



PATH TO JUSTICE IN EASTERN UKRAINE: LAW AND REALITY

The summary of the study
"Comprehensive legal mapping
of four types of legal cases"

The study was conducted by the Legal Development Network within the United Nations Recovery and Peacebuilding Programme (UN RPP) with the financial support of the governments of Denmark, Sweden and Switzerland and with the expert support from judges, representatives of the free legal aid system, the National Police, probation service, state executive service, civil states registry offices, representatives of public sector and lawyers from Donetsk, Luhansk, Kharkiv oblasts and Kyiv.

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The opinions, comments, conclusions or recommendations set out in this publication are those of the authors and do not necessarily reflect the views of the UN and the governments of Denmark, Sweden and Switzerland.

The United Nations Recovery and Peacebuilding Programme is being implemented by four United Nations agencies: the United Nations Development Programme (UNDP), the UN Entity for Gender Equality and the Empowerment of Women (UN Women), the United Nations Population Fund (UNFPA) and the Food and Agriculture Organization of the United Nations (FAO).

Twelve international partners support the Programme: the European Union (EU), the European Investment Bank (EIB) and the governments of Canada, Denmark, Germany, Japan, the Netherlands, Norway, Poland, Sweden, Switzerland & the UK.

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About the study

From August 2019 to February 2020, the civic union “Legal Development Network” **studied the actual path to justice of people who establish the legal facts of birth or death in non-government controlled areas of eastern Ukraine, seek to get compensation for their houses destroyed as a result of the armed conflict, or those who are the survivors of domestic violence or confirming duration of their employment.** The purpose of the study is to find out how the actual path to justice differs from the one determined by the legislation and suggest possible solutions to the problems identified.

It included the following stages:

- study of the legislation (national and international) and description of the process of obtaining access to legal services of the state determined by the legislation;
- in-depth interviews with experts;
- interviews with direct recipients of legal services;
- analysis of court rulings (for all categories of legal cases, except for establishing the facts of birth or death);
- discussion of the results in expert groups to work out recommendations on how to resolve processes related problems.

In-depth interviews were conducted with judges, attorneys, employees of the free legal aid system, the Pension Fund of Ukraine, the National Police and state executive service, as well as representatives of civil society organisations (CSO) and international organisations. These experts work in Donetsk and Luhansk oblasts, or their activities cover target groups of legal services recipients from these oblasts of Ukraine. There were 40 interviews in total.

The survey respondents were recipients of CSOs and free legal aid system services, and those who had previously participated in opinion polls. 268 respondents were interviewed in total, including: 91 persons who established the facts of birth or death, 95 persons who were obtaining compensation for the houses destroyed as a result of the armed conflict in eastern Ukraine. 11 persons received urgent prohibitory or restraining orders due to domestic violence, and 71 persons confirmed duration of their employment.

The findings of the study became a matter of expert group discussions between the employees of the free legal aid system, the National Police, the probation service, attorneys, judges. The participants of the discussions held in Kramatorsk (Donetsk Oblast) and Sievierodonetsk (Luhansk Oblast) determined «the ideal» path to justice and how to achieve it in practice.



General recommendations of the study

Based on the results of the expert discussion, the following suggestions were made to improve all the processes studied in general (recommendations for each process are given below):

- to improve the process of informing IDPs and residents of non-government controlled areas of step-by-step algorithms to act, their right to get free legal aid and addresses of access points to free legal aid system, how to certify copies of supporting documents, amounts, payment procedure and grounds for exemption from payment of court fees, addresses and means of communication of judicial authorities and registration offices;
- to facilitate the practice of providing free legal aid by the government bodies, courts, etc;
- to provide access to information stored in databases of the State Fiscal Service, Pension Fund of Ukraine, and social welfare authorities to free legal aid system;
- to make it possible to remotely submit an application to establish the facts, in particular by introducing the Unified Judicial Information and Telecommunication System;
- to improve (simplify) the procedure to obtain an electronic digital signature in order to increase the use of existing electronic services;
- to expedite the process of selecting and appointing judges to the courts that lack the staff.



**ESTABLISHING
THE LEGAL FACTS
OF BIRTH AND
DEATH**

The experts say that establishing the facts of birth and death in non-government controlled areas of Ukraine is one of the most common and easiest types of the cases studied. The procedure for this type of case is well-established and relatively fast.

The legislation stipulates that cases to establish the legal fact of birth or death of a person in non-government controlled areas of Ukraine shall be heard in court. So far, experts don't see any serious problems regarding such cases. However, the best option to improve the procedure is to introduce a method to resolve these issues out of court – an administrative procedure that could be carried out by civil states registry offices.



PROCESS ALGORITHM DETERMINED BY THE LAW; EXPERT OPINION

As the first stage, a person goes to the civil states registry office and gets rejection to register the fact of birth or death; as the second stage, he or she applies to the court and obtains a judgment; as the third stage, a person goes to the civil states registry office again to obtain a certificate.

In order to apply for the determination of the fact of birth or death in non-government controlled areas and resolve the case in a court, a person shall have a package of evidence that, apart from the rejection of registration, includes a considerable amount of documents to prove family ties and the fact of birth or death.

An application to determine the fact of birth of a person in the non-government controlled areas of Ukraine can be submitted by a child's representatives to any court outside such territory of Ukraine. An application to determine the fact of death of a person in the non-government controlled area of Ukraine can be submitted only to a court responsible for hearing cases in the territory, where the applicant was registered. At the time of the study the court fee to apply for the establishment of the fact of birth or death amounted to UAH 420.40.

Cases of this type are heard immediately on the day the application was received. After examination of the application, the court awards a judgment to determine the relevant fact (shall be executed immediately); if the application form is invalid or a person does not have all the documents listed in the application – to return the application; if there is not enough evidence – to reject the application.

To receive a birth or death certificate, a person shall submit a copy of a court judgment determining the relevant fact and his/her Ukrainian passport to the nearest civil states registry office.

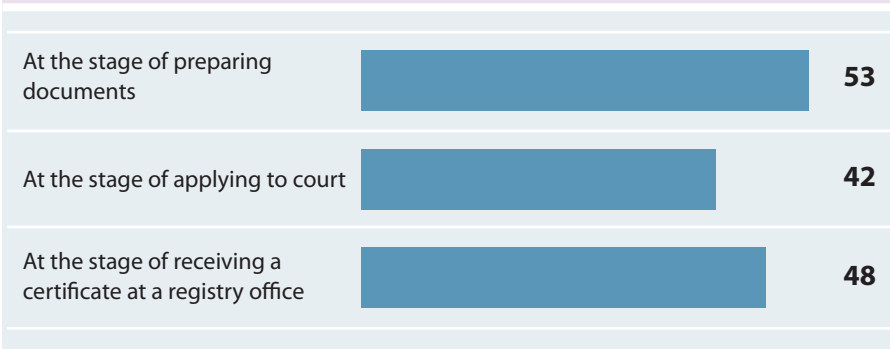
The maximum terms provided by the law to carry out all the necessary procedures shall not exceed 13 days. The state registration of birth or death shall take place on the same day a copy of the judgment is received by any civil states registry office or when it is submitted by the applicant.



ACTUAL PROCESS: STAGES, DIFFICULTIES, FINANCIAL AND TIME EXPENDITURES

The actual algorithm of this process as a whole does not differ from the one determined by the legislation.

FIGURE 1. Problems occurring in the course of establishing the fact of birth or death at different stages (% of all respondents)



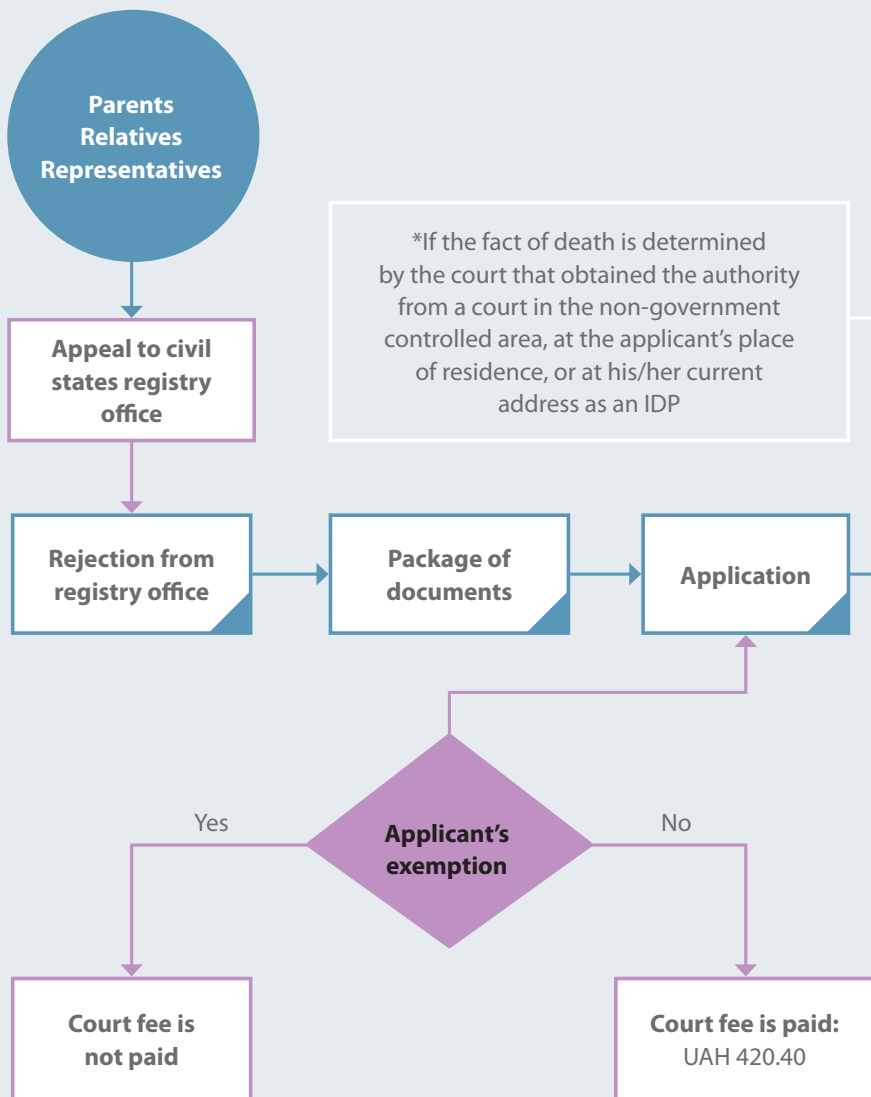
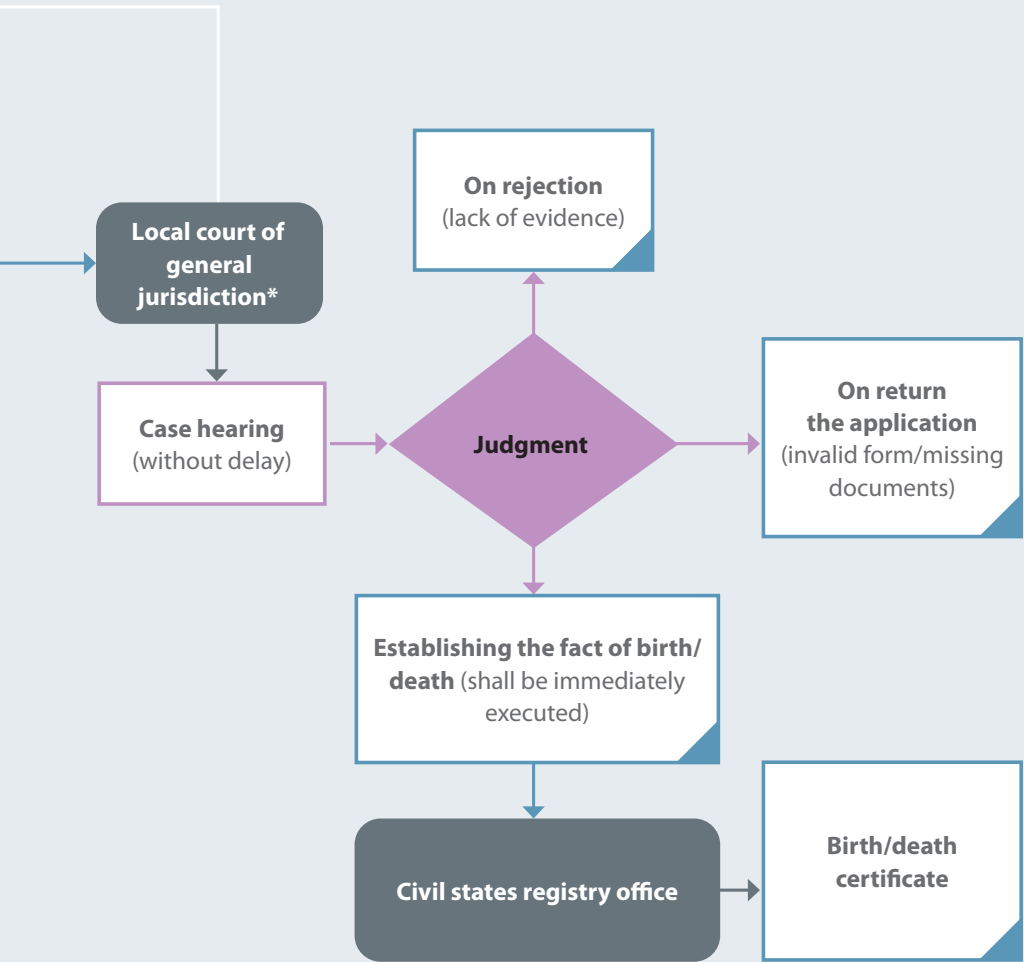


