontón-Serra, 'Foreign concerns: the impact of international investment law on the ethnic-based land restitution programme in Colombia,' (2023) 27(1) *Intl J Hum Rts* 1-21; Tara Van Ho, 'Is It Already Too Late for Colombia's Land Restitution Process: The Impact of International Investment Law on Transitional Justice Initiatives' (2016) 5 *Int'l Hum Rts L Rev* 60.

this through national committees or fiscal sponsorships.'[142] It is therefore recommended that Ukraine explore bilaterally with partner states how non-state entities can make tax-efficient donations to Ukrainian reparations programmes.

IV.3 Introducing a mandatory reparations levy

Levies against companies have been recommended by several transitional justice mechanisms to fund reparations programmes. For example, the South African Truth and Reconciliation Commission recommended a one-off wealth tax, a once-off levy on corporate and private income, a requirement that companies listed on the Johannesburg Stock Exchange make a one-time contribution equivalent to one per cent of their market capitalisation, and a retrospective surcharge on corporate profits extending back to a specified date.[143] However, South Africa ultimately decided not to implement these recommendations, choosing instead a more conciliatory and non-confrontational approach towards the business sector, favouring voluntary corporate contributions over binding reparations obligations.[144] Instead, a 'Business Trust' was established, funded through voluntary contributions from both the government and the private sector and capitalised at approximately R1.2 billion. In practice, however, these funds were largely directed towards tourism, education, community investment, and public works — areas more closely aligned with development policy than with reparations *stricto sensu*.[145] Other truth and reconciliation commissions or related processes have recommended similarly (see for example Sierra Leone,[146] Liberia,[147] Timor-Leste,[148] Ghana,[149] Rwanda[150]) though they too have faced challenges with implementation.

While business levies have not worked elsewhere, this does not preclude them from working in Ukraine, particularly for international businesses investing or operating in Ukraine. The Ukrainian Government could impose such a levy on businesses of a certain size, based on

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142 ICC Assembly of States Parties, 'Report of the Bureau on the Trust Fund for Victims,' ICC-ASP/24/19, 26 November 2025, para. 43.

143 See, 'Report of the Truth and Reconciliation Commission of South Africa, Volume Five' <https://www.justice.gov.za/trc/report/finalreport/Volume5.pdf>, 142-144; 'Truth and Reconciliation Commission, Business Sector Hearing' <https://www.justice.gov.za/trc/special/business/busin1.htm>.

144 See, Charles P. Abrahams, 'Lessons from the South African Experience' in Sabine Michalowski (ed), *Corporate Accountability in the Context of Transitional Justice* (Routledge 2013) 160-162.

145 See, Geeta Koska, 'Corporate Accountability in Times of Transition: The Role of Restorative Justice in the South African Truth and Reconciliation Commission' (2016) 4 *Restorative Justice: An International Journal* 41, 57; Clara Sandoval and Gill Surfleet, 'Corporations and Redress in Transitional Justice Processes' in Sabine Michalowski (ed), *Corporate Accountability in the Context of Transitional Justice* (Routledge 2013) 101-102.

146 See, 'Report of the Sierra Leone Truth & Reconciliation Commission, Volume 2,', 269.

147 See, 'Final Report of the Truth and Reconciliation Commission of the Republic of Liberia, Volume III, Title III' 43-44.

148 See, 'Final Report of the Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR)', 2620.

149 See, 'National Reconciliation Commission of Ghana, National Reconciliation Commission, Final Report', 169. Ghana's Commission included reporting on, *inter alia*, alleged corporate involvement in torture and extrajudicial killings.

150 See, Law No. 2/1998 of 22 January 1998 Establishing a national Assistance Fund for Needy Victims of Genocide and Massacres Committed in Rwanda Between 1 October 1990 and 31 December 1994, art 12. Discussed in Felix Mukwiza Ndahinda, 'Debating and Litigating Post-Genocide Reparations in the Rwandan Context' in Carla Ferstman and Mariana Goetz (eds) *Reparations for Victims of Genocide, War Crimes and Crimes Against Humanity* (2nd edn, Brill Nijhoff 2020) 640-641.

annual turnover or employee numbers (irrespective of whether such businesses caused, contributed to or were directly linked to harm). Its design could avoid being overly burdensome to companies and could be combined with other incentives for business or access to procurement opportunities, as appropriate (taking into account public procurement legislation). Levies would need to be introduced cautiously to avoid having the unintended consequence of discouraging new entrants to the market.

