

PRIVATE AND CONFIDENTIAL

ENSURING DUE REDRESS TO UKRAINIANS FOR WAR DAMAGE:

THE CONCEPT AND KEY TAKEAWAYS

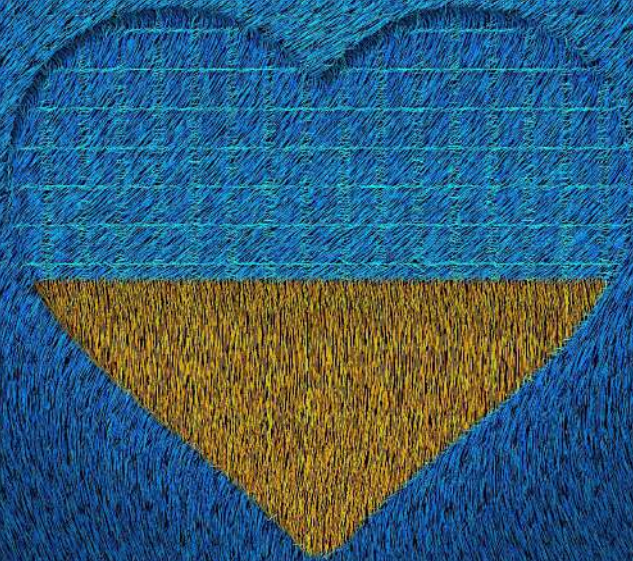




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Note: all illustrations used are Ukrainian children's drawings collected by Ukrinform on the International Children's day in 2022 (<https://www.ukrinform.ua/rubric-society/3496723-vijna-ocima-ditej-malunki-pro-bil-ta-nadiu.html>)



Two Epigraphs

‘This war is being conducted with a brutality that is unprecedented in Europe since the Second World War. The use of heavy weapons in densely populated areas has caused thousands of civilian casualties, the almost complete destruction of the city of Mariupol and severe damage to civilian infrastructures such as hospitals, schools, kindergartens, water and electricity supplies and residential buildings in Kharkiv and many other cities and towns throughout Ukraine. The Assembly is horrified by reports of atrocities against civilians allegedly committed by Russian troops in towns and villages temporarily under their control, in particular in Bucha and other towns in the vicinity of Kyiv. The Assembly is appalled by widespread reports of the use of rape and torture as weapons of war, both of which are recognised as war crimes in international criminal law’

- Parliamentary Assembly of the Council of Europe, Resolution No. 2436 (2022)

‘The federal courts of the United States are likely to continue as the *fora* of first choice by international victims of atrocities in pursuit of monetary compensation, punishment, and deterrence for corporate and governmental torts. These human rights mass torts will, in return, contribute new ideas, exemplars of innovative trial structures, and creative settlement provisions to enrich the entire field of mass torts jurisprudence’

- Elizabeth J. Cabraser



The Case In A Nutshell (1/2)



- ✓ The war in Ukraine has led to enormous human and property losses, that should be compensated according to law: i.e. through a class action
- ✓ The claim is for the immensely valuable assets owned or controlled by the defendants
 - ✓ The defendants are the Russian oligarchs who have financed and supported Putin's operations and who are currently in a vulnerable position (being distinct from Russia as a sovereign state), and this creates a unique window of opportunity
- ✓ Asset recovery starts through a class action lawsuit in Ukraine
- ✓ GRECO has a well-known presence in both Ukraine and the EU and is also the **only Ukrainian law firm with the capacity and capability** to handle such a mass tort class action lawsuit
- ✓ Placing the Ukrainian people as the ultimate beneficiaries of such a lawsuit is a strong argument to elicit courts' sympathy and promote overseas enforcement
- ✓ GRECO is looking for partners to help defend the interests of the Ukrainian people in the most efficient and effective way possible



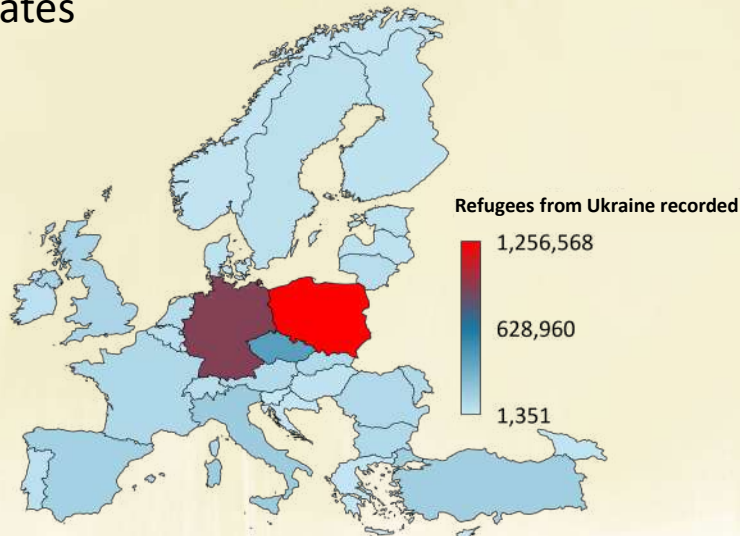
The Case In A Nutshell (2/2)

- ✓ Russian oligarchs possess various valuable assets that are located primarily in the EU countries, Switzerland, the US, and the UK. These individuals and their assets are now in an extremely vulnerable position due to Russian hostilities, their consequences and international reaction, including sanctions, and this situation is truly unique
- ✓ Most of these assets are now frozen, but can be neither seized nor confiscated by any reasonable means except enforcement of a court judgment. The key to recovering these assets is the presence of their ultimate beneficiary – the Ukrainian people, who directly suffered (and are still suffering) from the war and related threats, perils and risks
- ✓ Given (a) that all the damage was inflicted and is still being inflicted within Ukraine, (b) that the victims are the Ukrainians still remaining in Ukraine or having fled Ukraine, mainly to the European Union, (c) that most of them are readily available for testimony even if displaced, and (d) that Ukraine’s jurisdiction over temporarily occupied territories is unquestionable, it is most rational to use Ukrainian law and jurisdiction and to start asset recovery through class action litigation in Ukraine, whose court judgments can be enforced overseas
- ✓ Most of the victims have a close legal relationship with Ukraine, all damage was inflicted within Ukraine, and most victims’ friends and relatives either remain in Ukraine or fled the country forming Ukrainian communities with close ties with Ukraine and strong ‘word-of-mouth’ internal communication
- ✓ Thus, it is reasonable to focus all efforts to identify and gather prospective plaintiffs under ‘a single roof’ within NGOs (in the EU and in Ukraine) using online and offline means to recruit them to join the class action(s)
- ✓ GRECO is well known in Ukraine and has personnel in both Ukraine and the EU, and it is the only Ukrainian law firm that has successful experience with mass tort class action lawsuits, having pioneered them in Ukraine



The Heart Of The Matter (1/2)

- ✓ Before the onset of Russia's military aggression against Ukraine, the latter's population was circa 39,000,000. After the aggression started, about a third of the nation's pre-war population or roughly 13,000,000 Ukrainians found themselves forced to leave their homes, jobs, and habitual way of life and to cross regional and state borders in search of safe haven
- ✓ According to the United Nations, as of early August 2022, Europe alone hosted almost 6,300,000 temporarily displaced persons ('DPs') originating from Ukraine, of whom nearly 3,700,000 DPs enjoyed temporary protection in EU member states



Country	UN Data as of	Refugees from Ukraine recorded across Europe*	Refugees from Ukraine registered for Temp. Protection & other aid
Poland	Aug 2, 2022	1,256,568	1,256,568
Germany	Aug 3, 2022	915,000	670,000
Czech Republic	Aug 2, 2022	404,839	404,679
Italy	Aug 1, 2022	157,309	148,676
Turkey	May 19, 2022	145,000	N/A
Spain	Jul 31, 2022	131,771	131,681
UK	Aug 2, 2022	107,900	107,900
France	Jul 18, 2022	92,156	92,156
Moldova	Aug 2, 2022	88,018	N/A
Slovakia	Aug 2, 2022	87,027	86,834
Bulgaria	Aug 2, 2022	85,119	126,527
Romania	Aug 2, 2022	84,357	50,857
Austria	Aug 2, 2022	77,960	77,960
Netherlands	Jul 5, 2022	68,050	68,050
Lithuania	Aug 2, 2022	60,755	60,755
Switzerland	Aug 2, 2022	59,244	58,335
Belgium	Aug 3, 2022	53,108	52,483
Estonia	Aug 2, 2022	48,359	30,913
Portugal	Jul 19, 2022	47,847	47,752
Ireland	Aug 3, 2022	43,521	46,760
Sweden	Aug 2, 2022	43,273	41,403
Latvia	Aug 2, 2022	35,730	36,607
Denmark	Aug 2, 2022	32,400	30,400
Finland	Aug 2, 2022	30,372	34,092
Hungary	Aug 2, 2022	27,657	27,657
Georgia	Aug 2, 2022	25,582	N/A
Norway	Aug 2, 2022	22,085	22,085
Greece	Jul 31, 2022	18,043	18,043
Croatia	Jul 26, 2022	15,911	15,910
Cyprus	Aug 2, 2022	12,846	14,841
Slovenia	Jul 26, 2022	6,894	6,894
Luxembourg	Aug 3, 2022	5,984	5,984
Malta	Jul 24, 2022	1,351	1,265