FIGURE 2. Establishing the facts of birth or death (according to the law)

Legend:



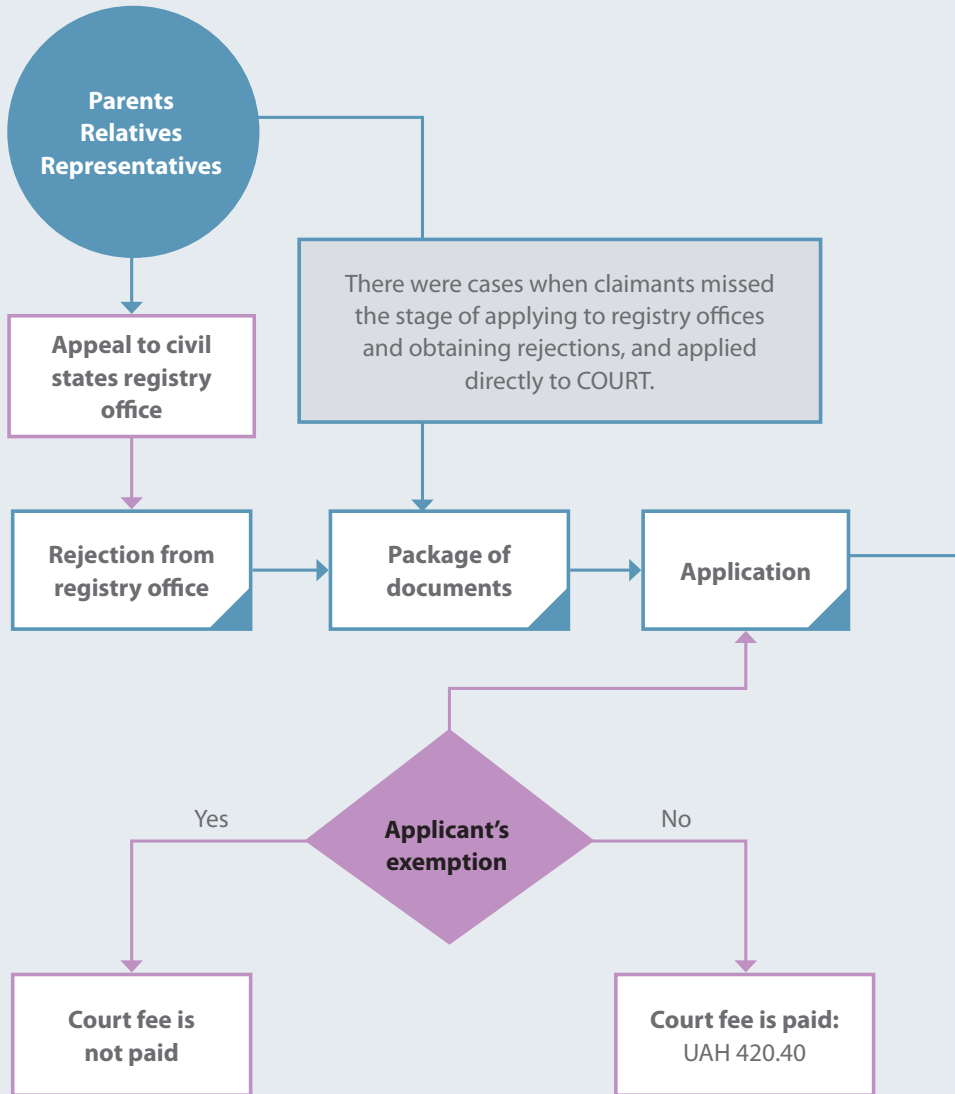
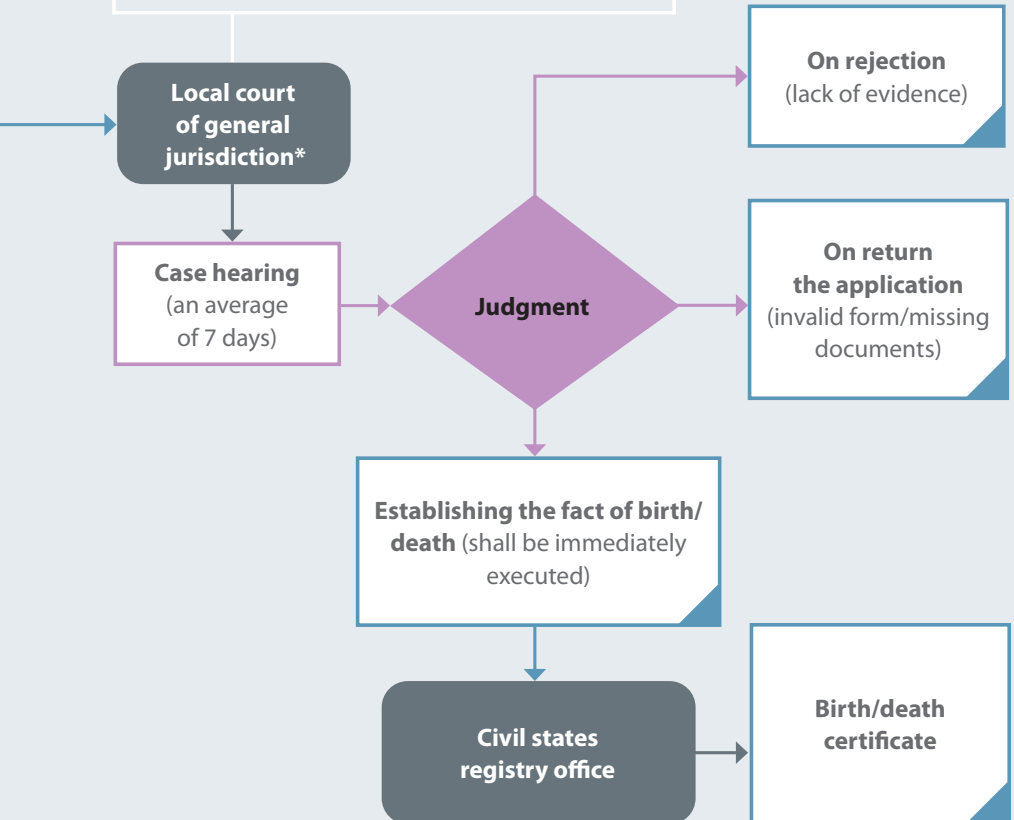


FIGURE 3. Actual process to establish the fact of birth and death

Legend:



*If the fact of death is determined by the court that obtained the authority from a court in the non-government controlled area, at the applicant's place of residence, or at his/her current address as an IDP



The answers of the respondents partially contradict the opinion of experts on the simplicity of the registration procedure. The main solution to the problems is to ask rights protection organizations for legal assistance or a close people for advisory assistance/ financial support.

According to experts, the problems of people who register the facts of birth or death may be as follows:

- lack of documentary evidence confirming the relationship between the applicant and a deceased, or parents and a child;
- lack of awareness of the requirement to submit original documents (certified copies);
- different law enforcement practices in courts;
- lack of information about an exemption from court fees, as well as existing exemptions;
- influence of personal relationship between the judge and attorney on a positive or negative decision.

Recipients of legal services dealing with this type of cases mentioned the following difficulties:

- the need to travel to another location in the government controlled areas of Ukraine;
- excessive workload of the civil states registry office, organisations and institutions issuing the required documents;
- long time for paperwork and case hearings;
- significant financial expenses for preparing documents and applying to the court.

TABLE 1. Duration of the registration of the facts of birth or death at different stages

	Average (days)
Pre-court stage: applying to registry offices, preparation for applying to court	9 ¹
Court stage: submission of documents to court and case hearing	7
Post-court stage: submission of documents to a registry office and obtaining a certificate	5 ²
The entire process	21³

The average duration of the entire process is not equal to the sum of time periods spent on each stage, as the latter are calculated for a different number of respondents – those who submitted answers.

TABLE 2. The cost of the registration process of the facts of birth or death at different stages

	Average (UAH)
Pre-court stage: applying to registry offices, preparation for applying to court	3084 ⁴
Court stage: submission of documents to court and case hearing	1224 ⁵
Post-court stage: submission of documents to a registry office and obtaining a certificate	783
The entire process	4013⁶

The average value only includes the answers of the respondents who provided data on their expenditures (UAH >0). The cumulative expenditures related to the process are not equal to the sum of expenditures at each stage, as the latter are calculated for a different number of respondents – those who mentioned the expenditures at the relevant stage.

¹ The average value of the indicators excludes the cases when the process lasted longer than 35 days

² The average value of the indicators excludes the cases when the process lasted longer than a month

³ The average value of the indicators excludes the cases when the process lasted longer than 3 months

⁴ The answers of the respondents who spent more than UAH 25,000 are not taken into account

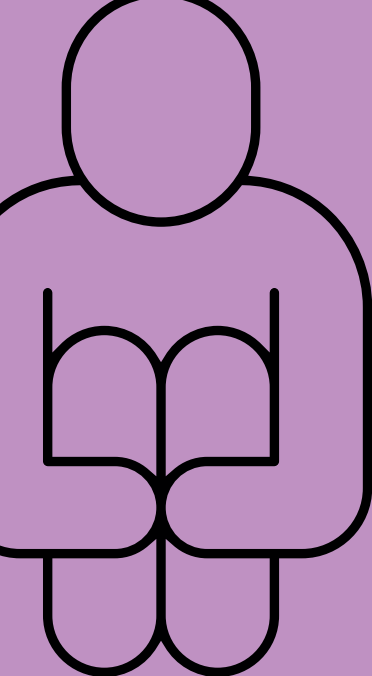
⁵ The answers of the respondents who spent more than UAH 20,000 are not taken into account

⁶ The answers of the respondents who spent more than UAH 25,000 are not taken into account



RECOMMENDATIONS TO IMPROVE THE PROCESS:

- to improve the process of informing the concerned parties about the legal procedure, form and contents of applications, list of the necessary documents;
- to introduce an out-of-court (administrative) mechanism for this issue;
- the courts shall observe the time limits for hearing the relevant cases.