Funds collected through both accountability-based and alternatives to accountability-based routes to reparation should be collected and distributed in accordance with a clear and transparent legal and regulatory framework to ensure effective access for victims of conflict-related harms. Funds would need to be collected and distributed in a way to ensure (1) resources mobilised are ring-fenced for financing reparations and (2) victims have effective access to the reparations provided.[151]

V. Where Should Funds Received be Deposited?

Corporate assets secured through accountability-based or voluntary and incentive-based routes to reparation would need to be received and deposited in a fund(s) or account(s) capable of being thereafter put at the disposal of reparations programme(s) for the ultimate benefit of natural and legal victims. There are two principles which should guide decision-making on where funds should be deposited:

i) **Effectiveness** – What will be most effective will depend on what is least burdensome and most tax-efficient for those inclined to deposit the funds, taking into account that some funds will be held by multinational or foreign companies and local companies or subsidiaries, and potentially others may be held subject to sanctions or forfeiture orders, court orders or held pursuant to sanctions. This will require detailed consideration of local tax rules in the sending countries, among other factors, and might require bespoke solutions to account for divergent local rules. Once deposited, effectiveness would also depend on what would be most efficient to ensure that the deposited funds can be made swiftly available for the purposes of reparations and the ultimate benefit of natural and legal victims. What is least cumbersome for depositors and what is most efficient for the implementors will not necessarily be the same.

ii) **Transparency** – Transparency of the funds is crucial for the depositors who will want to know that their funds reached the intended destination and were used for the purposes stipulated or agreed; a lack of transparency may also impede foreign regulators from recognising the charitable purpose of the destination, which may negatively impact any tax-efficient status accorded to it. Transparency is also critical for the legitimacy of the reparations process. Survivors and affected communities will expect to see and experience first-hand the impact of the reparations process. Transparency is also crucial for the wider international donor community engaged in the reconstruction and recovery process, which will be interested in audit trails and accountability. It is also vital for addressing risks of illicit finance and corruption.

[151] See Sections V and VI, below.

Several options may be considered to help distribute funds for the benefit of victims. These are not necessarily mutually exclusive or exhaustive:

V.1 Establish a Ukrainian reparations fund (or series of interlinked funds)

We are inclined to recommend that Ukraine establish a reparations fund that could best serve the range of reparative purposes. It should be noted that there are already domestic funding pools for reconstruction which are operational in Ukraine.[152] Special accounts have been opened by the National Bank of Ukraine to support reconstruction and humanitarian assistance, as well as for other priorities. There are also existing international funding pools. For example, the Ukraine Relief, Recovery, Reconstruction and Reform Trust Fund (URTF) is a coordinated financing and support mechanism designed to assist Ukraine to (i) sustain its administrative and service delivery capacity and conduct relief efforts and (ii) plan and implement recovery, resilient reconstruction, and a robust reform agenda. Consequently, the question is first: whether an already existing Ukrainian fund to support reconstruction could be reconfigured into a fund with purposes that are wider than reconstruction, or whether complementary funding pools could be established to operate alongside the fund for reconstruction, ideally with an overarching regulatory framework to ensure coordination and consistency as appropriate; and second, whether pooled international donor funds could potentially be used as a conduit to a Ukrainian fund for reparations.

If the Government of Ukraine decided to establish a special trust fund for reparations, this trust fund could operate alongside the Ukrainian fund for reconstruction, or the reconstruction fund could eventually merge with it. The benefit of a special structure is that it might make it easier to develop bespoke regulations to address inclusive and victim-centred decision-making on reparations priorities, and to ensure transparency in the implementation of decisions and the distribution of benefits. It could also help to develop a structure that facilitates receipt of donations from both local and foreign sources, including international businesses. It could also build on good practice from other reparations processes including involving victims and other stakeholders in decision-making and oversight structures, and developing a clear regulatory structure with transparent financial and substantive auditing of results.

[152] The Fund for the Elimination of the Consequences of Armed Aggression (*Фонд ліквідації наслідків збройної агресії*) is a special-purpose fund established within the special fund of the State Budget of Ukraine, meaning that its revenues are subject to strict earmarking and may be used exclusively for purposes defined by law. Its operational framework is specified by Resolution of the Cabinet of Ministers of Ukraine № 118 of 10 February 2023 “On Approval of the Procedure for the Use of Funds of the Fund for the Elimination of the Consequences of Armed Aggression”. The sources of the fund include revenues credited to the special fund of the state budget, notably proceeds from forfeited or confiscated assets (including assets of the Russian Federation and its residents), as well as other receipts determined by the State Budget Law for the relevant year. Unlike general tax revenues, funds originating from such sources cannot be reallocated to unrelated budgetary purposes. Under Resolution № 118, the Fund is primarily designated for compensation for destroyed or damaged residential property. In addition to compensation for destroyed or damaged residential property (including garden and summer houses), the Fund may also be used for: (i) completion of recovery projects financed from the Fund in previous budget periods; (ii) restoration of infrastructure related to water supply and sanitation, heat generation and supply, and electricity supply; and (iii) restoration of damaged residential buildings. Decisions on allocations are taken by the Cabinet of Ministers of Ukraine within the limits of funds actually received, upon proposals from the Ministry for Communities and Territories Development. The State Treasury Service submits monthly reports on inflows and expenditures to state authorities, ensuring fiscal transparency and accountability.