* Except Russia and Belarus



The Heart Of The Matter (2/2)

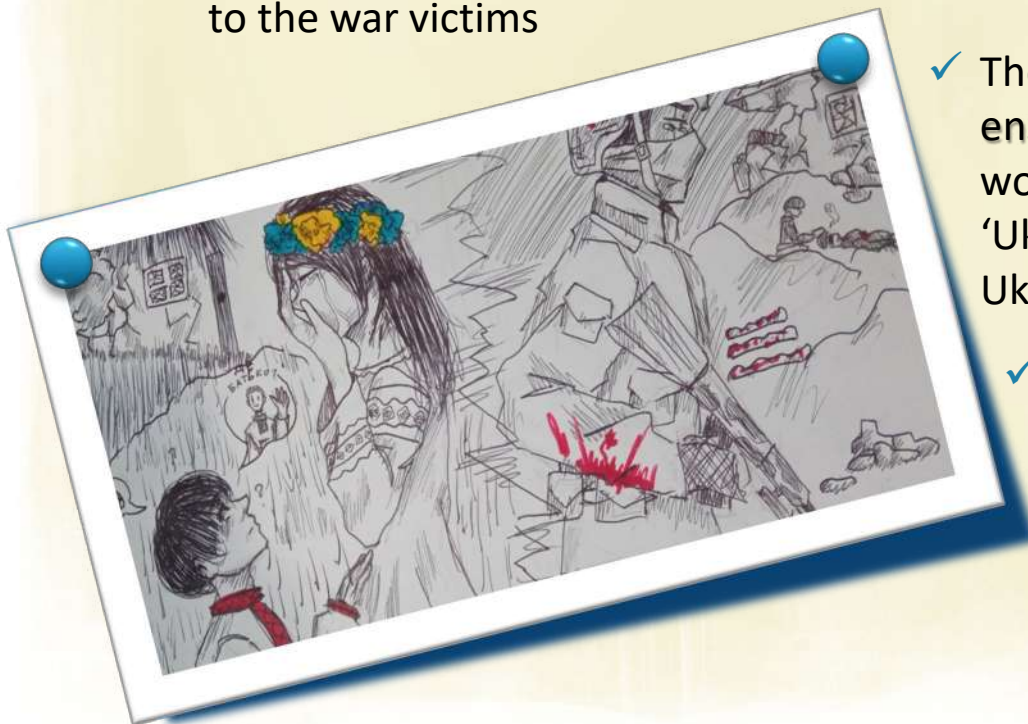
- ✓ The unprecedented assistance and support being provided by the EU countries to these individuals is extremely costly, and these unbudgeted expenditures will likely last, although they will be gradually cut down, until DPs can safely return to their homeland after the war ends
- ✓ Following the end of the EU's aid, in addition to the costs related to DPs lengthy rehabilitation, unprecedented investments in Ukraine's infrastructure will be required, including rebuilding its villages and cities and in restoring the economy – a project comparable to the 'Marshall Plan'
- ✓ However, the focus will remain on the main issue – redress for all harm caused to the war victims due to the military action and its aftermath: pecuniary damage suffered due to partial or complete loss of property, physical and mental disability and incapacity to work; and all types of non-pecuniary damages suffered due to infringements on the right to life, desertion or loss of residence and employment (including DPs' forced relocation), death or injury of loved ones, moral and psychological injuries, etc.
- ✓ This does not just include DPs, as each and every Ukrainian is a potentially aggrieved person as a result of the indiscriminate use of weapons and the threat to life
- ✓ Concurrently, there is an active and ongoing worldwide process of arresting and/or freezing assets belonging to sanctioned Russian oligarchs and their businesses, Russian state-owned companies and other natural and legal persons involved, in one way or another, in unleashing and waging an aggressive war and causing damage to Ukraine and its residents; but there is neither consensus nor a precise understanding of the future of these assets
- ✓ Likewise, there are no legal mechanisms in place that would allow for the final and decisive seizure of these assets, nor their recovery in compensation for the damage caused – because of the general principle of property rights protection, the sole way to seize these assets are court judgments and subsequent enforcement



Available Solutions

✓ Hence, there are:

- the aggrieved Ukrainians are war victims, including those DPs who are now located within both the European Union and Ukraine, and their grievances and damage suffered thereby can be (at a minimum) roughly assessed, and they constitute a single class of victims of armed aggression;
- various wrong-doers who are liable for this damage, including natural and legal persons as co-conspirators or participants in the aggression;
- frozen assets and funds owned or controlled by these wrong-doers that are currently in an unprecedentedly vulnerable position, and thus can be employed to compensate for the damages caused to the war victims



- ✓ The most appropriate, expedient and reasonable means of ensuring due redress is direct compensation, bypassing any would-be intermediaries and adhering to the principle that ‘Ukrainians should decide their destiny and the destiny of Ukraine themselves’
- ✓ Given all of the above, we propose the following concept as described in this presentation in order to address all or most aspects of the matter in hand under a single comprehensive solution instead of piecemeal ad hoc actions that have been proposed by others



The Ultimate Objective

- ✓ The final goal of our concept is to provide the greatest possible number of victims with adequate and fair redress for all the damage suffered due to the war, while concurrently securing a sustainable source of income throughout the post-war reconstruction and recovery period, and beyond
- ✓ Under the framework that we deem as the most appropriate one, a victim would receive:
 - a one-time payment as determined by the appropriate court judgment; or
 - a one-time payment of the part of the compensation awarded proportionally to the damage suffered by that particular victim under the appropriate court judgment, and
 - subsequent regular payments from a special foundation under the most transparent management possible, that would accumulate and manage the assets obtained as redress and would generate a universal basic income (or similar mechanism) for the victims
- ✓ This will also address: (a) the issues related to spending large amounts of EU taxpayer funds on Ukrainian DPs and easing pressure on EU budgets by expediting DPs' repatriation, (b) help establish safe and transparent financial infrastructure in Ukraine that is now absent, (c) ensuring DP's prompt return home after the hostilities end by creating an attractive incentive, (d) issues related to the victims' social rehabilitation, (e) issues related to post-war reconstruction and recovery (as demolished cities and burned villages will not be rebuilt overnight, no matter what one-time compensation a particular victim might gain), and (f) restoring a general sense of justice and fairness to the victims





The Key Means (1/3)

- ✓ The only feasible means of gaining control over the frozen assets are either obtaining them through court judgment (i.e. 'conventionally'), or through the state where assets are located confiscating them from their owners (however, there are no legal grounds for this as yet), or a voluntary surrender of assets by their owners through settlement or other out-of-court means (though this would likely be triggered with at least a serious threat under either of the first two options above)



- ✓ The most reasonable option is a civil lawsuit against the co-defendants as perpetrators of this aggressive war and their subsequent involvement in Russia's conduct (oligarchs, propagandists, etc.)
- ✓ Since the most promising scenario is a civil claim for the compensation for damages and losses suffered, the final choice of the co-defendants would depend not only on the degree of their complicity and/or involvement, but also on other specifics such as the liquidity and vulnerability of their assets in the Western countries
- ✓ A class action lawsuit on behalf of the victims appears to be the most feasible course of action



The Key Means (2/3)

- ✓ The first reason for choosing DPs as one of the optimal future class plaintiffs subclasses in Ukraine and in other jurisdictions is that DPs, who are within or beyond the borders of Ukraine, form the only mass group of war victims that so far has been more or less accurately identified, isolated (by the fact of their forced relocation) and is at least somewhat organized
- ✓ The second reason for their selection is the very fact of their forced relocation that already serves as evidence and proof of the damages suffered; further, these damages already include non-pecuniary damage related to the loss of job, loss of habitual way of life and separation with the loved ones, and an attempt on life as a result of the indiscriminate use of weapons



- ✓ Furthermore, the DPs, including those currently located within the European Union and Ukraine, can be relatively easy adjoined into and united under public associations
- ✓ The plan is to create two large newly established NGOs under the EU and Ukrainian jurisdictions with regional/country branch offices that will file class action(s) on behalf of their members and will obtain court judgment(s) awarding assets foreclosure as redress to their members
- ✓ It is litigation initiated in Ukraine that is the most expedient, prompt, and effective one reasonably available, with subsequent enforcement of the Ukrainian court judgments in Ukraine-friendly jurisdictions where target assets have already been frozen or seized



The Key Means (3/3)

- ✓ The main reasons for choosing the Ukrainian jurisdiction and venue are:
 - the closest possible legal connection of the harmful event(s) with Ukraine and its legal system;
 - possibility of bringing co-defendants on a joint and several liability theory;
 - the nullification of any sovereign immunity defense that could be invoked by the Russian Federation due to recent decisions by the Supreme Court of Ukraine;
 - Ukraine's straightforward and speedy legal procedures for filing class actions and class certification;
 - a recent series of successful class actions in Ukraine
- ✓ Parallel proceedings in other jurisdictions may also be considered additionally, when required
- ✓ It is expected that asset arrest / freezing orders will be obtained from the Ukrainian court as interim measures and that similar interim measures will later be obtained overseas to facilitate and support the Ukrainian trial
- ✓ Out-of-court process for obtaining voluntary redress from certain co-defendants will be considered as well
- ✓ Another key in ensuring the success of this lawsuit is the establishment of two large NGOs in Ukraine and the European Union; the reasons for this are elaborated on below



The Ukrainian NGO's Role

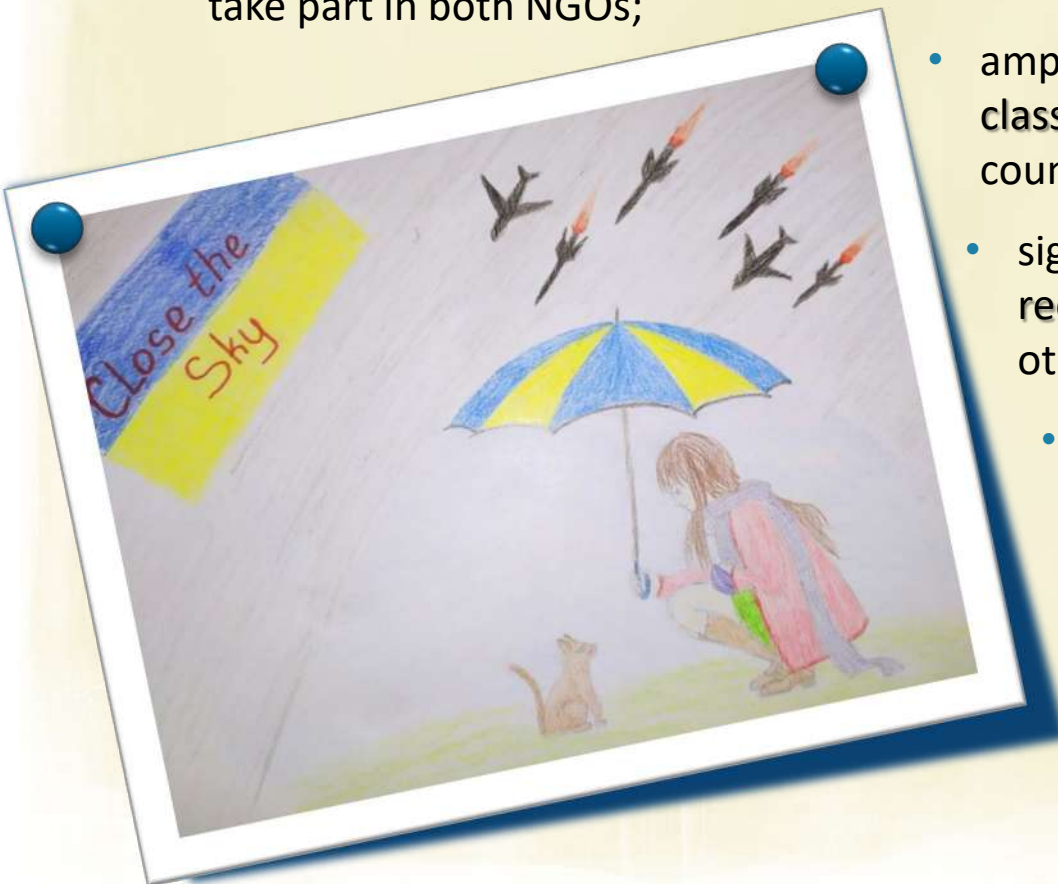
- ✓ According to Ukrainian law, only NGOs have the right to file class actions in the interests of their members, who are the aggrieved persons
- ✓ The Ukrainian NGO would greatly contribute towards addressing potential problems and reaching important tasks, such as:
 - the strong personal records and flawless reputation of the international board will help ensure transparency and rule out possible fraud and misuse;
 - ensuring centralized and orderly collection of adequate evidence regarding damages suffered;
 - professional assessment of damages for each affected individual by NGO-hired forensic scientists and other experts;
 - opportunity to act in a coordinated and purposeful manner in the interests of the entire class of victims, providing them with the necessary legal protection and assistance during class action litigation;
 - controlled distribution of regular universal basic income payments to those NGO members recognized as victims by court(s) and subject to receiving awards under the court judgment(s);
 - enabling rapid growth in future opt-in class plaintiffs through growing NGO membership numbers: this is based on the inflow of active members from friendly NGOs that are already long-established in the most heavily affected Ukrainian localities and from DPs' associations across the EU states



The European NGO's Role

✓ The NGO established within the European Union will help:

- reduce mistrust from the European DPs, due to the NGO's transparency and international board and management with strong personal records and flawless reputations;
- increase the pool of potential future plaintiffs in class actions in other jurisdictions;
- feed the Ukrainian NGO's rapid growth through cross-membership policy, allowing and encouraging DPs to take part in both NGOs;



- ample opportunities for lobbying the interests of the plaintiff class of the aggrieved Ukrainians within the EU member countries and with the EU authorities;
- significant public support and public pressure in the recognition and enforcement of Ukrainian court judgments in other jurisdictions;
- whilst achieving their ultimate objective (that is, ensuring a universal basic income for every member) and thereafter, this NGO will be capable of potentially growing into the largest association of Ukrainians and of war victims worldwide and have a significant impact on the political and social agenda in both Ukraine and the European Union



Synergy Between The NGOs

- ✓ The number of DPs willing and committed to join such an NGO in Ukraine alone already reaches 10,000 people, while its total membership is expected to reach or exceed 1,000,000 people
- ✓ Close transboundary communication between forcibly separated families will have an additional multiplier effect, as members of one NGO will encourage relatives and friends across the border to join another NGO
- ✓ It is important that NGO memberships will encompass both aggrieved persons who remained in Ukraine and those DPs who have departed Ukraine for the European Union: this will ensure that NGOs are both duly representative and have legitimate claims
- ✓ The functioning of and collaboration between these two NGOs – one in Ukraine and one in the European Union – will ensure necessary operational freedom; and will allow to file class action lawsuits and to exert public pressure while enforcing court judgment in most countries worldwide, given also cross-membership opportunities and the ability to file class action and/or other lawsuits in jurisdictions other than Ukraine
- ✓ Securing adequate external funding throughout its lifetime from commencing of NGO members' mass enrollment up to the launch of the asset management foundation – inter alia, this approach will enable free-of-charge NGO membership for any victim





- ✓ The Ukrainian NGO 'February 24' was established and registered in Ukraine on October 19, 2022, as a legal entity.
- ✓ The European NGO is now being registered in the European Union (in the Netherlands).
- ✓ The legal concept of the lawsuit has been developed and there is a strong cause of action and a clear understanding of how the primary litigation in Ukraine will be coordinated and how the court judgments will be enforced in European countries
- ✓ Preparations are under way for liaison with and handling various DPs' groups
- ✓ Damage assessment procedures are being refined and tested
- ✓ Proper identification and evaluation of prospective co-defendants within the preset assessment criteria framework are being carried out



Meet The Key Members Of Our Team





Dr. Pavlo Kuftyryev is Managing Partner of at-law with 21 years of active legal practice. He has pioneered the class action concept in Ukraine, and is implementing other modern legal concepts and methods – including the key principles of international law such as ‘polluter pays’ and ‘extended producer responsibility’ – within the somewhat outdated Ukrainian legal system. Besides pioneering group/class actions, Pavlo was behind the birth of a modern national alternative dispute resolution (ADR) system and is now working on bringing large-scale ‘Dieselgate’-style consumer protection lawsuits to Ukraine. He’s the founder, the brain and soul behind GRECO and the concept under consideration. Pavlo is the Head of the Environmental Law Committee of the Ukrainian Advocates' Association (UAA), where he was named Lawyer of the Year 2020 and 2021 in Environmental Law. He is an Associate Professor of Environmental Law, Taras Shevchenko National University of Kyiv

GRECO Law Company. He is an attorney- He was the first lawyer to devise and apply the class action concept in Ukraine, and is implementing other modern legal concepts and methods – including the key principles of international law such as ‘polluter pays’ and ‘extended producer responsibility’ – within the somewhat outdated Ukrainian legal system. Besides pioneering group/class actions, Pavlo was behind the birth of a modern national alternative dispute resolution (ADR) system and is now working on bringing large-scale ‘Dieselgate’-style consumer protection lawsuits to Ukraine. He’s the founder, the brain and soul behind GRECO and the concept under consideration. Pavlo is the Head of the Environmental Law Committee of the Ukrainian Advocates' Association (UAA), where he was named Lawyer of the Year 2020 and 2021 in Environmental Law. He is an Associate Professor of Environmental Law, Taras Shevchenko National University of Kyiv


- ✓ GRECO Law Company:
 - has pioneered class actions in Ukraine,
 - has unique, practical experience at every stage of a Ukrainian class action: from identifying victims and helping them obtain NGO’s membership to ensuring victims have received compensation awarded by the court;
 - understands all the challenges in the management of handling large groups of victims, both in assessing the damages suffered and forming a strong evidence base, while always maintaining an individual approach towards each victim

Ivan Shehvtsov, Chief Executive Officer, is an investment banker and financier with over 20 years of experience in international banking and finance, including as major banks’ co-owner. Besides day-to-day management of GRECO (in Ukraine it’s not necessary to be an attorney to act as a law firm’s CEO), he is efficient in raising funds and attracting financing for legal projects

Artemii Vorobiov, Counsel and attorney-at-law with 11 years of active legal practice. He is one of the most prominent young litigators in Southern Ukraine with a truly impressive record, and currently leads the litigation practice at GRECO Law Company

Oleg Shelkunov, Partner and attorney-at-law with 28 years of active legal practice. He has held senior positions in the Ministry of Justice of Ukraine, including heading the Department of Enforcement of judgments of the Ministry of Justice of Ukraine, and his key strength is court judgment enforcement





External Team Members (1/2)

- ✓ External members of the team include attorneys from well-known Ukrainian law firm EQUITY:



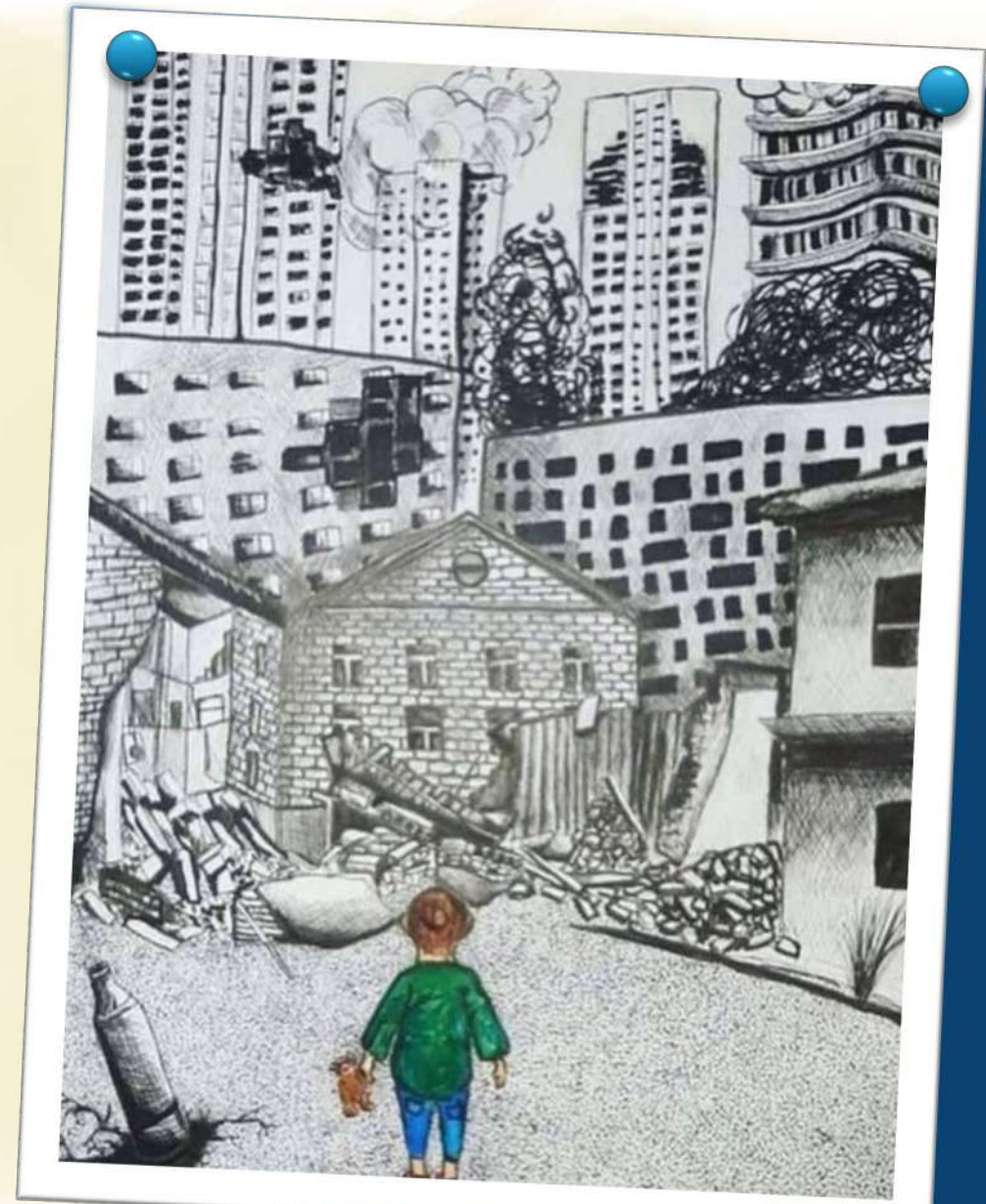
Oleg Malinevskiy, Partner, specializes in resolution of court and arbitration disputes, has many years of professional experience in the areas of bankruptcy and restructuring, intellectual property as well as corporate law.

Oleg successfully handles numerous complex transactions and high-profile court disputes, in particular the dispute between UKRSIBBANK and AIS Corporation, protecting the interests of the corporation and the people's deputies, Dmytro Sviatash and Vasyl Poliakov, as well as disputes involving Sky Mall, defending interests of businessman Andriy Adamovskiy, and disputes to put the insolvent Ukrinbank PJSC out of the market. Oleg's client portfolio includes: Coca-Cola, Regal Petroleum, Ferrexpo, Okean BV, Azovmash, Concorde Capital, National Bank of Ukraine, Finance and Credit Bank, footballer Andriy Shevchenko, ex-Mayer of Kyiv Oleksander Omelchenko and others. Oleg is a lecturer and member of the Advisory Board of Litigation School at Legal High School. Vice President and Head of Litigation Committee at Ukrainian advocates' Association

Dmytro Tylypskiy, Counsel, specializes in litigation, restructuring, bankruptcy, corporate law, banking and finance. He has over 10 years of experience and successful track record of representing clients in Ukrainian courts of all jurisdictions and instances



Oleksiy Stepanenko, Counsel. Main areas of expertise are litigation, restructuring and bankruptcy, banking and finance. Oleksiy has experience representing clients in courts of all instances, including the Grand Chamber of the Supreme Court, as well as providing comprehensive legal support in the fields of real estate, construction and agricultural business





External Team Members (2/2)

- ✓ And last but not least, our team stars Hon. Ganna Yudkivska as the General Advisor to GRECO and both NGOs:



Dr Yudkivska graduated from the Law Faculties of the Taras Shevchenko Kyiv National University (Ukraine) and Université Strasbourg III (France). She received her PhD from the Academy of Advocacy of Ukraine. In 1995-2001 she led in Ukraine and Moldova the legacy project on genocide studies (now – Shoah Institute of the University of South California), and also served as human rights and national minorities expert for the Congress of National Minorities of Ukraine

Between 2001 and 2005, she worked as a lawyer and expert for different international and national human rights organizations. In 2003 she was admitted to the Bar in Ukraine. Between 2005 and 2009 she was a lawyer at the Registry of the European Court of Human Rights; in 2009-2010 she was an advisor to the Commissioner for Human Rights of the Council of Europe

In 2010, Ganna Yudkivska was elected as a Judge of the European Court of Human Rights; in 2015-2016 she was Vice-President of Section V of the Court, in 2017-2019 she was President of Section IV of the Court. She served on the bench for twelve years, until June 2022. As of July 1, 2022 Ganna Yudkivska is a Director of the Strasbourg-based 'Centre de la Protection Internationale' – an NGO whose mission is the development of democratic institutions and the improvement of the judicial and legal systems in post-Soviet zones

Judge Yudkivska is also an Associate Professor of European and International law at the Academy of Advocacy of Ukraine. She lectured and researched at universities of USA, France, Germany, UK, the Netherlands, Israel, Armenia and Ukraine. She has authored a number of articles on human rights, international law and criminal procedure; and is a member of the advisory boards of several legal magazines. Dr. Yudkivska is a Board Member of the European Society of International Law as of 2018

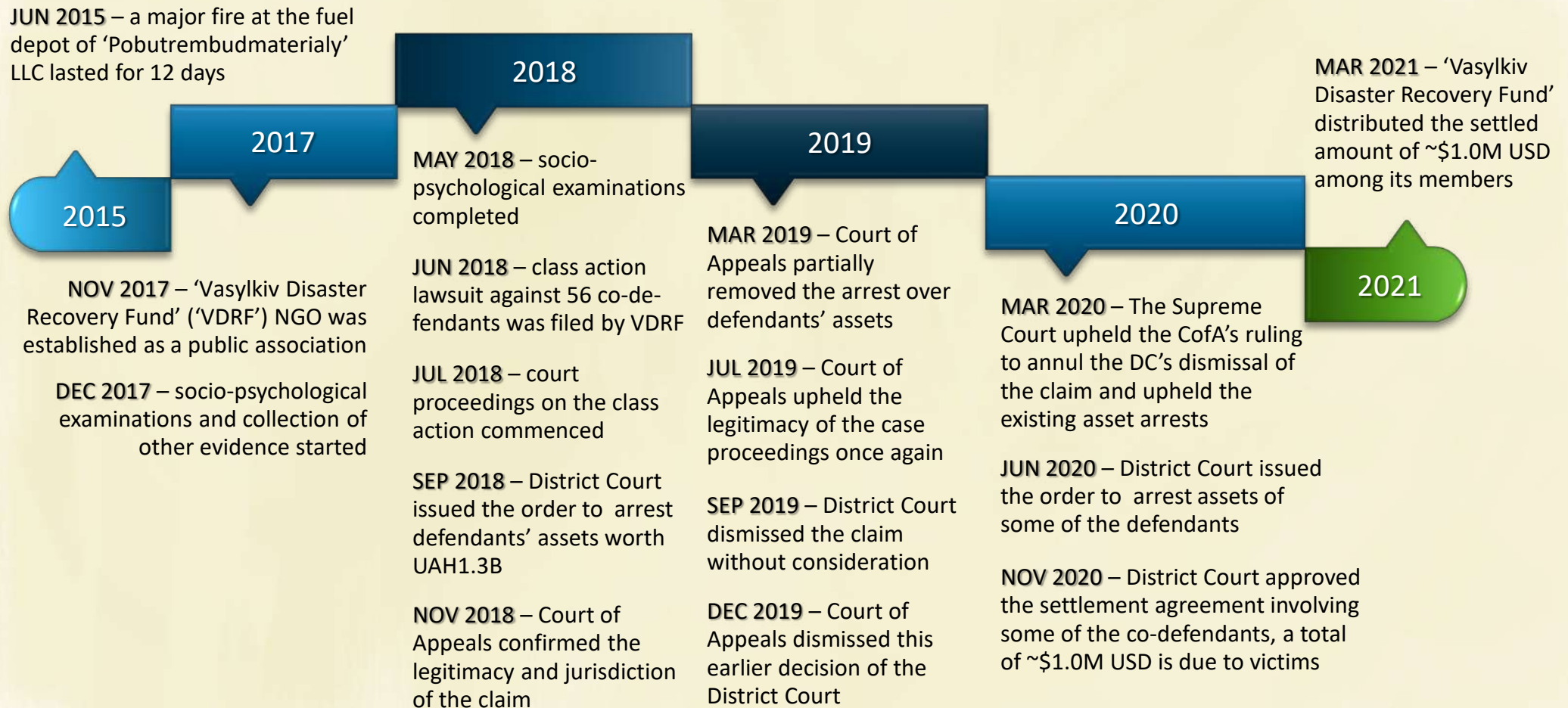


Our Success Story: The Vasytkiv Disaster Case (1/2)

- ✓ The first-ever class action lawsuit in the history of Ukraine was successfully completed by GRECO and was highly noted in Ukraine, including professional community. In 2015, the then-largest national man-made disaster occurred in the Kyiv region. As a result of the owners' gross negligence and presumed by-production of counterfeit fuel, a private fuel depot suffered a major fire that lasted for days. As a result, large and densely-populated communities in nearby Vasytkiv (Kyiv's satellite town) were polluted. While residents of neighborhoods immediately nearby experienced mental suffering, over 2,200 local residents in a wider area suffered moral (non-pecuniary) damage due to the fuel depot owners' environmental misconduct. Some of the disaster victims came together and established the public association named 'Vasytkiv Disaster Recovery Fund' that later asked GRECO for professional legal aid and support
- ✓ Before joining the NGO, the victims underwent a series of socio-psychological examinations that determined whether they had emotional distress and mental suffering due to being residents of the area negatively affected by combustion products. Their results were later reconfirmed by the findings of forensic psychological examinations. After the evidence collection was completed, GRECO filed a class action lawsuit for non-pecuniary damage suffered by NGO members was claimed on their behalf
- ✓ After a lengthy litigation process (the decisions of the District Court were repeatedly appealed: since July 2018, the case was requested five times by the Court of Appeal and three times by the Supreme Court), in November 2020, a settlement agreement involving some of the co-defendants was reached and approved by the court. It provided for the payment of ex gratia compensation for the damage that totaled near \$1,000,000 USD, and this amount (less court costs) was distributed to the NGO members



Our Success Story: The Vasykiv Disaster Case (2/2)





Ongoing Cases: Mykolaiv Alumina Refinery Case (1/3)

- ✓ Currently, GRECO is engaged in the second-ever class action lawsuit in the history of Ukraine – the case of Mykolaiv Alumina Refinery (or ‘MAR’), a large manufacturer of alumina, which is the key intermediate material for aluminum smelting. MAR is located in the Mykolaiv region in the south of Ukraine
- ✓ MAR is the largest regional polluter, and has dumped over 47 million tons of highly alkaline red mud waste at its landfills. MAR is part of the United Company ‘RUSAL’, which in turn forms part of EN+ Group, which is controlled by sanctioned Russian oligarch Oleg Deripaska. He was previously listed as MAR’s beneficiary in Ukraine’s state registers, while formally, the founders of MAR are two Ukrainian SPVs under Deripaska’s control through offshore companies in Aruba



- ✓ After MAR was privatized by Oleg Deripaska’s structures back in 2008, a generic ‘toll processing’ framework was established. This resulted in raw bauxite ore being delivered to MAR by sea from foreign ore deposits owned by Deripaska, with the produced alumina being exported to Deripaska’s aluminum smelters in Russia, with the toxic red mud waste remaining in Ukraine. This toll processing arrangement made it possible to apply the provisions of the 1989 Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, which was the key argument against MAR in courts



Ongoing Cases: Mykolayiv Alumina Refinery Case (2/3)

- ✓ Over the past 10 years, red mud dust outbursts that spread tens of kilometers away from MAR's facilities have been occurring regularly (the dusting was especially strong in 2011, 2012 and 2019), which left local dwellers facing Martian-like landscapes. Through corrupt practices, MAR had red mud demoted to the lowest possible class of waste hazard under the Ukrainian waste classification system (red mud is considered a highly hazardous waste in the EU)
- ✓ Urban and rural residents of the Mykolaiv region came together and established the NGO named the 'STOP SLUDGE' Public Association. On behalf of its 1,279 members, this NGO applied to GRECO, who filed a \$300,000,000 USD class action lawsuit against MAR claiming redress for non-pecuniary damage caused to NGO members due to MAR's illegal dumping of red mud and to its harmful impact on the environment and human lives and health. Upon the commencement of litigation, the District Court secured the claim by seizing and freezing MAR's real estate assets, which was later upheld by the Supreme Court. In late May 2021, the District Court granted the claim in full. MAR did not accept the first instance court's judgment and appealed it to the second instance court. At present, the Supreme Court is hearing the appeal
- ✓ Due to the political situation in Ukraine following Russia's military aggression, this case has a new dimension of national importance. Mainly, this is due to the 'Russian trace' in MAR's ownership structure and the fact that products manufactured from alumina refined at MAR are used by the Russian defense industry to make Russian weaponry and military equipment



Ongoing Cases: Mykolayiv Alumina Refinery Case (3/3)

Forensic experts from the Kyiv Scientific Research Institute of Forensic Expertise ('KNDISE') of the Ministry of Justice of Ukraine were conducting forensic psychological examination

Court of Appeal canceled arrest over MAR's movable assets, still leaving intact the arrest over MAR's real estate

Court of Appeal dismissed the District Court's judgment and refused to satisfy NGO's claim



'STOP SLUDGE' Public Association was established

Prospective class action plaintiffs were recruited by the NGO, undergoing socio-psychological examinations upon entry

Proceedings on the NGO's class action lawsuit were opened

District Court secured the claim by ordering to arrest MAR's assets worth UAH9,208M

Supreme Court upheld the earlier arrest of MAR's real estate

District Court ruled in favor of the NGO and granted the award of UAH9.208M in redress for damage inflicted by MAR to NGO's members

Cassation proceedings in the Supreme Court



Ongoing Cases: Volkswagen AG Case

- ✓ In September 2015 the vehicle emissions fraud perpetrated by Volkswagen, known as 'Dieselgate', was revealed worldwide. While lawsuits to combat the fraud have been pursued in most countries, this problem has remained unnoticed in Ukraine
- ✓ Approximately 200,000 cars equipped with falsely marketed diesel engines that were manufactured by Volkswagen AG under Volkswagen, Audi, SEAT and Skoda brands were sold in Ukraine. Of those, more than 2,000 cars manufactured in Mexico that were banned for operation in the US were imported into Ukraine under forged documents that claimed the cars were manufactured in Hungary
- ✓ Under Ukrainian law (Article 230 of the Civil Code of Ukraine), a transaction that deceives the consumer regarding essential product details requires the seller to return double the value of the product to the consumer which may lead to payments in excess of \$12 billion USD
- ✓ The All-Ukrainian NGO 'Ukrpotrebcontrol' (an abbreviated 'Ukrainian Consumers' Control' in Ukrainian), which has active branches in 14 Ukrainian regions, turned to GRECO for protecting the rights of consumers who own Volkswagen-made cars with falsely marketed diesel engines
- ✓ With GRECO's legal support, evidence collection has started to enable filing a class action lawsuit aimed at protecting the rights of all affected consumers. In parallel, settlement talks with Volkswagen AG representatives have been launched



Class Action Lawsuits In Ukraine: Introduction (1/3)

- ✓ There is no separate law on class actions in Ukraine, and Ukrainian civil procedure does not regulate this issue either. However, several plaintiffs may file their individual claims that can later be combined into one proceeding due to the similar or identical nature of their claims
- ✓ At the same time, Ukrainian substantive law allows to initiate the following types of quasi-class actions:
 - clause ‘h’ of Part 1 of Article 21 of the Law of Ukraine ‘On the Protection of the Environment’ allows a public organization (i.e. an NGO) to file an opt-in class action for redress of damage caused to NGO’s members in connection with the violation of environmental regulations;
 - clause 9 of Part 1 of Article 25 of the Law of Ukraine ‘On the Protection of Consumer Rights’ allows an NGO to file a quasi-opt-out class action for all affected consumers, no matter whether they are NGO members or not. The purpose of such lawsuits is to establish preliminary rulings that would then allow consumers to file individual property claims in separate proceedings;
 - ‘actio popularis’ claims can be initiated by an NGO for the protection of the basic environmental rights of society based on Ukraine’s general environmental guarantees and obligations
- ✓ Class actions in Ukraine can only be initiated by a public organization on behalf of and in the interests of its members, who must be listed by name in the statement of claim. At the preparatory stage of litigation, it is possible to increase both the number of aggrieved persons and the amounts claimed



Class Action Lawsuits In Ukraine: Introduction (2/3)

- ✓ The following precedent rulings of the Supreme Court of Ukraine were of decisive importance for the development of collective / class actions practices in Ukraine:
 - judgment of the Grand Chamber of the Supreme Court of December 11, 2018 in case No. 910/8122/17;
 - judgment of the Supreme Court of March 19, 2021 in case No. 754/8602/18;
 - judgment of the Grand Chamber of the Supreme Court of June 15, 2021 in case No. 904/6125/20;
 - judgment of the Grand Chamber of the Supreme Court of March 23, 2021 in case No. 367/4695/20
- ✓ In particular, these rulings:
 - confirmed the possibility for NGOs to file opt-in class actions in the interests of their members in environmental disputes;
 - determined the NGO's capacity to act as the sole plaintiff in the case;
 - determined civil jurisdiction for trying such claims;
 - clarified that affected persons shall not act as independent plaintiffs or individual litigants in such claims, because they have delegated the relevant powers to the NGO as the initiator of the claim;
 - confirmed the possibility for NGOs to file opt-out class action lawsuits in the field of consumer protection
- ✓ Judgments of the Supreme Court on the application of law in Ukraine form case law and are mandatory to all other courts on the application of the law. Judgments of the Grand Chamber of the Supreme Court are binding on all courts, including other chambers of the Supreme Court. Only the Grand Chamber of the Supreme Court can deviate from its own past precedents
- ✓ The case law of the Supreme Court that made it possible to pursue class / group claims was established due to the efforts of GRECO



Class Action Lawsuits In Ukraine: Introduction (3/3)

- ✓ In courts of first instance in Ukraine, cases are heard by a single judge or by a panel of no more than three judges; juries are not involved in class actions. In Ukraine, litigation consists of several stages:
- ✓ The preparatory court session stage, which should not exceed 90 days, allows each party to submit statements on the essence of the dispute. The preparatory stage can include written objections and explanations to each of the parties, collecting evidence on the substance of the claim, addressing issues regarding calling witnesses, and appointing the necessary forensic examinations. During the preparatory stage, it is still possible to alter the amounts claimed, the subject or the cause of the claim, introduce new co-defendants or replace inappropriate defendants. If the court orders to notify non-resident defendants, the proceedings may be suspended and the deadlines extended
- ✓ During the stage of considering the case on the merits, the positions of the parties and their explanations are heard at the court session, testimonies of witnesses are heard and the available evidence is examined. Parties cannot submit new evidence during this stage, unless the party was deprived of this opportunity due to circumstances beyond that party's control. This stage should last no more than 30 days
- ✓ Court judgment. The abridged court judgment is announced at the court session, and the court has ten days thereafter to compile the full text of the judgment. The parties have the right to appeal the judgment within 30 days after the judge signs the full text. If an appeal is not filed within the specified period, the decision enters into force and is subject to enforcement. Each defendant has the right to appeal. However, if at least one of these appeals is considered on the merits, the filing of appeals by other defendants is allowed only if their arguments differ from those on which the Court of Appeal has already ruled
- ✓ Entering into a settlement agreement is possible at any stage of the trial, including appeal and cassation appeal stages



The Intended Class Action Lawsuit: Outline

I. THE PLAINTIFF(S):

The NGO:

- Ukrainian NGO (for domestic lawsuit)
- NGO in the EU jurisdiction (for overseas lawsuits & foreign enforcement support)
- Ten thousand active members (for the initial claim)
- NGO acts on behalf of its members

II. THE CLAIMS:

The intended subject matter of the claims is to request 'just satisfaction' and adequate redress – by means of funds and/or assets foreclosure – for the following types of damage:

- violations of every Ukrainian citizen's right to life resulting from the indiscriminate use of deadly weapons (redress to be based on the cost of human life formula), distinguishing between: (a) persons forced to leave Ukraine after February 24, 2022 due to the military aggression, (b) persons internally displaced within Ukraine due to hostilities (migrants from conflict zones to safer domestic locations), (c) persons residing in cities and towns where heavy weaponry is being used, and (d) persons under occupation
- health damage (injuries, diseases and impact on mental well-being, costs of surgery, medication, rehabilitation, hospital treatments, resulting disabilities etc.)
- death of close relatives or loved ones and/or violence against them
- property losses expressed as difference between the value of property concerned before and after the date the hostilities commenced (loss of market value based on retrospective valuation)
- direct losses due to property being completely destroyed (based on retrospective valuation)
- restoration costs required to return the affected property to their pre-aggression market values
- loss of employment, jobs, social ties, habitual way of life
- moral (non-pecuniary) damage caused both directly due to the military aggression and indirectly due to property damage, health consequences and / or death of close relatives, loss of employment and jobs, loss of residence, loss of social ties and deprivation of the habitual way of life



III. THE DEFENDANTS:

The intended co-defendants (it is suggested to apply joint and several liability available under the Article 1190 of the Civil Code of Ukraine – since damage was caused by their joint actions or inactions) are as follows:

- the Russian Federation as the aggressor state. Due consideration has been given to the application of sovereign immunity issues: Ukraine's Supreme Court ruling issued March 14, 2022 and May 18, 2022 recognized the absence of the state sovereign immunity of the Russian Federation within the territory of Ukraine where redress for the inflicted damage is concerned
- Russian major state-owned corporations in economic sectors related to arms production, military industry or otherwise related to the aggression
- all oligarchs, and companies under their control included in the sanctions lists of Ukraine, third states and groups of states including, inter alia, the European Union, USA, the UK, Canada and Australia, and designated as 'responsible for promoting the violation of the sovereignty and territorial integrity of Ukraine'
- sanctioned Russian officials and media spokespersons and other 'propagandists'
- international companies that have remained active in the Russian market and thus contribute, through taxes, to funding the Russian 'defense' budget
- companies involved in circumventing international anti-Russia sanctions, especially in the military industry



The Intended Class Action Lawsuit: Timeline

~2 YEARS IN TOTAL

I. PREPARATION PHASE

II. LITIGATION PHASE

I(A). 2 WEEKS for establishing a Ukrainian NGO – a future class action plaintiff

I(B). 6-12 MONTHS for completing enrollment of members and assessing and documenting damage suffered by them

I(C). 6+ MONTHS for identifying and assessing prospective co-defendants and their assets and collecting and documenting evidence of their complicity

II(C). 1-2 MONTHS for filing appeals and their consideration***
II(D). 3-6 MONTHS for filing and considering cassation appeals

NGO



~10K members



I(D). 1 MONTH for documenting the claim and filing a class action lawsuit

Class action



II(A). 2-3 MONTHS until the first court session (all defendants are to be notified)*

Preparatory stage: ~4-6 months



II(B). 4-6 MONTHS until the first court hearing to consider the case on the merits**

Hearings on merits: ~25-50 days



Judgment



*During the first court session a motion for a court order to arrest the defendants' assets in order to secure the claim should be filed

**Each stage will require due notification of the defendants with summons notice – or at least documented diligent attempt(s) to do so



*** Appeals can be filed within 30 calendar days after the formal judgment is issued. If the judgment is not served on a defendant it will be difficult to have it enforced overseas. In case appeals are filed by several defendants separately, they should be considered within up to two months. Cassation appeals do not suspend the judgment in force



The Intended Class Action Lawsuit: Jurisdiction & Venue

- ✓ The suggested jurisdiction is Ukraine, and we consider it to be the most efficient and acceptable for this case. Pursuing civil justice is optimal, given that the legal actions will ensnare several separate defendants who will be joint and severally liable in the case. Since damage was inflicted within its recognized territory, Ukrainian jurisdiction is also proper under Part 6 of Article 28 of the Civil Procedure Code of Ukraine and under Ukraine's international mutual legal assistance treaties, which confirm the unconditional jurisdiction of the court located where the harmful event occurred in tort disputes. Besides, in Ukrainian jurisdiction:
 - there is close legal connection of the mass tort events and circumstances to Ukraine, so there is no issue in a Ukrainian court lacking jurisdiction in the dispute and thus overseas enforcement of the court judgments will be easier (this is especially important in jurisdictions such as Switzerland);
 - it is possible to file a class action without strict formalities or legal restrictions (no minimum numbers of class members, no limits on success fee, no need for class certification, etc.), litigation is relatively prompt, straightforward and fast;
 - it is possible to apply to all defendants joint and several liability for the damage caused in accordance with Article 1190 of the Civil Code of Ukraine
- ✓ The Minsk Convention (Convention on judicial assistance and legal relations in civil, family and criminal matters of January 22, 1993) between the then-member states of the Community of Independent States ('CIS'), including Ukraine and Russia, taking into consideration the Protocol thereto (both are still in force and effect), allows for serving court summons directly to the court at the location of the party being summoned. This greatly simplifies the summoning procedure. Every defendant receives at least one summons notice, which is sufficient for being considered as a due notification

The Intended Class Action Lawsuit: Preparation Phase

- ✓ Identification of victims upon joining the NGO and assessment of damage caused to them:
 - initial damage assessment to guide further evidence collection;
 - administering forensic examinations, as appropriate, to determine and assess damage caused: (a) forensic evaluation of the value of property to determine the amount of property damage, (b) examination for environmental damage, if and where necessary, and (c) psychological studies and forensic examinations to determine the extent of any non-pecuniary (moral) damage

- ✓ Collecting the necessary evidence:
 - in collaboration with the relevant Ukrainian authorities, obtaining formal evidence confirming damage caused to the property of those who suffered material damage in the course of hostilities caused by deadly weapons or by aggressors' other activities;
 - obtaining testimonies from the appropriate Ukrainian authorities stating that Ukraine's military units and facilities were not located at these properties' whereabouts. This is in order to clearly show that it was aggressors' indiscriminate attacks that damaged and destroyed the civilian infrastructure concerned;
 - developing and structuring clear-cut lists of prospective defendants and collecting open-source data for every defendant's involvement in the political regime of the Russian Federation and the aggression, as well as the consistency, coherence and purposefulness of the actions thereof serving the benefit of Russia's decision-makers responsible for the aggression;
 - obtaining documents and evidence upon which officials of the Council of the EU, the United States and other states used to make decisions to impose personal sanctions;
 - finding and identifying all assets capable of being foreclosed and recovered in cooperation with the relevant authorities of Ukraine, the EU and other states, and also with independent providers of these services



The Intended Class Action Lawsuit: Extra Notes on Defendants

- ✓ The choice of prospective defendants should focus mainly on the owners and proxies of large Russian business groups, including sanctioned oligarchs and their businesses (e.g. Friedman, Khan, Aven, Kuzmichev, Rotenberg, Deripaska, Alekperov, Potanin, etc.)
- ✓ The following criteria may serve as basis for their joint and several liability:
 - political influence
 - financing the aggression
 - staffing and supplying the army
 - propaganda of war and military aggression
 - deliberate economic weakening of Ukraine
 - benefits from assisting Putin's regime
 - participation in the occupation infrastructure
 - designated in sanctions regimes

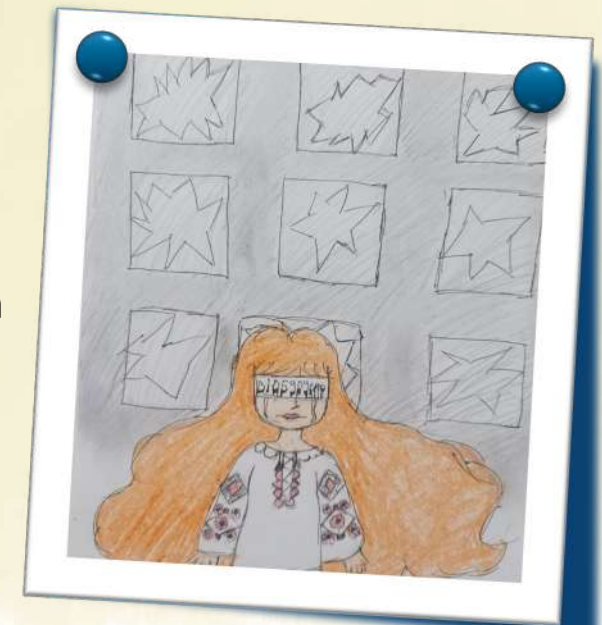


- ✓ Putin's regime would have never survived, let alone been able to initiate an aggressive war, without the support of oligarchs who act as Putin's wallet. The global network of investigative journalists OCCPR launched a project 'to track down and catalogue the vast wealth held outside Russia by oligarchs and key figures close to Russian President Vladimir Putin'. These people, together with the key Russian propagandists sanctioned by a number of states, are directly responsible for the damages sustained today by Ukrainian people



The Role Of Foreign Jurisdictions

- ✓ The key role of foreign jurisdictions is to ensure recognition and enforcement of the Ukrainian court judgment in jurisdictions where these assets are located (USA, UK and its dependent territories, EU member countries and Switzerland)
- ✓ It is very important to obtain a Worldwide Freezing Order ('WFO') in the jurisdiction of England and Wales in respect of all defendants to support the Ukrainian trial, including mandatory disclosure by the defendants of the entire ownership structure of their assets
- ✓ The intended role of the US jurisdiction:
 - obtaining a restraining freezing order against the defendants;
 - requesting from the defendants necessary evidence about the asset ownership structure and other necessary evidence (paragraph 1782 US Code: Title 28) to facilitate and support the Ukrainian trial;
 - filing opt-out class action(s) in the United States;
 - ensuring recognition and enforcement of the Ukrainian court judgment
- ✓ Concurrent filing of class action lawsuits in Canada and the Netherlands with different class members from those victims represented in the Ukrainian lawsuit





Enforcement Of Ukrainian Court Judgments In Europe (1/3)

- ✓ Enforcement of foreign court judgments is based either on the principle of reciprocity or on the bilateral or multilateral agreements between the contracting states governing the mutual provision of legal assistance
- ✓ Ukraine is not yet a member of the European Union. At the same time, Ukraine has direct international agreements on mutual recognition and enforcement of court judgments with certain EU member states, namely:
 - Poland (Agreement between Ukraine and the Republic of Poland on legal assistance and legal relations in civil and criminal cases dated May 24, 1993, Art. 48-53);
 - Romania (Agreement between Ukraine and Romania on legal assistance and legal relations in civil cases dated January 30, 2002, Art. 40-45);
 - Bulgaria (Agreement between Ukraine and the Republic of Bulgaria on legal assistance in civil and criminal cases dated May 21, 2004, Art. 19-23);
 - similar agreements signed between Ukraine and the Baltic countries (Lithuania, Latvia and Estonia)
- ✓ In the European Union, the recognition and enforcement of judgments in civil and commercial matters between EU member states is governed by a number of EU Regulations, the key one being EU Regulation No. 1215/2012 ('Brussels I Recast'). Para 23 of its Preamble provides for a flexible mechanism allowing the courts of EU member states to take into account proceedings pending before the courts of third states and thus for a possibility to enforce court judgments from a non-EU state in one of EU member states under this state's own law, whereas paras 24 and 29 of its preamble and its Articles 33, 34 and 45 recognize the importance of non-EU courts' judgments in general and their possible enforcement



Enforcement Of Ukrainian Court Judgments In Europe (2/3)

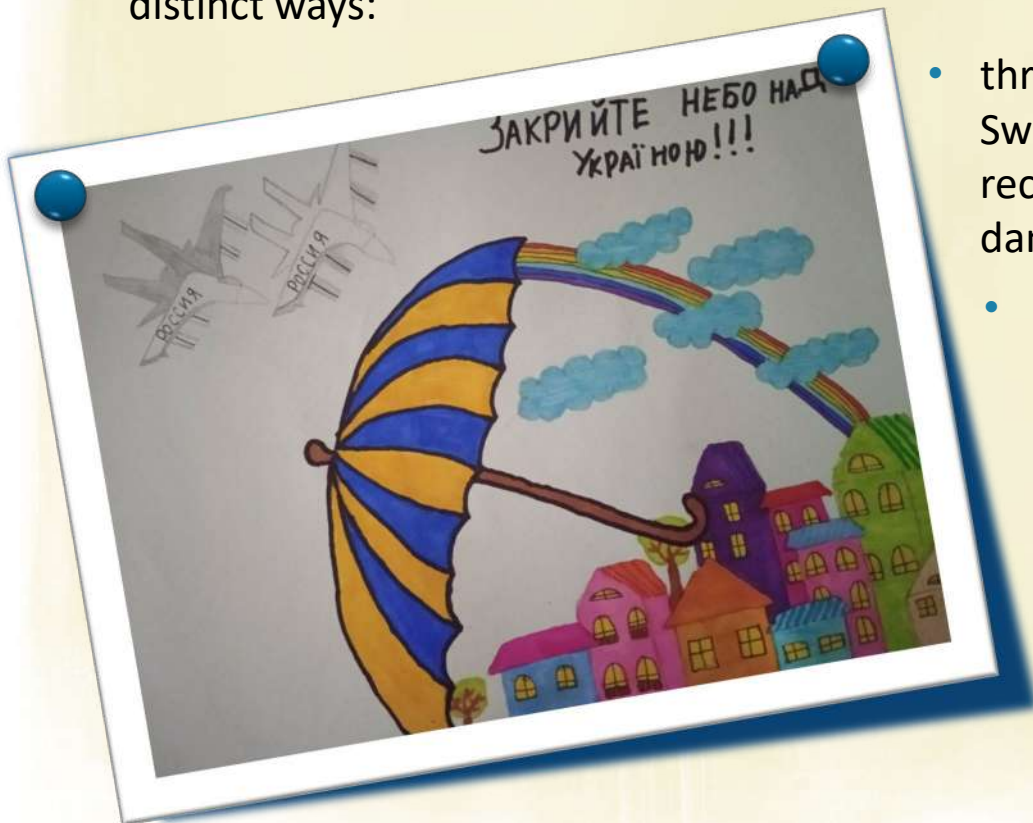
- ✓ Furthermore, Article 2 of that EU Regulation states that a court judgment means any decision taken by a judicial authority of any EU Member State in any possible format, including protective measures and court settlements. At the same time, EU Regulation No. 1215/2012 does not affect any international treaties to which EU member states are parties and that govern jurisdiction or the recognition or enforcement of judgments (clause 1 of Article 71). At the same time, that Regulation (clause 2 of Article 7) establishes that a person domiciled in a member State may be sued in another member state in matters relating to tort, delict or quasi-delict, in the courts for the place where the harmful event occurred or may occur, whereas under Article 24 the courts of the EU member states do not have exclusive jurisdiction in tort disputes
- ✓ Therefore, if the competent court of an EU member state decides to recognize and grant consent to the enforcement of a judgment by the Ukrainian court, and issues a procedural decision related thereto, this decision will fall under the definition of Article 2 of EU Regulation 1215/2012 and will be subject to cross-border enforcement in any and all of EU member states
- ✓ Hence, if courts in any of these states recognize and consent to the enforcement of a Ukrainian court judgment within their territory, it will become enforceable in other EU member states as well under EU Regulation No. 1215/2012, which also allows for the recognition and enforcement of provisional and/or protective measures. This position has already been expressed by the Court of Justice of the European Union in Case No. C-568/20 dated April 7, 2022





Enforcement Of Ukrainian Court Judgments In Europe (3/3)

- ✓ Matters relating to the recognition of, granting consent to and the execution of foreign court judgments in Switzerland are regulated by the Federal Act on Private International Law of December 18, 1987 ('PILA')
- ✓ Switzerland, along with Norway, Iceland and all EU member states except Denmark, is a party to the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters signed in Lugano on October 30, 2007 ('the Lugano Convention')
- ✓ In Switzerland, recognition and consent to the enforcement of Ukrainian court judgments is possible in two distinct ways:



- through the recognition of the Ukrainian court judgment in Switzerland based on the provisions of PILA that allow for the recognition of foreign court judgments in tort disputes if the damage was caused in that foreign state; and
- through the recognition of the Ukrainian court judgment in any EU member state, followed by its recognition and enforceability in Switzerland through a simplified exequatur procedure in accordance with the provisions of the Lugano Convention



Political Environment And Expectations (1/3)

- ✓ Ukraine's policy is now mainly aimed at confiscating and nationalizing assets of Russia and Russians located on its territory. Following this objective, the Law of Ukraine 'On the General Principles of Compulsory Seizure of Property Rights of the Russian Federation and its Residents in Ukraine' and the Law of Ukraine 'On Sanctions' was adopted and correspondingly amended. As of today, these laws have limited practical application because their wording is vague, which allows officials to either abuse their position or do nothing. Some assets of Russian citizens in Ukraine have also been frozen in the course of criminal proceedings
- ✓ Besides, the Government of Ukraine has brought certain cases before international courts: (a) the case before the United Nations International Court of Justice on the interpretation of the Convention on the Prevention and Punishment of the Crime of Genocide of 1948, whereunder interim measures were taken for the immediate cessation of armed aggression but these were not obeyed by the Government of the Russian Federation, and (b) the case before the European Court of Human Rights with its Application No. 11055/22, whereunder interim measures were taken against the Russian Federation regarding the prohibition of using weapons on civilians and civilian infrastructure. Considering past court practice on interstate disputes (the cases of ECtHR 'Georgia v. Russia' and the cases of the International Court of Justice 'DR Congo v. Uganda'), they have been going on for several decades and such actions by the government of Ukraine do not prevent or limit the rights of citizens to apply to justice for judicial protection
- ✓ Currently, international financial activities of the Ukrainian government are focused mainly on accumulating funds for future infrastructure reconstruction and recovery construction costs, not on securing redress for damage caused to Ukrainian citizens. No changes in this general approach of the Ukrainian authorities in this matter are reasonably expected

Political Environment And Expectations (2/3)

- ✓ Some recent actions of the Ukrainian Government to foreclose on the assets belonging to Russian nationals:
 - on May 11, 2022 the President of Ukraine issued Decree No. 326/2022 whereunder the decisions of the National Security and Defense Council of Ukraine on the compulsory withdrawal of the following assets in favor of the state of Ukraine were put into effect: (a) 99.772644% shares of JSC 'Joint Stock Commercial Industrial and Investment Bank' ('Prominvestbank'), (b) 100% shares of the JSC 'International Reserve Bank' (former 'Subsidiary Bank of Sberbank of Russia') and (c) financial assets of these banks;
 - three different bills have been submitted for consideration by the Verkhovna Rada of Ukraine (Ukraine's Parliament) on compensating the damage caused to Ukrainian citizens, and each of these bills is the opposite of the other. Possible damage under those bills is limited to direct losses resulting from damage or destruction of property. Neither of the bills provides for any restriction of citizen's right to justice, nor prevent citizens from going to the courts to recover redress for the damage caused;



- the Ministry of Justice of Ukraine has filed a lawsuit to confiscate Ukraine-based assets of the Russian oligarch Yevtushenkov in accordance with the Law of Ukraine 'On Sanctions'



Political Environment And Expectations (3/3)

- ✓ The international legal arena recently saw the following developments related to the sanctioned individuals' assets:
 - the Yermak-McFaul Expert Group on Russian Sanctions has been established and tasked with developing mechanisms to transfer frozen assets to Ukraine;
 - the task force to develop and implement international legal compensation mechanisms has been created and there is the possibility for the launching of a dedicated International Claims Commission for Ukraine by virtue of separate agreements between Ukraine and interested allied states;
 - Task Force KleptoCapture has been launched in the US to file criminal charges and seize assets of prominent Russian individuals;
 - the US House of Representatives approved the bill on the seizure of assets (The Asset Seizure for Ukraine Reconstruction Act or 'ASURA') that would enable the US President to use some assets frozen under sanctions against the Russian Federation to provide humanitarian and military assistance to Ukraine;
 - the European Commission established the 'Freeze and Seize Task Force';
 - under the newly established 'Russian Elites, Proxies, and Oligarchs' or 'REPO' Task Force, the EU operates together with the G7 countries (Canada, France, Germany, Italy, Japan, the United Kingdom and the United States) and Australia;
 - the Parliamentary Assembly of the Council of Europe ('PACE') adopted Resolution No.2436 calling for using the sanctioned Russian citizens' assets, once they are confiscated definitively, to compensate Ukraine and its citizens for any damage caused by the Russian war of aggression;
 - Lithuania, Slovakia, Latvia and Estonia have called on the European Commission to confiscate Russian assets frozen by the European Union to finance the reconstruction of Ukraine



Prospective Partnership

- ✓ The concept of launching a class action in Ukraine is both an exciting and complicated project that goes far beyond legal regulations alone
- ✓ Government relations, public affairs and financing issues present additional challenges that must be managed simultaneously
- ✓ Unlike the US, Ukraine lacks financial infrastructure to support transactions involved in redress to class action plaintiffs. The project team must design appropriate mechanisms with the help of institutional service providers (relevant negotiations have already commenced)
- ✓ We are facing a 'chicken and egg' problem, as teaming up with the experienced and reliable partners will bring high case visibility, public interest and trust, as well as ensuring more members join the class action and other stakeholders support it. Further, more members and stronger support will make it easier to win the class action; and success in court will attract more interested prospective partners
- ✓ GRECO is interested to partner from an early stage because the prospective defendants are billionaires who own vulnerable assets but at the same time possess an array of ample capabilities for their defense