DOMESTIC VIOLENCE

In the category of domestic violence cases, the experts note that in general there have been positive changes these days: establishment and development of the free legal aid system, increase in the number of specialised CSOs, formation of special groups and mobile brigades within the state agencies that can provide not only legal but also psychological assistance. Urgent restraining orders against domestic violence perpetrators issued by police and restraining orders against domestic violence perpetrators issued by civil court are the main protection measures for survivors of domestic violence recently introduced in the Ukrainian legislation.



PROCESS ALGORITHM DETERMINED BY THE LAW

In case of a domestic violence incident a survivor must contact the police unit and report the crime. The police will record the report and explanations and collect the available evidence. They will include this data in the Unified Register of Pre-Court Investigations. The survivor shall be explained his/her rights and duties. The survivor cannot ask to terminate the criminal proceedings (to protect the survivor from the offender) until the end of the pre-court investigation. Further all the necessary measures are taken by an investigator. Pre-court investigation shall be completed within 2 months following the day when a person receives a notice of suspicion of committing a crime; it may be extended for no longer than 18 months. If there is enough evidence, the indictment as a part of the criminal proceedings shall be sent to court.

Urgent restraining order may be imposed on the offender by the police.

An urgent restraining order is issued by a National Police officer based on the results of risk assessment, for a period of up to 10 days upon a survivor's statement or upon the police officer's initiative.

A restraining order is issued by the court at the request of the survivor or his/her representative. No court fee is paid for submitting such application. The court shall hear the case concerning issue of a restraining order within 72 hours of receipt of an application.

A court restraining order is issued for up to 6 months and can be extended for the same period. Criminal proceedings or lack thereof do not deprive the person of a possibility to apply to court to obtain a restraining order against the offender.

The legislation stipulates that in order to put the offender on supervision, the court notifies the authorised units of the National Police of Ukraine located in the area of the survivor's place of residence, as well as local executive authorities of issue of the restraining order against the offender. If the court judgment is not followed, the survivor has the right to request the department of the state executive service to ensure its enforcement.



Pursuant to the current legislation, there are no direct expenses of the legal assistance recipient dealing with this type of case. The maximum terms for these procedures determined by the law shall not exceed 16 days.



ACTUAL PROCESS: STAGES, DIFFICULTIES, FINANCIAL AND TIME EXPENDITURES

The actual procedure described by the experts and legal assistance recipients is, in general, in line with the algorithm determined by the legislation.

FIGURE 4. The actual procedure described by the experts and legal assistance recipients is, in general, in line with the algorithm determined by the legislation

At the stage of applying to the police		36
At the stage of applying to court		27

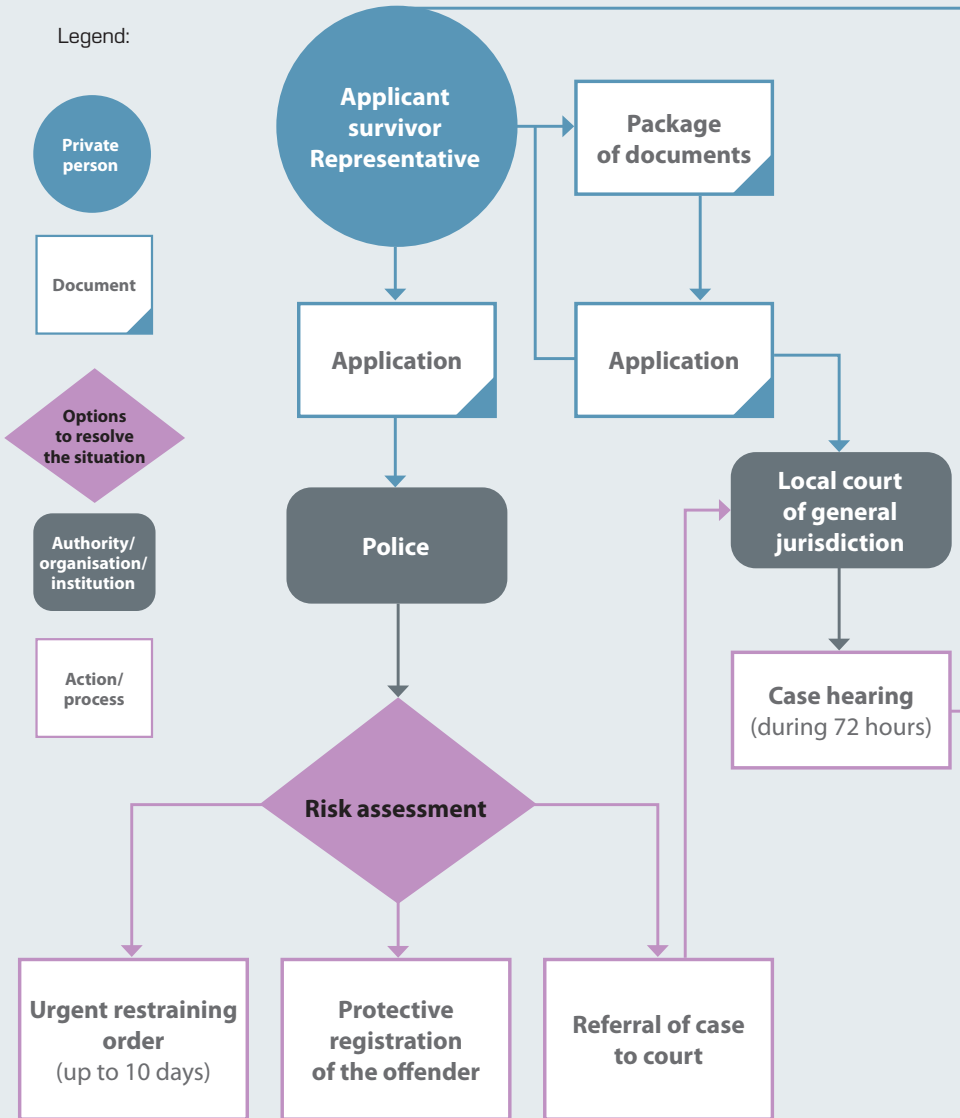
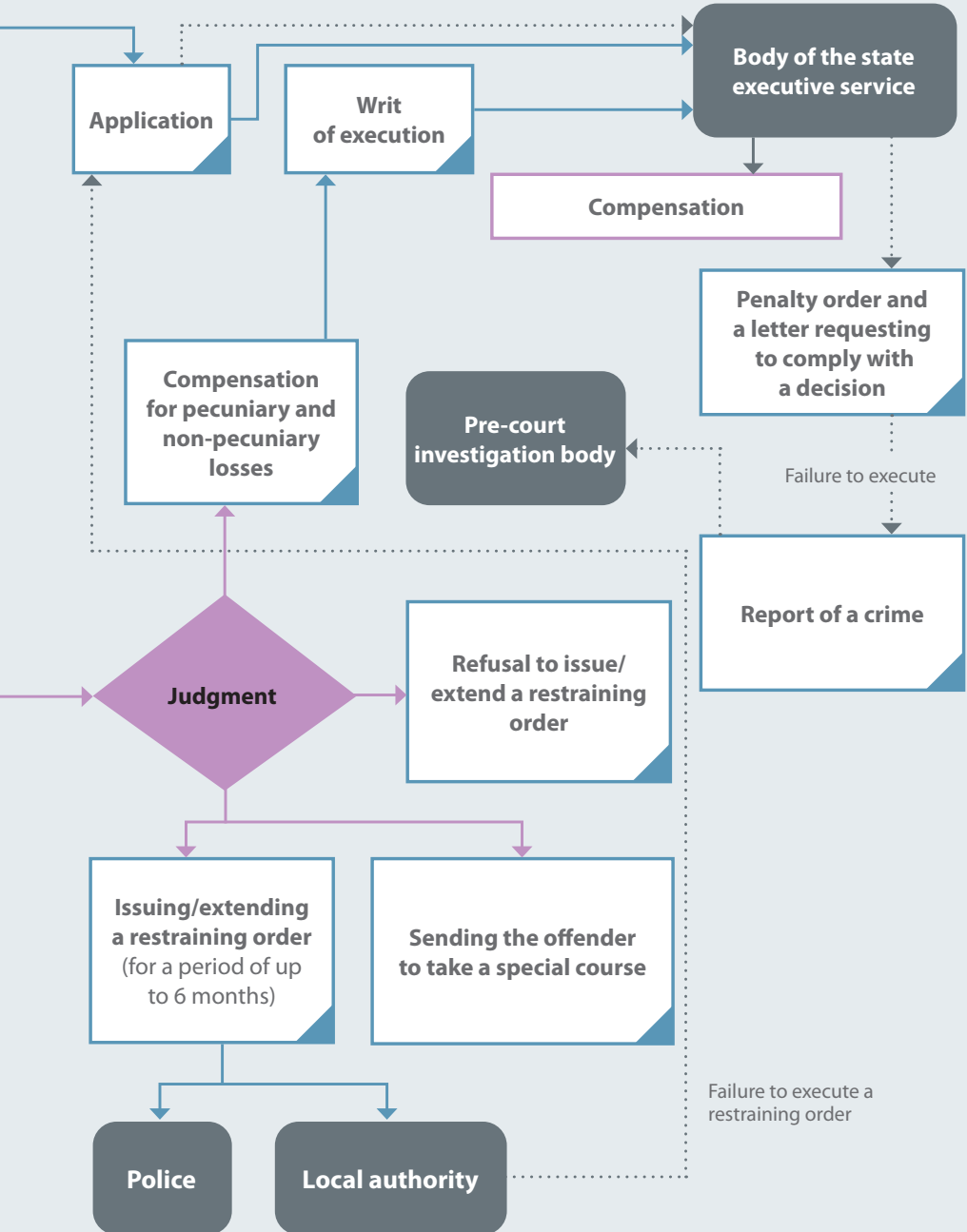


FIGURE 5. Domestic violence cases (pursuant to the current legislation)