V.2 Use existing channels to funnel funds into the Ukrainian state budget

Even if assets are not earmarked *ex lege* for reparation, their recovery into the state budget enhances the state's fiscal capacity to address war-related damage, including victim reparations and reconstruction. However, this may impede tax-efficient donations and provides only limited transparency as to how funds earmarked for reparations are used. It also provides minimal avenues for victim engagement.

The Law *"On Amendments to Certain Legislative Acts of Ukraine on Improving the Efficiency of Sanctions Related to the Assets of Certain Individuals"*, which entered into force on 24 May 2022, introduced the possibility to "collect into state income" the frozen assets of persons who contribute to the war of aggression against Ukraine (without the requirement of a criminal conviction). In accordance with this law, the Ministry of Justice of Ukraine is vested with exclusive authority to initiate proceedings by filing a claim before the High Anti-Corruption Court of Ukraine (HACC), which has jurisdiction to adjudicate all cases concerning the collection of assets into state income.[153] Where the collection of assets is authorised by the court, the assets must be transferred to the State Property Fund of Ukraine within five business days.[154] Proceeds obtained from the sale of such assets are credited to the State Budget of Ukraine and earmarked for the fund dedicated to the liquidation of the consequences of armed aggression.[155] The Cabinet of Ministers of Ukraine, as the highest executive authority, may decide to appoint another state authority or a public-sector business entity as the asset manager.[156] In such cases, asset management is conducted in accordance with procedures determined by the Cabinet of Ministers.[157]

V.3 Deposit corporate assets with a future fund to be associated with the Council of Europe claims commission under development

Pathways could be developed to enable businesses to contribute to financing reparations via a future fund established to sit alongside the International Claims Commission for Ukraine, an independent body to be established within the framework of the Council of Europe. The Claims Commission is not yet in existence; a Register of Damage for Ukraine was established in 2023,[158] which has collected more than 150,000 claims which are collated as a record of the evidence associated with claims for damage, loss and injury arising from the full-scale aggression. Once the Claims Commission is established, it would integrate the work of the Register of Damage and review, assess and determine the level of compensation related to the claims already collected, and potentially additional ones yet to be collected.

The Convention establishing an International Claims Commission for Ukraine[159] envisions that the funding of compensation awarded by the Claims Commission will be financed by the

[153] See, Art 283-1 of the Code of Administrative Procedure of July 6, 2005, No. 2747-IV.
[154] See, para 3 Art 5-1 of the Law "On Sanctions".
[155] Ibid.
[156] Ibid.
[157] Ibid.
[158] Resolution CM/Res(2023)3 establishing the Enlarged Partial Agreement on the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine (Adopted by the Committee of Ministers on 12 May 2023 at the 1466th meeting of the Ministers' Deputies).
[159] Council of Europe Treaty Series - No. 229, adopted 16 December 2025, at the time of writing not yet in force.

Russian Federation.[160] It is further specified that Members of the Convention will not be required to fund the compensation awarded by the Commission, but for the Russian Federation, should it become a Member.[161] The Convention does not determine the modalities for the payment of compensation awarded, other than to stipulate that the mechanics of payment 'will be determined after funding has become available, including payment from any compensation fund that may be established or designated for this purpose at a point the Assembly agrees appropriate.'[162]

Though the current impasse on the confiscation of state assets has led to significant delays and uncertainty, arguably there is more that can be done to secure resources from other sources, including the kinds of corporate income discussed in this Report. The Convention does not exclude the possibility of a future compensation fund to receive voluntary contributions from businesses. This possibility could be carefully considered in developing the contours of the compensation fund that will finance the compensation awarded by the Commission. While the Register for Damage and the Convention focus specifically on internationally wrongful acts committed by the Russian Federation in or against Ukraine on or after 24 February 2022, this does not preclude the eventual compensation fund from dealing with a wider temporal scope.

To be attractive for voluntary contributions from businesses, the eventual compensation fund would need to be capable of meeting the criteria of sending governments to be recognised as charitable income.