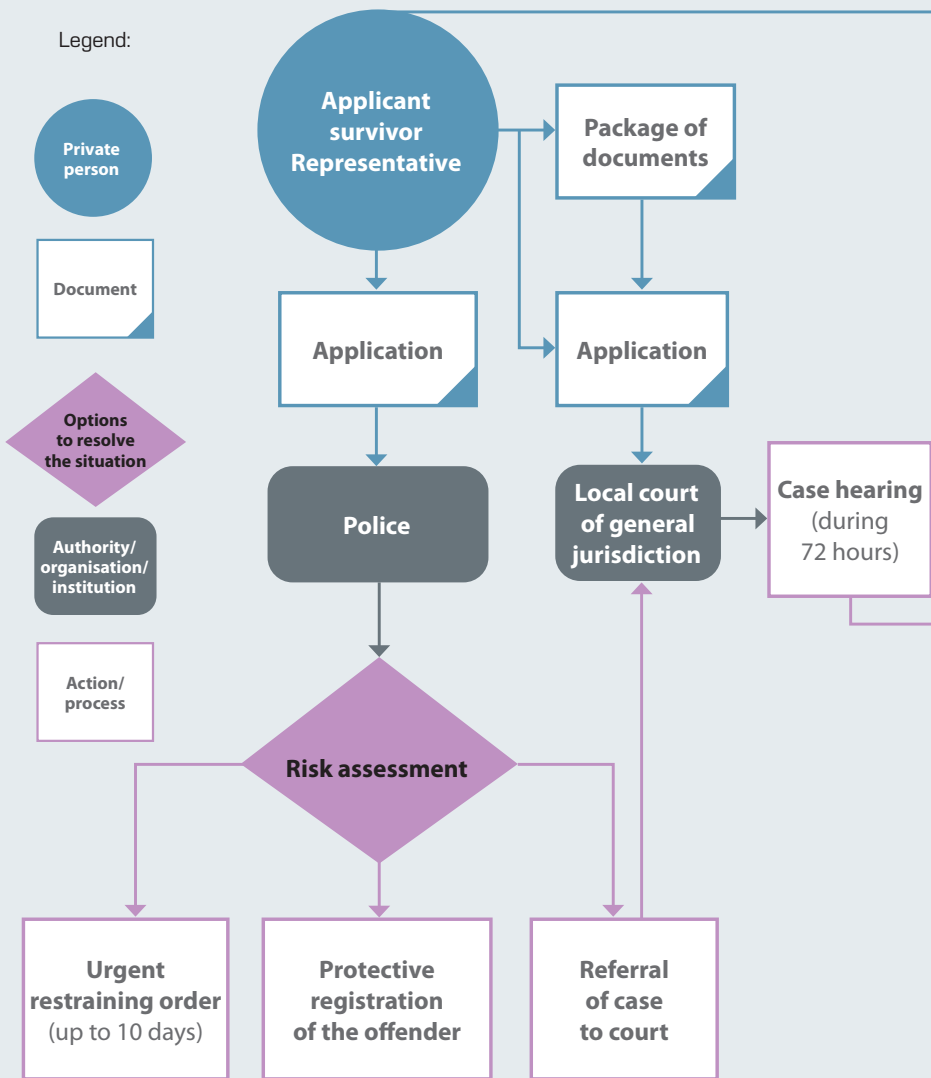
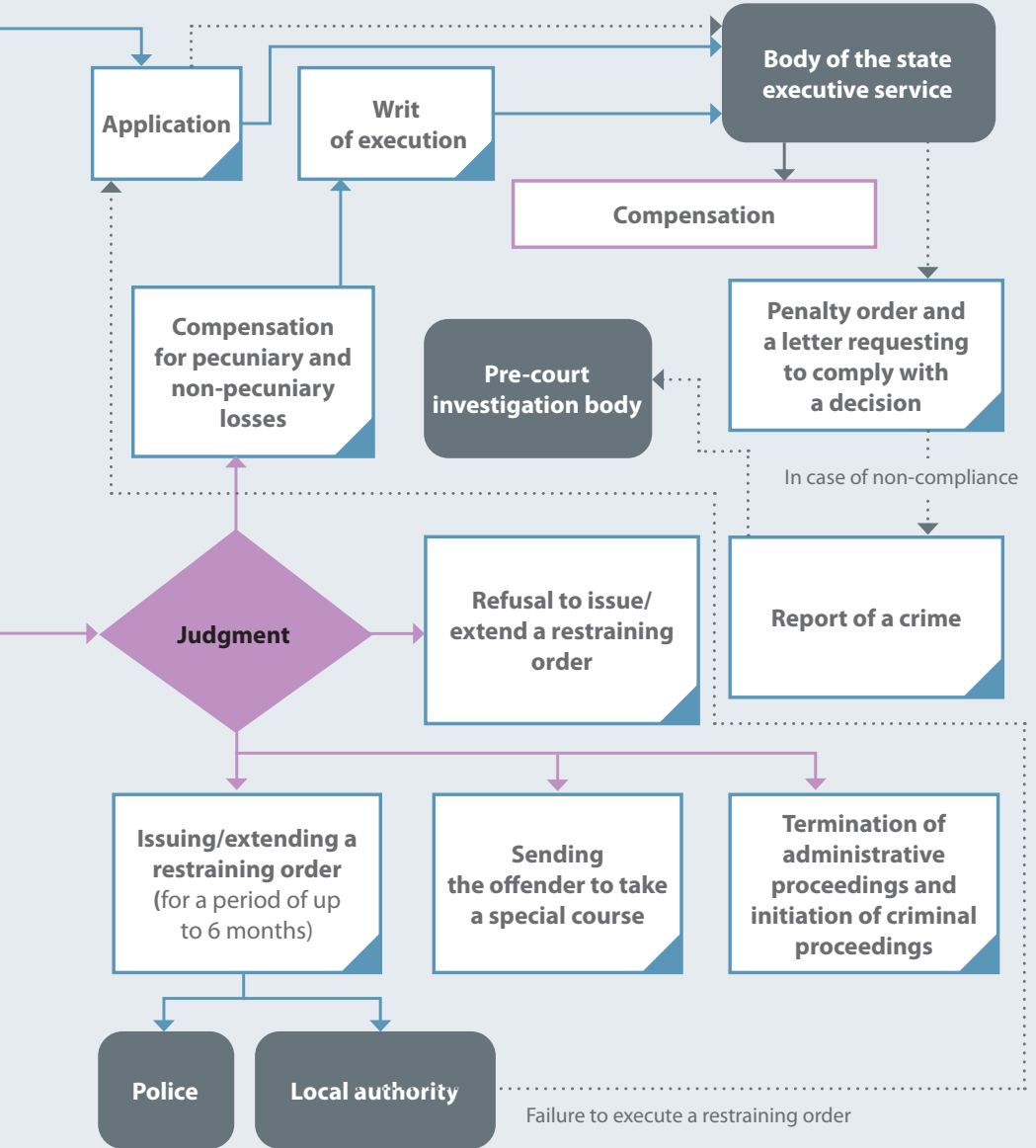


FIGURE 6. Domestic violence cases (actual process)



The main difficulties, barriers and obstacles that a survivor of domestic violence who applies to the police or court may be faced with:

- delay/failure to issue an urgent restraining order when necessary;
- lack of awareness of the police officers and staff of the executive service of the relevant procedure;
- lack of social housing or shelters for survivors;
- slow examination of the case due to difficulties of the procedure to notify the offender of a court hearing;
- impolite behaviour of the officials;
- emotional distress and psychological pain experienced by survivors;
- high burden of proof;
- defective protocols and risk assessments conducted by police officers.

TABLE 3. The duration of the process to get an urgent restraining order or a court restraining order at different stages

	Average (days)
Pre-court stage: submitting application to the police and court	10
Court stage: submission of documents to court and case hearing	6
Post-court stage: application regarding the enforcement of the court judgment	1
The entire process	16

The average duration of the entire process is not equal to the sum of time periods spent on each stage, as the latter are calculated for a different number of respondents – those who submitted answers.

TABLE 4. The cost of the process to receive an urgent restraining order or court restraining order at different stages

	Average (UAH)
Pre-court stage: submitting application to the police and court	365
Court stage: submission of documents to court and case hearing	205
Post-court stage: application regarding the enforcement of the court judgment	50
The entire process	453

The average value only includes the answers of the respondents who provided data on their expenditures (UAH >0). The cumulative expenditures related to the process are not equal to the sum of expenditures at each stage, as the latter are calculated for a different number of respondents – those who mentioned the expenditures at the relevant stage.



RECOMMENDATIONS TO IMPROVE THE PROCESS:

- Raise awareness of survivors of domestic violence on their rights, procedures to exercise their rights, available protection measures and services (including legal assistance);
- To improve the judicial process of considering such cases by creating and using 'green rooms' for children;
- To develop the capacities of police officers in order to improve the quality of risk assessments and reports developed by them in a domestic violence cases, as well as on the issuance and supervision of urgent restraining orders;
- To improve qualifications of the staff of free legal aid system, employees of child protection authorities, the state executive service;

- Police officers at community level – to prioritize the response in domestic violence cases and make use of emergency restraining orders to protect the survivors of domestic violence from an immediate danger to their health and lives inflicted by the domestic violence perpetrator;
- Police officers at community level – to use a survivor-centered approach reflected in international standards issuing emergency restraining orders against domestic violence perpetrators;
- Police officers at community level – monitor the effective implementation of emergency restraining orders, strengthen the cooperation with other domestic violence service providers and ensure referral;
- Courts to remain available and examine in a priority manner domestic violence related cases, including requests on issuing restraining orders for survivors of domestic violence;
- To remove the corpus delicti of “domestic violence” from the article 173-2 of the Code of Ukraine on Administrative Violations;
- To remove the qualifying characteristic of “systematic” from the article 126-1 of the Criminal Code of Ukraine;
- To reduce the burden of proof for the domestic violence survivor in criminal domestic violence cases, as well as for issuing a court restraining order against the perpetrator.



**COMPENSATION
FOR PROPERTY
(HOUSING)
DESTROYED
AS A RESULT
OF THE ARMED
CONFLICT
IN EASTERN
UKRAINE**

The armed conflict in Donetsk and Luhansk oblasts led to multiple infrastructure damages on both sides of the «contact line». **The legislation of Ukraine determines the way to protect the right to property violated by damage or destruction of real estate in the armed conflict area. A victim may claim compensation for the destroyed housing from the state.**

At the time of the study we could not obtain information on successful cases of receiving compensation through the national judicial system. Examination of such claims by the courts de facto has been suspended in anticipation of an exemplary decision of the Supreme Court.



PROCESS ALGORITHM DETERMINED BY THE LAW

The stage of preparing for trial consists of several steps. The affected persons shall confirm their ownership of housing, the fact that it was destroyed, a cause and effect relationship between the destruction and the armed conflict, as well as the extent of damage and the compensation costs. The fact that the damaged housing is located in the non-government controlled areas of Ukraine or in the Anti-Terrorist Operation/ Joint Forces Operation area must be also confirmed. To do this, the person must apply to a regional civil-military administration or to a local council.

The authorities convene a commission that visits the scene and draws up an inspection report. If the property is located in a non-government controlled area of Ukraine, it is possible to confirm the level of destruction by other means: photos, videos, materials published in the reports of international organisations, the testimony of witnesses, etc.

To determine the amount of compensation the damage assessments must be performed. On the government-controlled areas of Ukraine the assessment may be performed through the examination (involving a state or private expert at the pre-court stage and pursuant to a court order).

In order to obtain compensation, ownership of the damaged or destroyed housing shall be transferred to the utility authorities or to the state. There is no specific procedure for such transfer, that is why local self-governance bodies usually provide formal rejections. It is important for a person to declare the intention to transfer the ownership of the housing to the state.

In general, the legal proceeding is quite long and does not always guarantee satisfaction of the victim's claims.

At the time of the study the court fee to submit an application amounted to UAH 768.40. The maximum term for hearing a civil case can be 335 days (in all institutions).

To simplify and expedite the compensation procedure and reduce pressure on the judicial system, a new out-of-court algorithm was introduced in summer 2019. It consists of the following steps:

- to get a housing damage report and a certificate of the victim of a wartime emergency issued by the local self-government bodies;
- to provide identity documents and papers confirming ownership of the housing;
- to go to a regional civil-military administration that shall form a special commission to decide on compensation within 5 days.

However, the compensation under this procedure may not exceed UAH 300,000.00. Therefore, even after the introduction of this procedure, it is still necessary for many victims of the armed conflict to apply to court to receive a compensation that exceeds this amount.

The experts say that the out-of-court procedure for obtaining compensation still does not work since the form of reports of the damaged housing inspection is yet to be drafted and approved; the procedure to get a certificate of the victim of a wartime emergency is yet to be regulated. So far, local government bodies refuse to issue the relevant documents on these grounds. These issues are expected to be resolved in 2020.

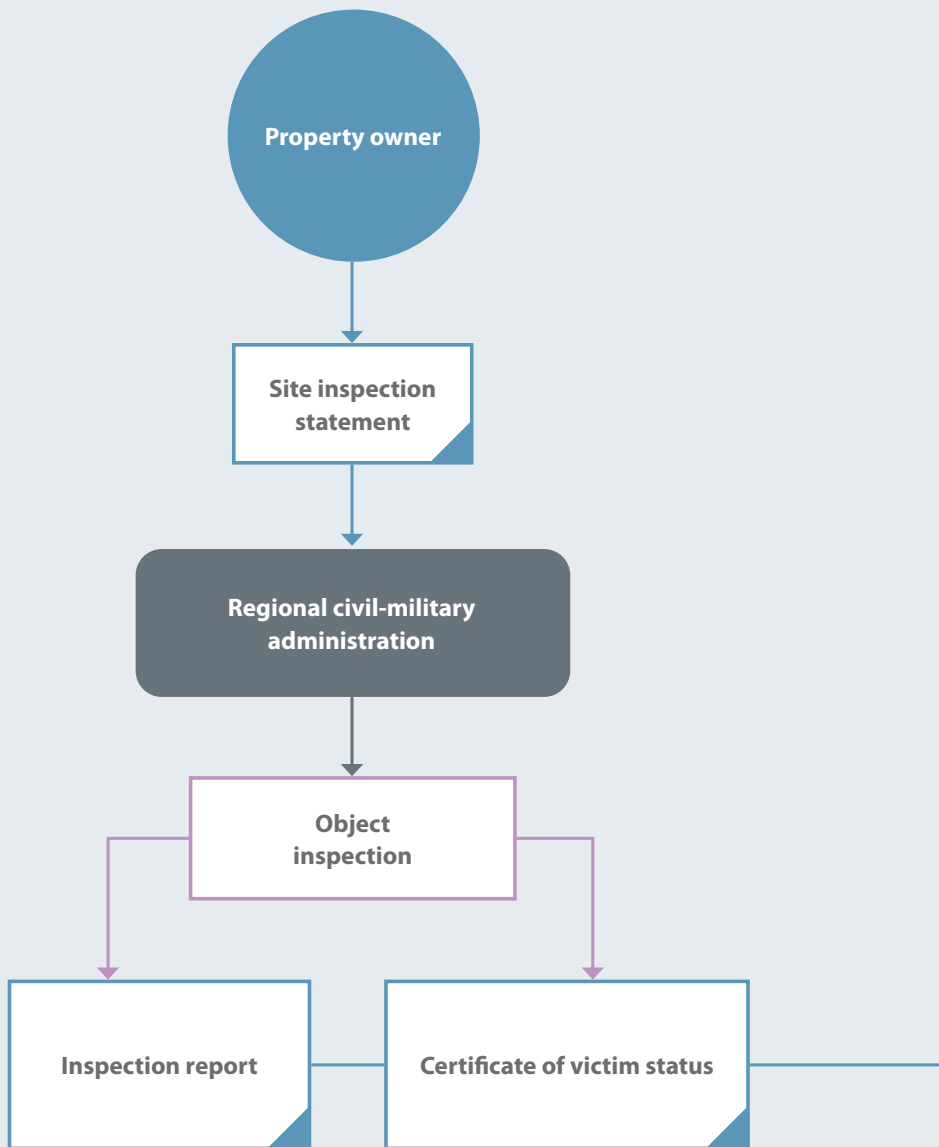
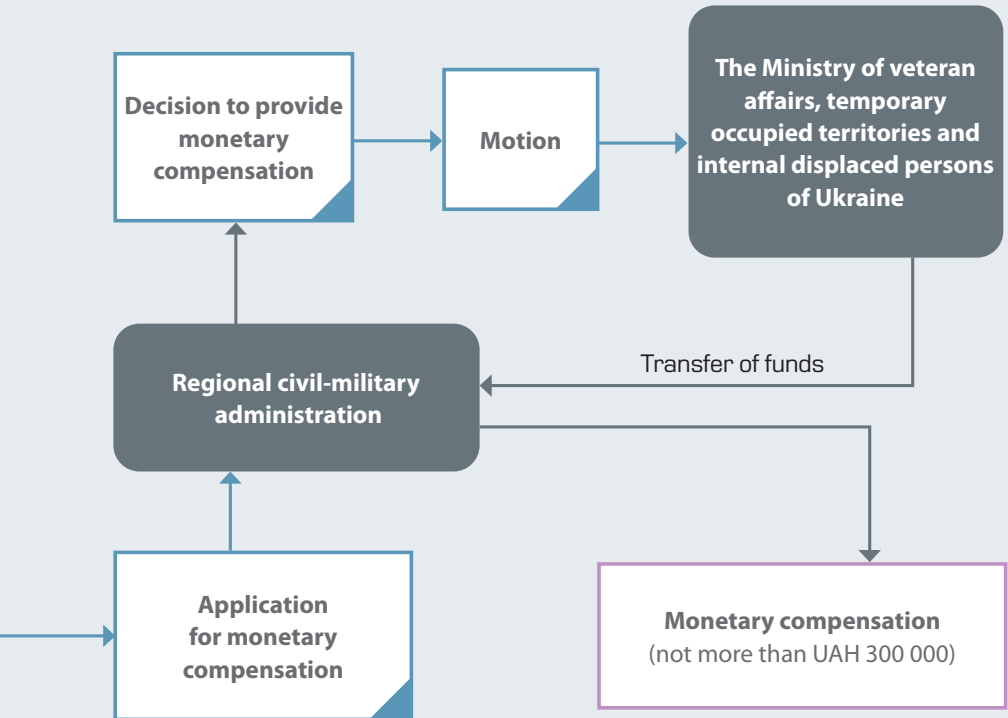
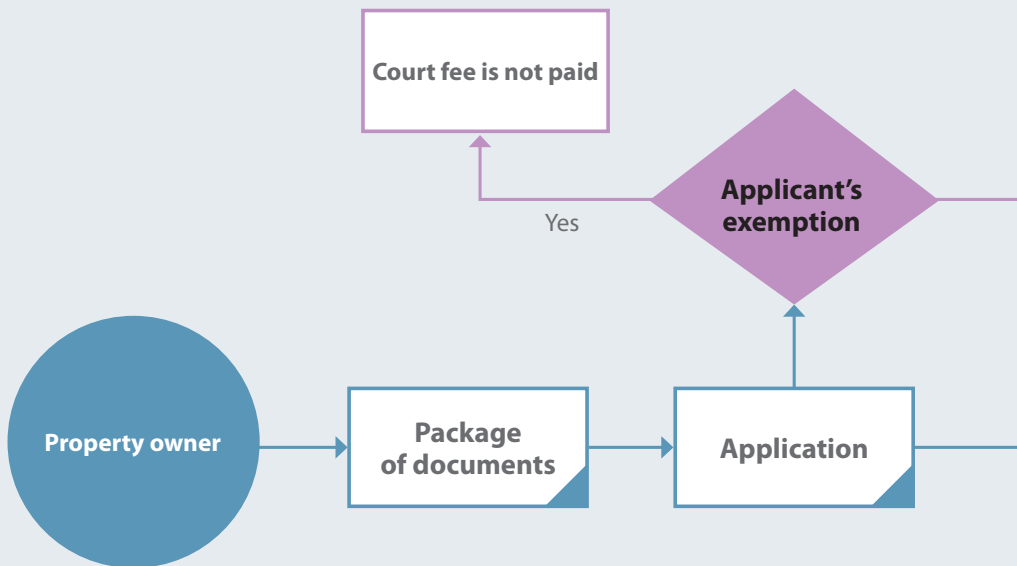


FIGURE 7. Compensation for the property damaged during the armed conflict in eastern Ukraine (out-of-court procedure for persons who stayed at their place of residence, pursuant to the current legislation)

Legend:

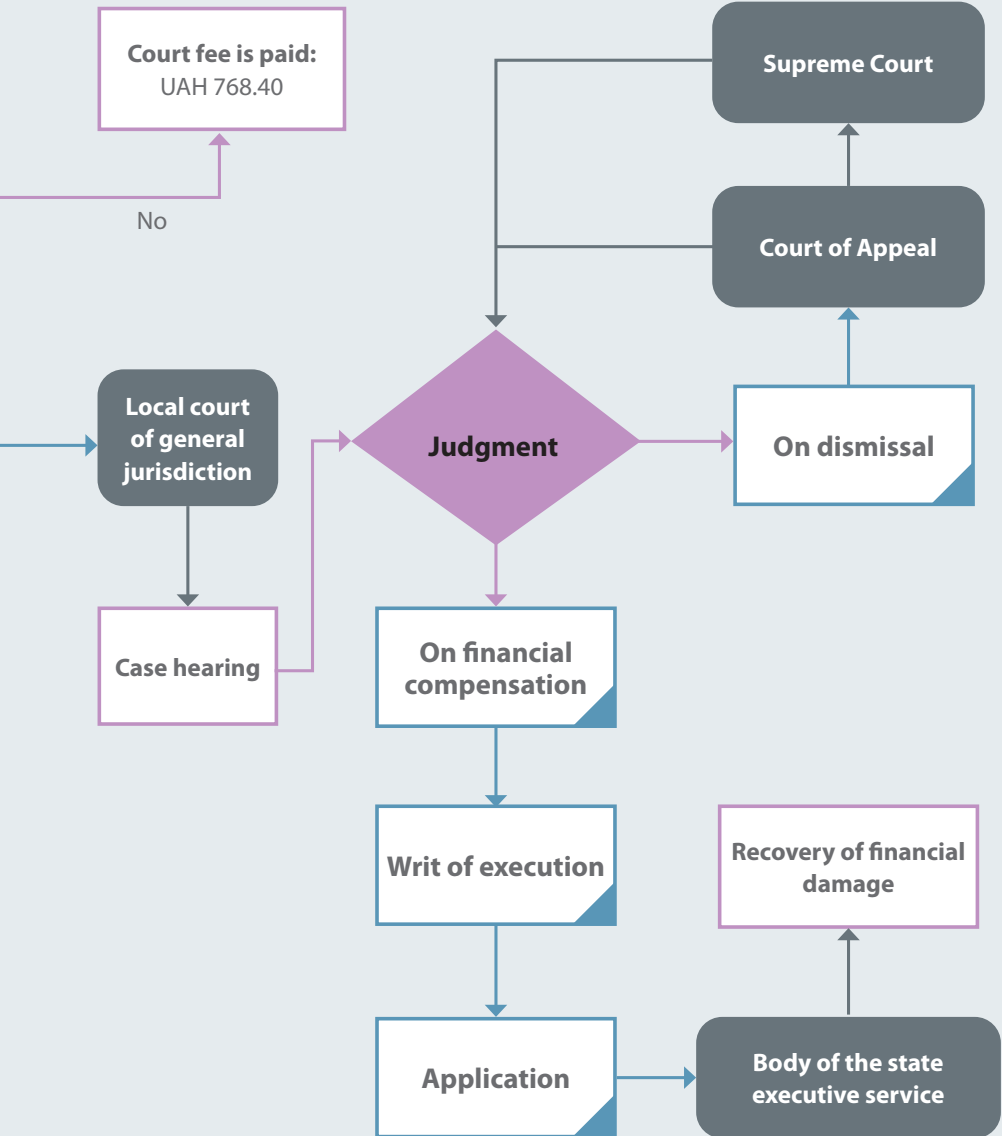


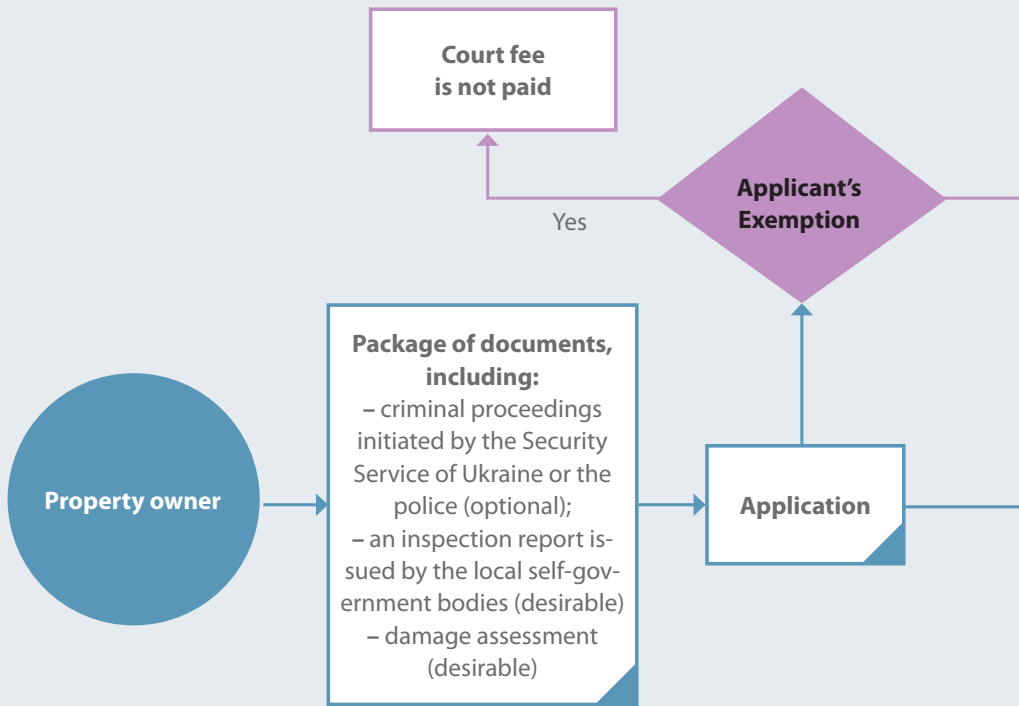


Legend:



FIGURE 8. Compensation for property destroyed during the armed conflict in eastern Ukraine (through applying to court, pursuant to the current legislation)





Legend:



FIGURE 10. Compensation for property destroyed during the armed conflict in eastern Ukraine (actual process)

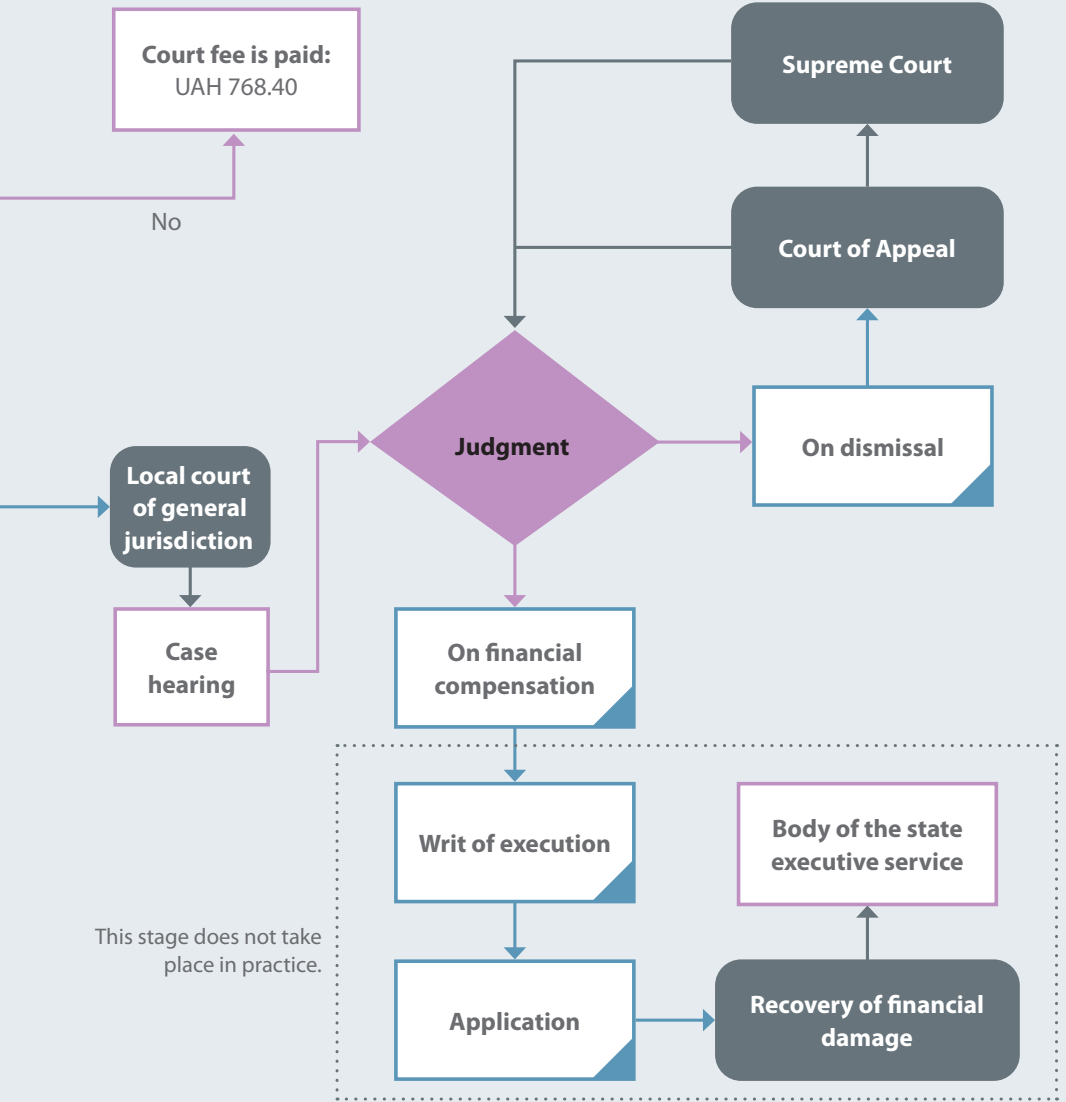
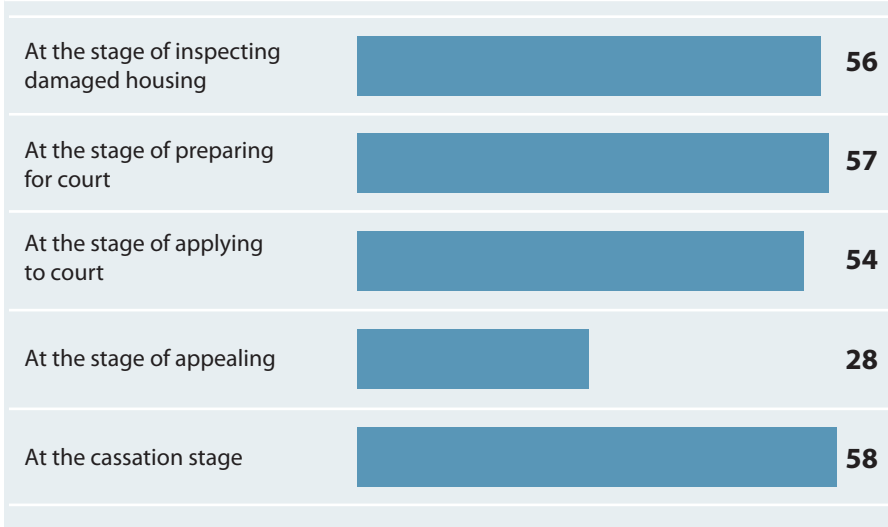


FIGURE 9. Problems with obtaining compensation for damaged housing at different stages (% of all respondents)



ACTUAL PROCESS: STAGES, DIFFICULTIES, FINANCIAL AND TIME EXPENDITURES

The actual procedure described by the experts, in general, is in line with the compensation algorithm determined by the legislation.

Although regulatory documents do not include a direct requirement to apply to the law enforcement agencies and add data to the Unified Register of Pre-Court Investigations, it is recommended to do this in order to confirm a connection between property damage and the armed conflict. For this, a person shall submit a statement of a terrorist act performed at his/her household area to the Security Service of Ukraine and initiate criminal proceedings.

The experts reported on the following problems with obtaining compensation for the damaged housing:

- lack of established judicial practice for these cases;
- unwillingness of representatives of the judicial system to pass a judgment upon this type of cases;
- difficulties with collecting evidence in non-government controlled areas of Ukraine;
- long period of hearing the case;
- high cost of legal counselling for the case, including the cost of damage assessment;
- passivity and inertia of the victims, lack of awareness of the algorithm to act.

Legal services recipients specified the following barriers:

- lack of information about the algorithm to act;
- difficulties with visiting remote locations to conduct inspections;
- long time for paperwork for the court;
- difficulties with visiting the non-government controlled areas of Ukraine.

TABLE 5. The duration of the process to get compensation for the damaged housing at different stages

	Average (days)
Pre-court stage: inspection of the destroyed property, initiating criminal proceedings, preparation for the court	105 ⁷
Court stage: obtaining a court judgment	390 ⁸
Post-court stage: applying to the state executive service	30
The entire process	438⁹

The average duration of the entire process is not equal to the sum of time periods spent on each stage, as the latter are calculated for a different number of respondents – those who submitted answers.

⁷ The average value of the indicators excludes the cases when the process lasted longer than 900 days

⁸ The average value of the indicators excludes the cases when the process lasted longer than 1500 days

⁹ The average value of the indicators excludes the cases when the process lasted longer than 1500 days

TABLE 6. The cost of obtaining compensation for the damaged housing at different stages

	Average (UAH)
Pre-court stage: inspection of the destroyed property, initiating criminal proceedings, preparation for the court	10215 ¹⁰
Court stage: obtaining a court judgment	10543
Post-court stage: applying to the state executive service	12016
The entire process	12543¹¹

The average value only includes the answers of the respondents who provided data on their expenditures (UAH >0). The cumulative expenditures related to the process are not equal to the sum of expenditures at each stage, as the latter are calculated for a different number of respondents – those who mentioned the expenditures at the relevant stage.

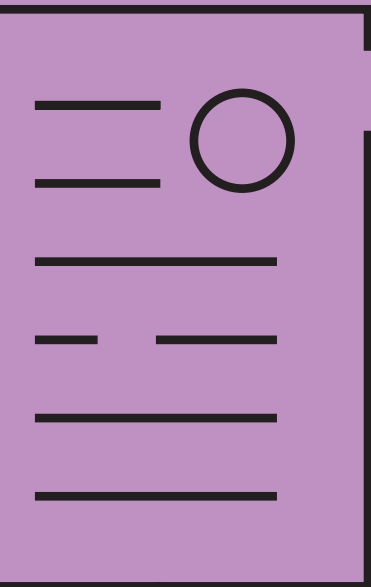


RECOMMENDATIONS TO IMPROVE THE PROCESS:

- To provide a step-by-step algorithm to all the state bodies involved in this process;
- To introduce a unified approach to solving problems that would apply to all victims (including those who live in the non-government controlled areas of Ukraine and/or who left their destroyed houses);
- The Cabinet of Ministers of Ukraine shall approve the form of the inspection act and the procedure to establish the status of a person affected by emergencies;
- To regulate the procedure for transferring the ownership of a destroyed house to the state or cancelling this requirement until a victim receives compensation;
- To reduce court fees for this type of case for people who lost their houses.