V.4 Other international mechanisms

Funds received through accountability-based or voluntary and incentive-based routes to reparation may also be deposited with the International Criminal Court (ICC) Trust Fund for Victims. At the time of writing, the ICC had issued six warrants of arrest against individuals for their respective roles in the war in Ukraine following the full-scale invasion, including the unlawful transfer and deportation of children to Russia, directing attacks at civilian objects, causing excessive incidental harm to civilians or damage to civilian objects, and inhumane acts. The Trust Fund for Victims may receive donations from corporations among other sources,[163] and the funds could then be earmarked by the donor to a maximum of 1/3 of the contribution for a Trust Fund activity or project, so long as the allocation benefits victims and is non-discriminatory.[164]

Considering the fluid situation, it is possible to envision additional modalities for reparation to be created in future. Should a peace agreement be achieved, funds could be channeled either through the Council of Europe structures already envisioned, or through new structures brokered through the peace agreement in the style of the UN Claims Commission or Iran-US Claims Tribunal, or the Ethiopia Eritrea Claims Commission (under the auspices of the Permanent Court of Arbitration). At present, however, such modalities appear improbable given the ongoing hostilities.

[160] Ibid, Art 21.
[161] Ibid, Art 21(2).
[162] Ibid, Art. 22.
[163] Art. 21(a) of the Regulations of the Trust Fund for Victims, ICC-ASP/4/Res.3, 3 December 2005.
[164] Ibid, Art. 27.

VI. General considerations on the legitimacy and efficiency of reparation programmes

The below considerations are not unique to reparations involving business contributions.

VI.1 Sound legal basis and political commitment

Any new reparations body would need to be established by national legislation to give it the authority to operate including to receive and disburse funds within an appropriate and transparent legal and regulatory framework. Given the variety of technical functions, roles and interests, the body would normally require an inter-agency or inter-ministerial coordination taskforce to enable effective implementation by the appropriate array of experts, and it would need to report at set intervals to the Parliament or similar. Ensuring that the legal and administrative structure aligns with corporate social responsibility prerogatives and has the capacity to serve as a vehicle for tax efficient donations will make it more attractive for voluntary contributions from businesses.

VI.2 Stakeholder engagement in design, operations, monitoring and oversight

Best practice underscores the need for meaningful stakeholder engagement in the design, operation, monitoring and oversight of any reparations body.[165] Stakeholders include victims and affected communities, which in the context of widescale victimisation can be best achieved by broad outreach and consultation processes as well as by institutionalising participation at the governance level. Governance-level participation can be accomplished by setting up a special stakeholders panel with trusted members of the community serving as representatives reflecting different regions, ages, genders, minority groups, and lived experience, and/or including stakeholder representatives directly on the Board overseeing the development of the priorities, the plans for the operationalisation and distribution of funds, monitoring and oversight. Also, involving businesses or business associations in stakeholder engagement can ensure their buy-in as partners to plans and initiatives.

Stakeholder engagement means making time and space in the process to involve different and often competing voices (not all with the same power or authority) and ensuring these voices and perspectives can be heard and accounted for. The modalities for effective stakeholder engagement can be complex but such engagement will strengthen both the legitimacy of the process and the results. Victim participation ensures programmes are coherent with what victims actually want and need. Understanding the limitations victims may have to engage in reparations processes (remote or inaccessible locations, vulnerabilities, and others), what evidence victims will have access to and what state and other records may exist in complement, will help to plan effective procedures and outcomes. Participation should be integrated throughout and particularly when determining the design of reparations, the scope of beneficiaries, evidentiary requirements, claims and disbursement procedures.

[165] See generally, Furuya, ’Reparations for Victims of the Conflicts in Ukraine and Gaza’ (n 111).

VI.3 Effective outcomes

Effective outcomes in a context of mass victimisation requires transparency in the compliance with appropriate laws and procedures. It also requires matching the needs and wants of beneficiary groups to available resources, following clear criteria on priorities. It also requires creativity in devising reparations in a way that meets both victims' immediate and longer-term needs, and, where appropriate, considering the need for wider societal forms of reparation like satisfaction and guarantees of non-recurrence.

VII. Conclusions

In this Report, we have sought to identify the different pathways to engage businesses in reparations processes in Ukraine, focussing on accountability-based routes to reparation and alternative routes: specifically, settlements with respect to frozen corporate assets, incentive-based regimes and mandatory levies.

Each of these routes will have advantages and disadvantages and will require Ukraine and where relevant, home state jurisdictions to agree the way forward and put in place a clear legislative and regulatory framework to allow for operationalisation. The suitability of different pathways will also depend on the type of business connection to harms. Accountability-based routes are limited in their ability to address widespread harms but might be necessary to pursue where responsible businesses are unwilling to provide remediation for harms they have caused or contributed to. Voluntary and incentive-based mechanisms may be more capable of remediating widespread and serious damage. Such mechanisms can also enable genuine stakeholder dialogue and rightsholder participation in the design and implementation of programmes.

We stand ready to assist those concerned with the next steps.