¹⁰ The answers of the respondents who spent more than UAH 100,000 are not taken into account.

¹¹ The answers of the respondents who spent more than UAH 100,000 are not taken into account.



VERIFICATION OF PERIOD OF EMPLOYMENT

The reasons that make a person apply to a court concerning the matter of verification of their period of employment are the need to confirm his/her employment history, employee benefits or the amount of his/her salary at a particular place of work. The above-mentioned needs mainly arise concerning employment before 2004, when an electronic register of unified social tax was established.

Problems arise when a person loses his/her employment record book or if it is completed improperly. In such case the legislation allows a person to confirm his/her employment history by the other documents confirming the fact of employment. However, residents of the non-government controlled areas of Ukraine and IDPs may be faced with specific difficulties related to the loss of archive documents as a result of the armed conflict or the fact that the institutions and organisations entitled to issue a certificate are located in the non-government controlled areas of Ukraine. The Pension Fund of Ukraine cannot accept the documents issued in the non-government controlled areas, without a court judgment. The court may also oblige the Pension Fund of Ukraine to take into account an incorrectly completed entry in an employment record book without additional documents, if the available information about employment is sufficient.



PROCESS ALGORITHM DETERMINED BY THE LAW

Person with no data in their employment record books or improperly completed employment record books or who were not confirmed by the Pension Fund of Ukraine, may apply to the Pension Fund of Ukraine to verify the employment history, having provided the relevant documents. The Pension Fund of Ukraine considers an application and issues a decision. If a person does not agree with a decision of the Pension Fund of Ukraine, he or she has the right to appeal it with a district administrative court.

To apply to court, such person shall write a statement of claim to appeal the decision of the Pension Fund of Ukraine to reject registration of his/her work experience. In addition to his/her passport, individual identification number, employment record book and a written decision of the Pension Fund of Ukraine that is a subject of appeal, the person shall attach all the available documents that may confirm the fact and period of his/her work relationship to the application. It is also possible to include witness

statements (at least two) who worked with the applicant and have documents about their work for the period that the applicant is verifying. At the time of the study the court fee for this type of case amounted to UAH 840.80 (some citizens have the right to be exempted from the court fees).

Judgment of the court of first instance becomes effective as soon as the period of time for submitting appeals by each party to a case expires. If a person appeals against the judgment of the court of first instance, the court fee amounts to 150% of the sum that had to be paid when submitting a statement of claim to the administrative court of first instance at the time of study it was UAH 1,152.60). The court fee for a cassation appeal against the court judgment is 200% of the rate to be paid to submit a statement of claim (at the time of the study it was UAH 1,536.80).

The maximum term for considering this kind of case in courts of all instances shall not exceed 335 days.

If the Pension Fund of Ukraine does not satisfy the court judgment, the person may apply to the enforcement service, to court or to the authorised persons to initiate criminal proceedings. The court may oblige the Pension Fund of Ukraine to satisfy the judgment or make it liable for the failure to satisfy it. If the Pension Fund of Ukraine owes a debt to the person, he or she may apply to court seeking to recover it. If the Pension Fund of Ukraine registers the employment history without specifying the salary earned in that period, the person may file another claim to recalculate his/her pension considering his/her employment history.



ACTUAL PROCESS: STAGES, DIFFICULTIES, FINANCIAL AND TIME EXPENDITURES

The actual procedure to confirm employment history, in general, is in line with the one determined by the legislation. At the first stage, a person applies to the Pension Fund and, as a rule, obtains a refusal. At the second stage, the person applies to court with all the necessary documents. In most cases, local courts award judgments in favour of the claimants. It is a typical practice for the Pension Fund of Ukraine to “technically” apply to a court of appeal. However, due to the lack of funds to pay the court fees, these appeals, as a rule, “do not proceed” and are sent back to a complainant.

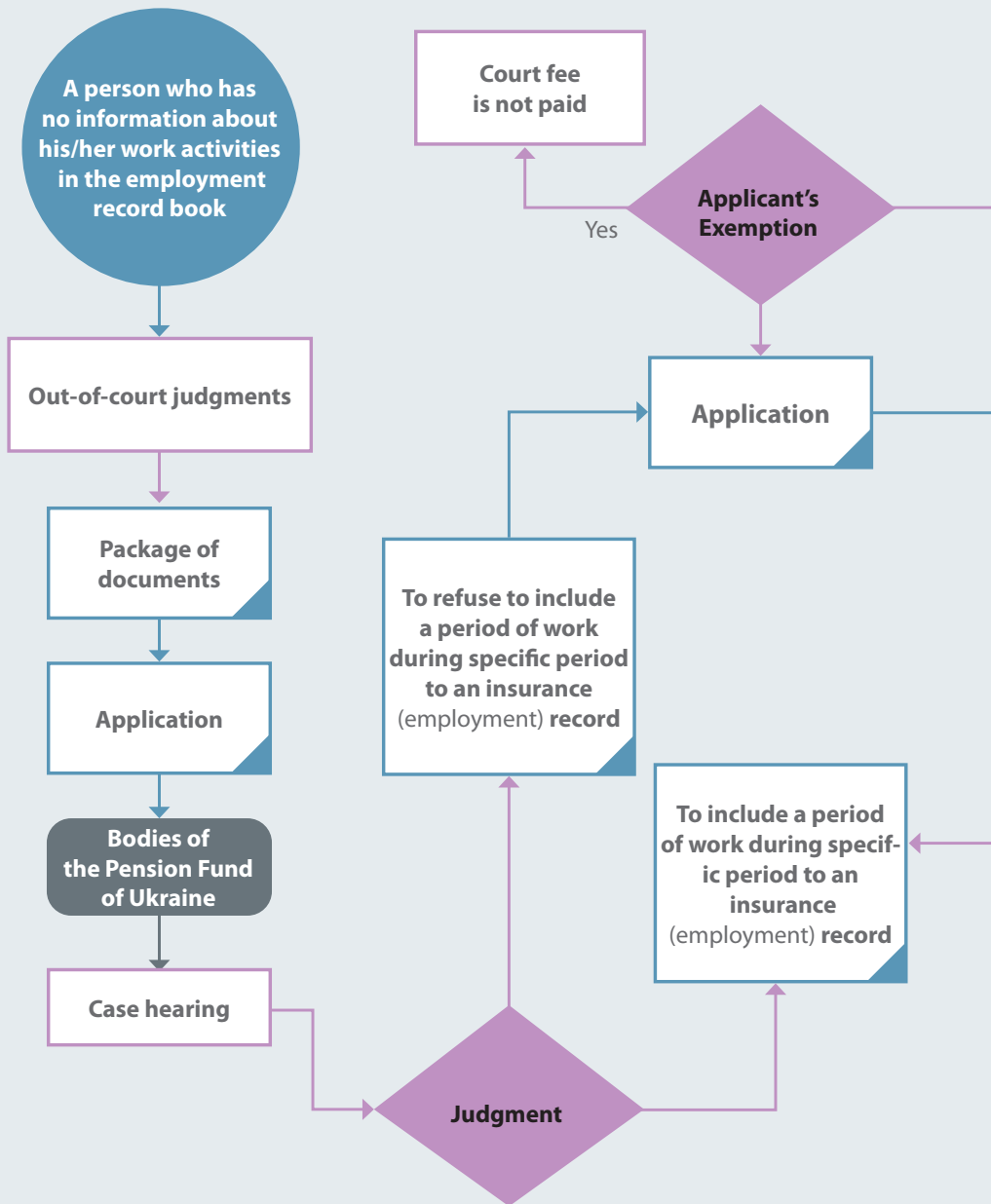
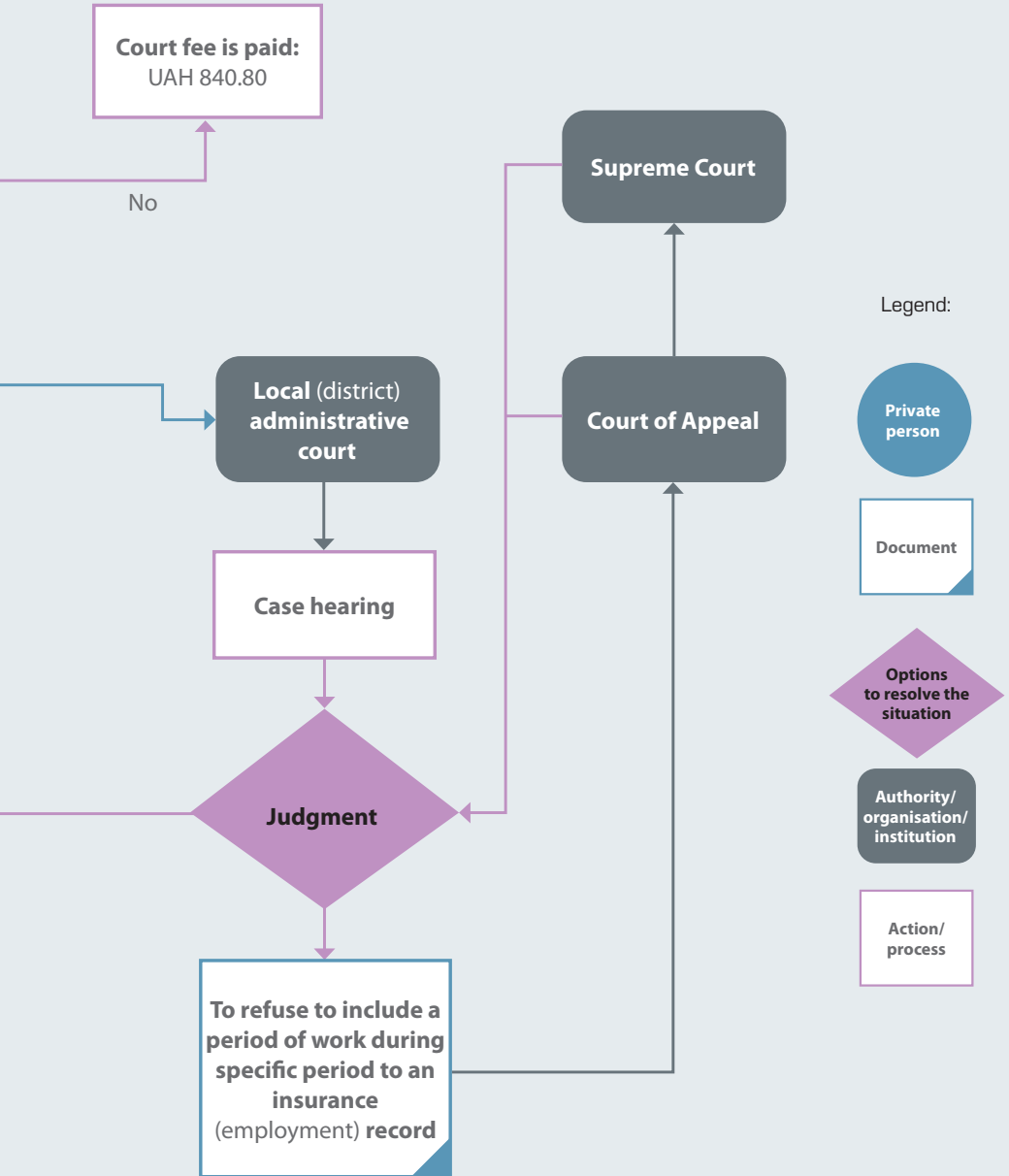


FIGURE 11. Confirmation of work experience (pursuant to the current legislation)



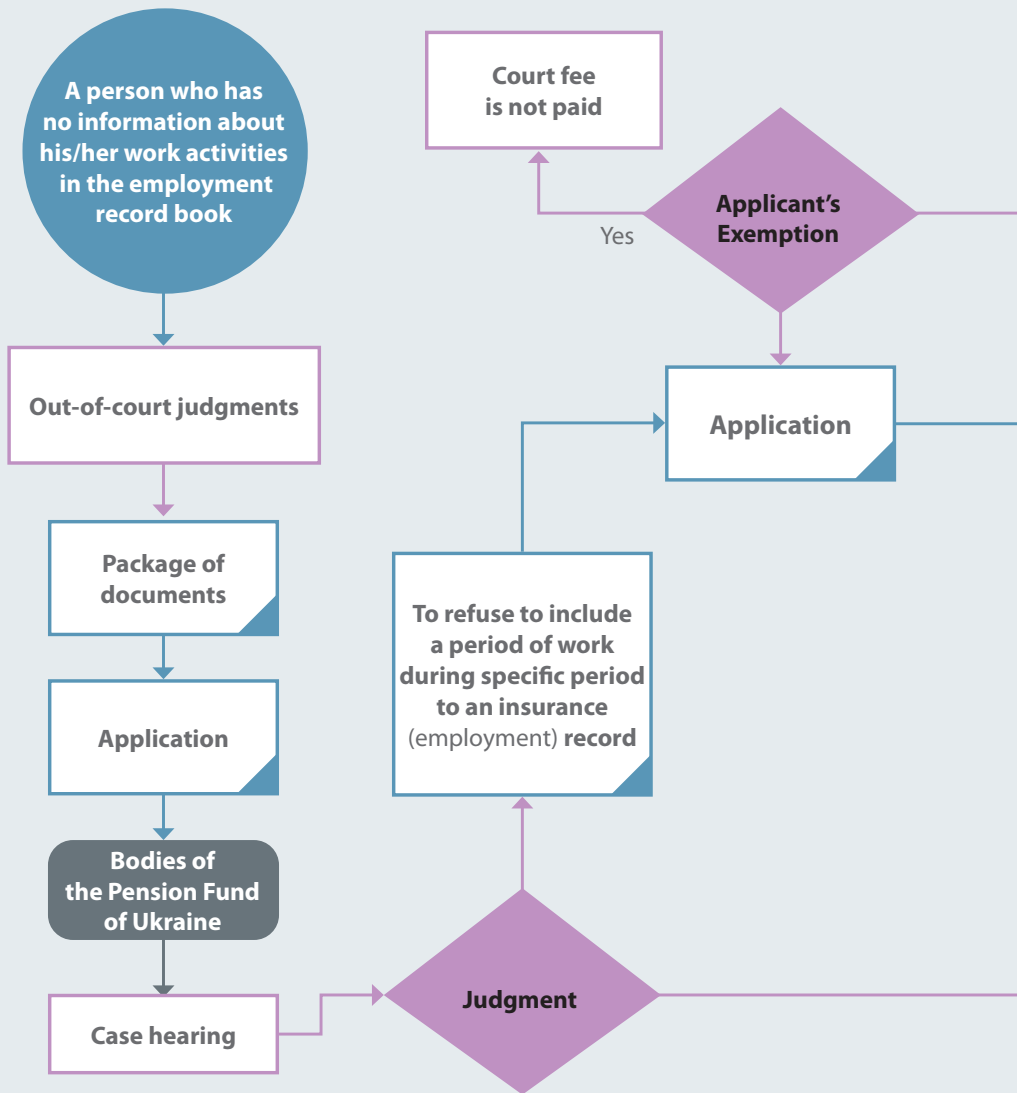
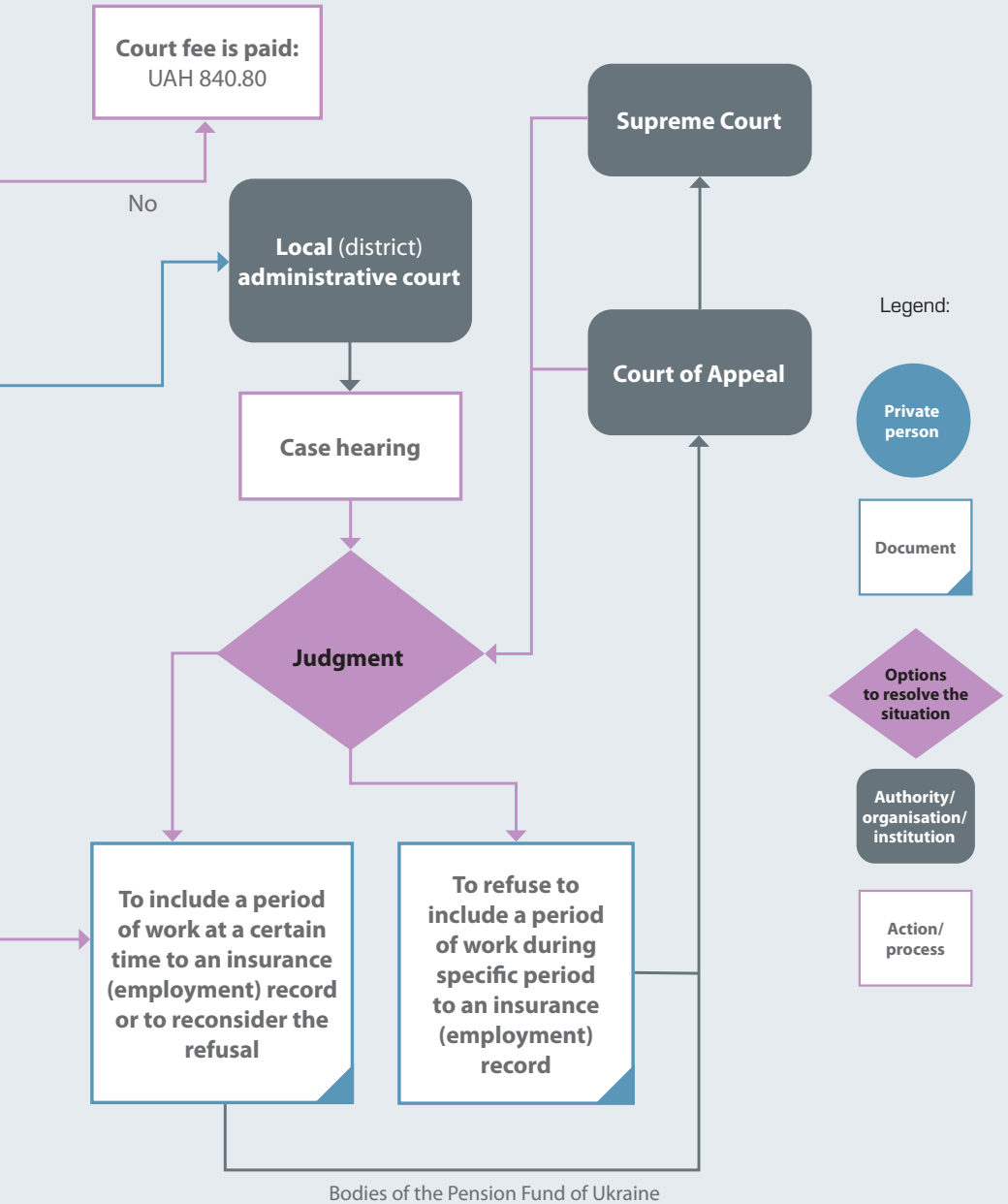
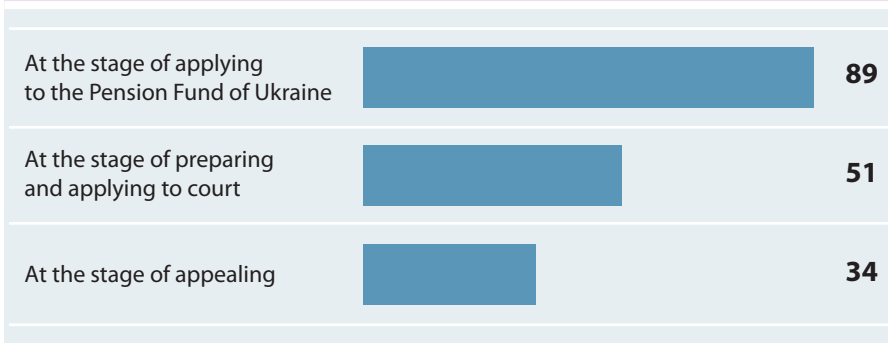


FIGURE 12. Confirmation of work experience (actual process)



Court judgment is usually satisfied by the Pension Fund of Ukraine, but there may occur delays or debts. In particular, the amount of pension after a work period included in the employment history may be less than expected by the applicant, since the Pension Fund of Ukraine does not take into account the salary earned in that period. Or the Pension Fund of Ukraine pays a higher pension once the court judgment becomes effective, not from the date of applying to the Pension Fund of Ukraine by the person. In such cases, it may be an effective decision to appeal to the court again (if salary for a disputed period is not included) or to submit a complaint to the Main Department of the Pension Fund of Ukraine (in case of a debt).

FIGURE 13. Problems arising in the course of verification of the employment history at different stages (% of all respondents)



The main difficulties that a person seeking to verify his/her employment history may be faced with:

- searching for evidence of employment history;
- PFU's failure to observe the time limits to consider the case or oral refusal;
- lack of awareness of complainants/claimants about the list of necessary documents;
- long time for preparing the documents, considering the case and issuing the judgment;
- the claimant's delay after refusal from the Pension Fund of Ukraine (failure to observe the time limits to apply to court);

- the need to travel to another location in the government controlled areas/ non-government controlled area of Ukraine;
- significant financial expenses for preparing the documents and submitting an application to the court;
- queues in the units of the Pension Fund of Ukraine.

TABLE 7. The duration of the work experience verification process at different stages

	Average (days)
Pre-court stage: appeal to the Pension Fund, preparation for court	153
Court stage: submission of documents to the court, obtaining a decision	100
Post-court stage: appealing to the court again, obtaining a judgment, appealing to other institutions	57
The entire process (excluding the Pre-court stage)	251

The average duration of the entire process is not equal to the sum of time periods spent on each stage, as the latter are calculated for a different number of respondents – those who submitted answers.

TABLE 8. The cost of the work experience verification process at different stages

	Average (UAH)
Pre-court stage: appeal to the Pension Fund, preparation for court	6990
Court stage: submission of documents to the court, obtaining a decision	1636
Post-court stage: appealing to the court again, obtaining a judgment, appealing to other institutions	1734
The entire process (excluding the Pre-court stage)	8018

The average value only includes the answers of the respondents who provided data on their expenditures (UAH >0). The cumulative expenditures related to the process are not equal to the sum of expenditures at each stage, as the latter are calculated for a different number of respondents – those who mentioned the expenditures at the relevant stage.



RECOMMENDATIONS TO IMPROVE THE PROCESS:

- To improve the process of informing IDPs and residents of non-government controlled areas of Ukraine of the procedure to confirm work experience;
- To introduce amendments to the current legislation concerning exemption of certain claimants concerning cases related to verification of their employment history from the court fees, including retired people, IDPs and residents of the non-government controlled areas of Ukraine;
- To expand the list of legitimate reasons for the failure to observe the time limits to apply to court in order to appeal the decision of the Pension Fund of Ukraine to register the employment history (to grant or increase pensions, etc.), and include the fact of residing in the non-government controlled areas of Ukraine to such list;
- To introduce amendments to the current legislation as to making possible to bring the government bodies management to disciplinary liability for a formal (technical) appeal of court decision;
- To introduce amendments to the current legislation concerning reduction of the time limits for appealing and review of this category of cases by the court of appeal.

The full text of the study is available at:



