



# PROPERTY COMPENSATION GUIDELINES

Based on Iraqi Law 20, 2009

*Law 57, 2015 (First Amendment)*

*and Law 2 of 2020 (Second Amendment)*

March 2020



# TABLE OF CONTENTS

1. OVERVIEW	3
2. PURPOSE OF THE COMPENSATION GUIDELINES	3
3. RESTITUTION OF PROPERTY RIGHTS AND COMPENSATION IN THE INTERNATIONAL LAW	3
4. COMPENSATION SCHEME IN IRAQ	4
5. CENTRAL COMPENSATION COMMITTEES	4
6. COMPENSATION SUB-COMMITTEES	5
7. WHO IS ELIGIBLE FOR COMPENSATION?	5
8. CLAIM SUBMISSION PROCESS	5
9. WHO CAN SUBMIT A CLAIM FOR COMPENSATION?	5
10. WHAT ARE THE REQUIRED DOCUMENTS FOR SUBMITTING A COMPENSATION CLAIM?	6
11. WHERE SHOULD A COMPENSATION CLAIM BE SUBMITTED?	6
12. HOW CAN A CLAIMANT PROVE PROPERTY DAMAGES?	7
13. HOW WILL CLAIMS BE VERIFIED?	7
14. WHAT ARE THE PROCEDURES TO SUBMITTING A CLAIM FOR COMPENSATION?	7
<b>ANNEX 1: GENERAL PROCESS FLOWCHART</b>	9
<b>ANNEX 2: FLOW CHARTS FOR ANBAR, DIYALA, KIRKUK, NINEVEH AND SALAH AL-DIN</b>	10
<b>ANNEX 3: MATRICES OF COMPENSATION PROCESS</b>	15
<b>ANNEX 4: STEPS TO BE TAKEN BY HLP AND NON-HLP ACTORS THROUGHOUT THEIR ACTIVITIES (LEGAL ASSISTANCE/REHABILITATION/DEMINEING)</b>	16
<b>ANNEX 5: QUESTIONS TO BE ASKED ABOUT COMPENSATION WHEN IMPLEMENTING ANY PROJECT</b>	17
<b>ANNEX 6: KEY QUESTIONS AND ANSWERS ON PROPERTY COMPENSATION</b>	18
<b>ANNEX 7: WRITTEN STATEMENT TO BE USED BY PARTNERS WHEN PLANNING TO INTERVENE IN THE PROPERTY</b>	19
<b>ANNEX 8: KEY FIGURES ON COMPENSATION SCHEME IN IRAQ</b>	21

## 1. OVERVIEW

Iraq has experienced a massive wave of displacement over the last four years that has caused an intricate housing, land and property situation. During the recent conflict, many Iraqi citizens have had their property rights violated, such as having lost possession of their property or have had their property damaged or destroyed by different actors<sup>1</sup>. Approximately 5.8 million<sup>2</sup> Iraqis were forced to abandon their homes and leave their areas of origin as a consequence of fear of violence, lack of freedom of movement, lack of access to basic services. In conflict-affected areas, unlawful seizure, sale, systematic looting, and destruction of properties were highly common, and are consequently unable to return to their area of origin, are not able to re-establish their lives, or do not have the financial resources to rebuild their homes. Enjoying tenure security and access to housing is a human right and humanitarian and governmental actors have a responsibility in ensuring that the rights of people are restored and respected.

## 2. PURPOSE OF THE COMPENSATION GUIDELINES

These guidelines have been drafted by HLP Sub-cluster Iraq to advise humanitarian actors who are working on compensation and HLP related issues. The guidelines set out the scheme as set out in Iraq's Law 20 of 2009,<sup>3</sup> Law 57<sup>4</sup> of 2015 and Law 2 of 2020<sup>5</sup> which govern the compensation of all Iraqi citizens affected by damage or destruction of their properties caused by war operations, military errors and terrorist actions in Iraq.

It should be noted that the below guidelines will focus on compensation for housing, land and property only and not any of the other categories eligible for compensation foreseen by above mentioned laws.

## 3. RESTITUTION OF PROPERTY RIGHTS AND COMPENSATION IN THE INTERNATIONAL LAW

A major hindering factor for IDPs who wish to return to their area of origin is the fact that often their homes are damaged or destroyed. In order to facilitate the return of displaced people, assistance and support should be provided in relation to compensation for damaged housing.

*Refugees and internally displaced persons have the right to return freely to their homes and places of habitual residence and the refugees and IDPs have the right to have restored to them any housing, land and/or property of which they were arbitrarily or unlawfully deprived, or to be compensated for any housing, land and/or property that is factually impossible to restore.<sup>6</sup>*

*States shall demonstrably prioritize the right to restitution as the preferred remedy for displacement and as a key element of restorative justice. The right to restitution exists as a distinct right and is prejudiced neither by the actual return nor non-return of refugees and displaced persons entitled to housing, land and property restitution.<sup>7</sup>*

Compensation/restitution for damaged or destroyed properties is a right for affected people under both national law and international principles. As such, affected people have a right to access to government HLP services, such as compensation schemes and restitution, without any discrimination or prejudice related to ethnicity, religion, gender or tribe.

HLP rights are inalienable, indispensable, non-negotiable, equal, and non-discriminatory in terms of origin, ethnicity, religion, status or tribe, or gender.

The right of rightful owners affected by conflicts or wars to receive compensation for their damaged/destroyed is set out in international laws and instruments, various treaties, conventions, guidelines, and resolutions, including the United Nations Commission on Human Rights adoption of the "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law" (E/CN.4/RES/2005/35). The guidelines were endorsed by the United Nations General Assembly in 2006 (A/RES/60/147, 21 March 2006), with additional protocols in 1977. Additionally, the Basic Principles and Guidelines

1 According to assessment of January 2018, conducted by UN Habitat and Ministry of Planning, there are approximately 60,000 houses destroyed during the armed conflict. The damage/destruction assessment is based on satellite imagery and covers only category 3 and 4 of house destructions. According to the Government of Iraq's Damage and Needs Assessment of Affected Governorates, out of 138,051 houses that have been damaged or destroyed, the district of Mosul, which is located in the governorate of Ninewa, holds the largest share of recorded number of damaged housing, compared to districts in other affected governorates, IRAQ RECONSTRUCTION and INVESTMENT, Damage and Needs Assessment of Affected Governorates, Part 2, January 2018.

2 Displacement Tracking Matrix (DTM), <https://www.iom.int/countries/iraq>

3 Law number 20 of 2009 on Compensating People Affected by War Operations, Military Errors, and Terrorist Actions, Iraqi Gazette.

4 Law 57 of 2015 (first amendment) of the Law 20, 2009 for Compensating people affected by War Operations, Military Accidental Errors, and Terrorist Actions, Iraqi Gazette.

5 The Law on the Second Amendment to the Law No. (20) of 2009 for the Compensation of Victims of War Operations, Military Errors and Terrorist Actions, Iraqi Gazette.

6 Resolution 1998/26 on Housing and Property Restitution in the Context of the Return of Refugees and Internally Displaced Persons, <http://www.refworld.org/docid/3dda64517.html>, UN Sub-Commission on the Promotion and Protection of Human Rights.

7 Handbook on Housing and Property Restitution for Refugees and Displaced Persons, Implementing the 'Pinheiro Principles, Principle 2- 2.1, The right to housing and property restitution. March 2007.

on the Right to a Remedy and Reparation was adopted on 16 December 2005, along with the Guiding Principles on Internal Displacement (“Guiding Principles”) and (2) the Principles on Housing and Property Restitution for Refugees and Displaced Persons (Pinheiro Principles).

In Iraq, there is a compensation scheme in place which aims to compensate all individuals who were affected by the recent conflict in different aspects of their life. This scheme covers different types and categories of compensation, including compensation for housing, land and property loss, damage or destruction. Although the process for compensation is very complicated and a tremendous backlog persists in the processing of cases by the relevant authorities, it still offers an opportunity for Iraqi citizens to be compensated for damage to or destruction of their properties caused by violence and war.

The HLP Sub-cluster in Iraq, in concert with its partners, has been working with the Central Compensation Committee and Sub-committees to better understand the process and identify challenges. It organizes workshops to discuss about challenges related to compensation scheme, support the committees in different fields, bring best practice examples from other countries who have implemented similar compensation schemes and provide advice and other means of support to improve services related to the compensation scheme so people in need may have better access and services.

## 4. COMPENSATION SCHEME IN IRAQ

As per the Law on Compensation (**Law 20 of 2009, Law 57 of 2015 and Law 2 of 2020**), the Iraqi Government will compensate all citizens, including IDPs, whose properties were affected by war-related incidents.

**Law 57 of 2015** stipulates that all Iraqis affected or harmed during military operations and terrorist actions are entitled to financial compensation.<sup>8</sup>

According to Article 2 of the Law 20, there are five categories eligible for compensation:

1. Martyrdom, missing in action, abduction, or injured persons;
2. Persons with disabilities as result of war;
3. Injuries that require medical treatment;
4. **Damaged property;**
5. Disadvantages relevant to job or education.

There are six sub-categories which focus on property damage.<sup>9</sup> They are divided as follows: **vehicles, houses,**

<sup>8</sup> Article 1 of the Law 57, (first amendment), Law for the Compensation of Persons Affected by Military Operations, Military Mistakes and Terrorism Acts (No. 20 of 2009).

<sup>9</sup> Secretariat General of the Council of Ministers. The Central Committee for compensation people affected by war operations, military mistakes and terrorism. Guidebook

**farming lands, furniture, shops, and companies.**<sup>10</sup> All claims are considered on a case by case basis and the compensation amount depends on the level of damage to each property.

## 5. CENTRAL COMPENSATION COMMITTEES

According to Article 1 of Law 2 of 2020, there are three Central Compensation Committees (one will be for Kurdistan) will be based in Baghdad, while Article 2 of Law 2 of 2020 stipulates that the Central Compensation Committees will be chaired by a judge of first or second category nominated by the Chairperson of the Supreme Judicial Council. Compensation Committees will be comprised of Judge of the first or second category, a representative from the High Commission for Human Rights, Ministry of Housing and Construction, Ministry of Finance (MoF), Ministry of Justice (MoJ), representative of the Martyr Foundation and representative of Kurdistan Region of Iraq (KRI) as members, as per Article 2 of Law 20 of 2020. The Committees will reports to the General Secretariat of Council of Ministers (COMSEC) in coordination with the Martyrs' Foundation.<sup>11</sup> COMSEC can issue additional instructions as necessary on the functions of these committees.

The function of the Central Compensation Committees are to: approve, amend or refuse recommendations issued by sub-committees relevant to property compensation, review the recommendations of the sub-committees, and report their conclusions to the Ministry of Finance (MoF) which is responsible to handle the disbursements of the monetary allocations to successful claimants.

The Central Compensation Committees also functions as the highest body to appeal against any sub-committee decision related to compensation.

Article 16/First/A of Law 2 of 2020 stipulates that the Ministry of Finance shall pay the compensation through concerned governorates for the successful/affected claimants for their damaged properties based decision date approval by Compensation Committee.

Ministry of Finance will take into account the priority of payments to be made according to the decisions' date issued as per Article 16/Second of the law 2 of 2020.

Article 16/Third of law 2 of 2020 obliges the Ministry of Finance to allocate the budget for compensation of each governorate within the annual federal budget law.

for compensation people affected by war operations, military mistakes and terrorism, paragraph 2, Page 5, second edition, Arabic version.

<sup>10</sup> Guidebook for Compensating People affected by War Operations, Military Mistakes and Terrorism, chapter four. Secretariat General of the Council of Ministers, The Central Committee for compensating people affected by war operations, military mistakes and terrorism.

<sup>11</sup> The Martyr's Foundation is an institution of Iraqi Council of Ministers, established in 2006 by Law 3 adopted in 2005 and the foundation is focused on claims related to injuries, missing persons and deaths.

## 6. COMPENSATION SUB-COMMITTEES

According to Article 1 of the Law 2 of 2020, one or more Compensation sub-committee will be established in Baghdad and Kurdistan Region of Iraq in addition to sub-committees already established in each conflict-affected governorate in order to facilitate beneficiaries' claims for compensation. If needed, the Compensation sub-committees are allowed to open additional offices in the district or any area of their respective governorates and they are obliged to provide all support and requirements for new offices, as per Article 1 of the Law 2 of 2020.<sup>12</sup>

Each Compensation sub-committee will have a secretariat office which will be managed by an employee of the Martyrs' Foundation.

Article 4 of Law 2 of 2020 stipulates that Compensation sub-committees will be comprised of a judge as Chair who is nominated by the Chairman of the Appeals area, a representative of the Ministry of Defence, Ministry of Interior, Ministry of Health, Real Estate and Land Registration Office, Department of Martyrs' Foundation and a representative from the affected governorate.

The sub-committees are tasked with: receiving requests for compensation, assessing the level damage to properties, adhering to the procedures set by the Ministry of Finance and submitting recommendations to the Central Compensation Committee, notifying claimants, the Ministry of Finance and the Martyrs' Foundation on the decisions taken per each case.

Previously Compensation sub-committees were not allowed to take decisions related to property as only the Central Compensation Committee was authorized to take such decision in regard to property damages and level of compensation. As per new amendments, based on Article 13 of Law 2 of 2020 more competences were given to Compensation Sub-committees. Now Compensation sub-committees are allowed to submit to take decisions for the property damages and the level of compensation that does not exceed IQD 30,000,000.<sup>13</sup> However, their decision is subject to the final decision and approval of the presidency of the governorate's appeal court.

In addition, Article 11 of Law 2 of 2020 oblige sub-committees to present the recommendations and decision issued to be reviewed by the public prosecutor to confirm if the recommendations and decisions are in agreement with the law, or to submit other observations in a manner that guarantees the preservation of public money.

<sup>12</sup> As of February 2020 there are 56 offices opened to receive claims from compensation in different districts across all governorates.

<sup>13</sup> USD 25,000 approximately.

## 7. WHO IS ELIGIBLE FOR COMPENSATION?

**Article 1 of Law 57 of 2015** stipulates that all Iraqi citizens who have been harmed, wounded or affected by military operations or errors, or terrorist acts are entitled for compensation. Accordingly, all individuals whose properties have been damaged or destroyed are eligible for compensation.

All or any **type of property** damage that has occurred during the military operations or by terrorist acts, is covered under **Article 1 of Law 57 of 2015**.

The Guidebook on Compensation states that "If damages occurred include multiple segments that belong to the citizens' property, it is possible to combine them all in one dossier without being segmented, for example, damages that affect the house, the furniture, and vehicles, this is to spend less time at processing such claims."<sup>14</sup>

However, **Article 8 of Law 20 of 2009** says that "it is not allowed to combine between the compensation stated by this law and the compensation for the damage stated by another law; in case the affected individual received a compensation less than the one stated by this law, he/she shall be given the difference (what has been disbursed and the compensation he/she deserves by law)."

### CLAIM SUBMISSION PROCESS

## 8. WHO CAN SUBMIT A CLAIM FOR COMPENSATION?

In principle, all property owners can submit a claim for compensation. If an owner is not able to submit the claim in person (absent, disabled, ill or unfit to travel), they can authorize another individual through a power of attorney, to submit the claim on their behalf. If the owner is deceased, the inherited persons can submit the claim after they have legally inherited the property.

## 9. WHAT ARE THE REQUIRED DOCUMENTS FOR SUBMITTING A COMPENSATION CLAIM?

To prove their identity, a claimant must attach a copy of a valid document:<sup>15</sup> National Identification Card (Civil ID Card), Passport, Residency Card, Unified Card, Civil Status Card, Heirs Deed certificate, Pension Document, Displacement Confirmation Letter, Housing Card, Ration

<sup>14</sup> Guidebook for Compensating People affected by War Operations, Military Mistakes and Terrorism, General principles, point 6. Secretariat General of the Council of Ministers, The Central Committee for compensating people affected by war operations, military mistakes and terrorism.

<sup>15</sup> The copy of any ID document which is required to attach to the sets of documents is for information only.

Card, Unified Identification, a copy of the power of attorney in cases where it is compensation claimer's representative, and include the inheritance allotment, Custodianship deed, Guardianship deed in the case of minors or missing persons, as well as attaching the representative's or inheritors' assignment, as well as all relevant deeds and documents.<sup>16</sup>

To submit a claim, a claimant has to provide a proof of ownership or property title deed (tapoo)<sup>17</sup> of the property which shows that he/she is the rightful owner of the property (proof of ownership). Title deeds are issued by the Real Estate Registration Office. In case owners have lost any of their property documents, they will have to obtain a replacement from the Real Estate Registration Offices in their respective governorates. In case the Real Estate Registration Office is not in possession of the Title Deeds/Tapoos due to destruction of records, they may obtain the tapoo from Central Real Estate Registration Office in Baghdad.

Should an owner not be in possession of his ownership documents, they have to file a request to the compensation office to obtain an Ownership Proof Form (an official document issued by the specialized authority, submitted by the claimant to prove his ownership of the damaged possessions)<sup>18</sup>. This form should be endorsed by Mukhtar, community leaders, municipal council, local authorities, and two witnesses. All of them would have to validate that the property truly belongs to the said claimant.<sup>19</sup>

Claimants should submit high-quality pictures and the exact address of the property, as evidence of the damage that has occurred to their properties as a consequence of the military operations and terrorist acts during the conflict.<sup>20</sup> In cases where IDPs who have not yet returned are filing a claim and are not in possession of pictures of their damaged properties, they should seek alternatives such as written claims by the Mukhtar, Mayor, neighbours, and community leaders in validating the level of damage.

16 Guidebook for Compensating People affected by War Operations, Military Mistakes and Terrorism, General principles, chapter one, point 3. Secretariat General of the Council of Ministers, The Central Committee for compensating people affected by war operations, military mistakes and terrorism.

17 Title deed should be original one and should be authenticated by current year's stamp (e.g 2020).

18 Guidebook for Compensating People affected by War Operations, Military Mistakes and Terrorism, General principles, General Principles, chapter one, point 4. Secretariat General of the Council of Ministers, The Central Committee for compensating people affected by war operations, military mistakes and terrorism.

19 In some governorates this is not practice anymore.

20 There are no clear guidelines on compensation if property is destroyed after Explosive Hazards clearance by Iraqi Security Forces (ISF), but such procedures are reflected by the text of the law which include military mistakes and should be legally binding. However, humanitarian MA partners include third party liability insurance that supports the damage claims for any potential damage during their clearance operations.

## 10. WHERE SHOULD A COMPENSATION CLAIM BE SUBMITTED?

It should be emphasized that claimants should ensure that they have compiled all necessary documents required prior to filing a compensation claim. Humanitarian actors are highly encouraged to support beneficiaries to complete all required documentation.

Claims are to be filed at the office of the sub-committee at their respective governorate. Several offices have been opened so far in different governorates, districts, and sub-districts, mandated to receive compensation claims.<sup>21</sup> The Governor's office is responsible to support the Compensation sub-committees logistically, technically and administratively.

For detailed general procedures on the submission of the claim refer to annex 1 or annex 2 for specific governorates. To compare differences in the procedures and requirements refer to annex 4.

## 11. HOW CAN A CLAIMANT PROVE PROPERTY DAMAGES?

The Law on Compensation does not provide clear guidance on how to prove property damages that occurred during the conflict. Although no clear instructions have been provided, there are different methods of proving property damages. In principle, any evidence which proves that the damage has occurred by the war should be submitted to the sub-committee. However, Article 6 of the Law 57, stipulates that the committee is responsible to verify that damages are a result of the war or terrorist attacks.<sup>22</sup>

HLP partners assisting claimants should help them to find alternative proof and supporting documents to build their cases. These could include any pictures, videos, utility bills, agreements on shelter rehabilitation/construction with humanitarian or development agencies and NGOs, or other relevant supporting documents.

In cases where a house has been repaired prior to filing a claim for compensation, claimants might find challenges or may not be able to prove that the damage was war-related and would, therefore, hinder the court's ability to assess the level of damage, and thus providing an accurate monetary figure that the claimant is entitled to.

21 According to information received from HLP partners, the compensation sub-committees so far has been established in the following governorates: Nineveh-Mosul, Anbar, Salah-Al din, Diyala and Kirkuk and there are around 56 offices that operate in district and sub-district level.

22 The committee provided for in paragraph (1) of this section shall carry out the administrative investigation to verify that the actual act was the result of a terrorist act or a military mistake or a military action after reviewing the investigation papers and presenting its report and recommendations with all the documents within fifteen (15) from the date of registration of the application in the committee's submission to the competent minister or the head of the entity not associated with the ministry for approval within thirty (30) days from the date of receipt of it to the library.

Nevertheless, there are procedures for cases where properties have been rehabilitated prior to filing a claim. Claimants will have to fill the “Damage Count Form” and list in detail the contents and items that were affected, including the structure and the furniture.

The court will then provide a “House Inspection Form” to locate the house, and to prove that damage occurred during the war. The investigation judge might ask the claimant to bring witnesses to testify that the house was damaged during the conflict.

Then, the Compensation sub-committee will send a surveyor (Evaluation Expert) to inspect the said property and verify whether the reconstruction, rehabilitation or repairs had been done recently.

Therefore, in order to avoid such complex cases, it is highly important to explain to beneficiaries the consequences of repairing or rehabilitating their properties prior to filing a claim for compensation.

It should be also noted that HLP partners will need to advise beneficiaries that, according to the Iraqi law, compensations will not cover missed earnings (such as revenue or rent), or damages resulting from criminal actions such as theft, looting, or vandalism.<sup>23</sup>

## 12. HOW WILL CLAIMS BE VERIFIED?

Once the claim is submitted to the Compensation sub-committee, the claimant will be provided with a date when the evaluation expert will be visiting their property for valuation. The sub-committee will provide the claimant with a list of experts who are registered and recognized by the court and are eligible to evaluate the property and provide a credible evaluation.

It is important for the claimant to select an evaluation expert who is registered and listed on the expert roster of the Appeal Court Presidency. This is elaborated further in Guidebook for Compensation that beneficiaries need “to be careful when selecting the experts and select the experts from the qualified and honest government civil servants, and to exclude any expert who has proven untrustworthy in terms expertise, impartiality, and care about competence-based qualities, abides by taking the oath before the head of the committee if not listed on the expert roster at the Appeal Court Presidency”.<sup>24</sup>

<sup>23</sup> Guidebook for Compensating People affected by War Operations, Military Mistakes and Terrorism, General principles, point 4. Secretariat General of the Council of Ministers, The Central Committee for compensating people affected by war operations, military mistakes and terrorism.

<sup>24</sup> Guidebook for Compensating People affected by War Operations, Military Mistakes and Terrorism, Guidebook, General Principles, point 8. Secretariat General of the Council of Ministers, The Central Committee for compensating people affected by war operations, military mistakes and terrorism.

## 13. WHAT ARE THE PROCEDURES FOR SUBMITTING A CLAIM FOR COMPENSATION?

Based on the Law for compensation, there are certain procedures that any claimant will need to go through in order to successfully submit his/her claim. The current procedures are quite complex, complicated, somewhat contradictory or ambiguous. In some cases, it is not clear how to proceed further, as there are no administrative instructions or precise legal procedure, nor mechanism on how to file a claim for compensation.

In March 2020, the HLP Sub-Cluster in Iraq conducted an informal survey on the procedures for submitting a claim, drawing from different sources of information and available legal documents and guidelines. The findings were that the procedures slightly differ from one governorate to another while having an overarching law that governs all procedures.

## 14. GENERAL PROCEDURES

Notwithstanding some variances in procedures between governorates, the followings are the broad procedures for submitting a compensation claim in Iraq:

- i. Claimants are to collate all necessary documents mentioned above and fill in a Property Proof Form to be submitted to the Investigation Court stating the damages, including the property deed or the Ownership Proof Form;
- ii. After obtaining and submitting the Property title deed, the owner will have to go through an investigation/screening process (investigation judge, secretariat and then referred to the police station) to obtain a security clearance validating that he/she is not affiliated with an extremist group;
- iii. Claimant will have to wait for the police to verify the claim and property damages/destruction;
- iv. Once the investigation reports/security clearance are processed, the claimant will present-submit ID and ownership documents to the Compensation sub-committee office at the district/administrative unit, and will be provided with a Damage Count Form and instructed to wait to be notified by the sub-committee office on the date of the expected visit by evaluation expert to evaluate property damages;<sup>25</sup>

<sup>25</sup> As per the official Guidebook of the Central Compensation Committee, the damage assessment must be in accordance with the prices at the time of the damage. General principles, point 9.

- v. The fees<sup>26</sup> for the Evaluation Expert<sup>27</sup> will have to be paid by the claimants, as the expert will have to visit the property and assess the level of damages. The assessment form will be signed by the Evaluation Expert that assessed and evaluated the level of damage to the property;
- vi. The Evaluation Report conducted by Evaluation Expert will be handed over by the claimant to the compensation committee. The Compensation sub-committee will certify the level of damage and its corresponding value;
- vii. Finally, if the claimant is satisfied with the decision regarding the amount, the claimant will receive a letter with a reference number which states that he is eligible for compensation, indicating the compensation amount that he/she is entitled to once funds are dispersed, otherwise, the claimant has the right to appeal the decision to the Central Compensation Committee;
- viii. The file will be forwarded to the Central Compensation Committee in Baghdad, then to Ministry of Finance for money allocation;<sup>28</sup>
- ix. In case the claimant does not agree on the value of the compensation, he/she can appeal to Central Compensation Committee to challenge the initial decision within 60 days as stipulated in Article 5 of Law 2 of 2020;
- x. In case that claimant is not satisfied with the decision of the Central Compensation Committee he/she can also appeal to the Supreme Administrative Court also.<sup>29</sup>

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<sup>26</sup> The amount of the fee is from 50,000 to 75,000 IQD. It is a fixed administrative fee to be paid to the expert against his/her expertise.

<sup>27</sup> Court has a list (roster) of specialized and sworn experts.

<sup>28</sup> More information on allocation can be found at <http://www.cabinet.iq/ArticleShow.aspx?ID=8512>

<sup>29</sup> Article 7, of the Law 57, first amendment of the to the Law for the Compensation of Persons Affected by Military Operations, Military Mistakes and Terrorist Acts No. (20) of 2009

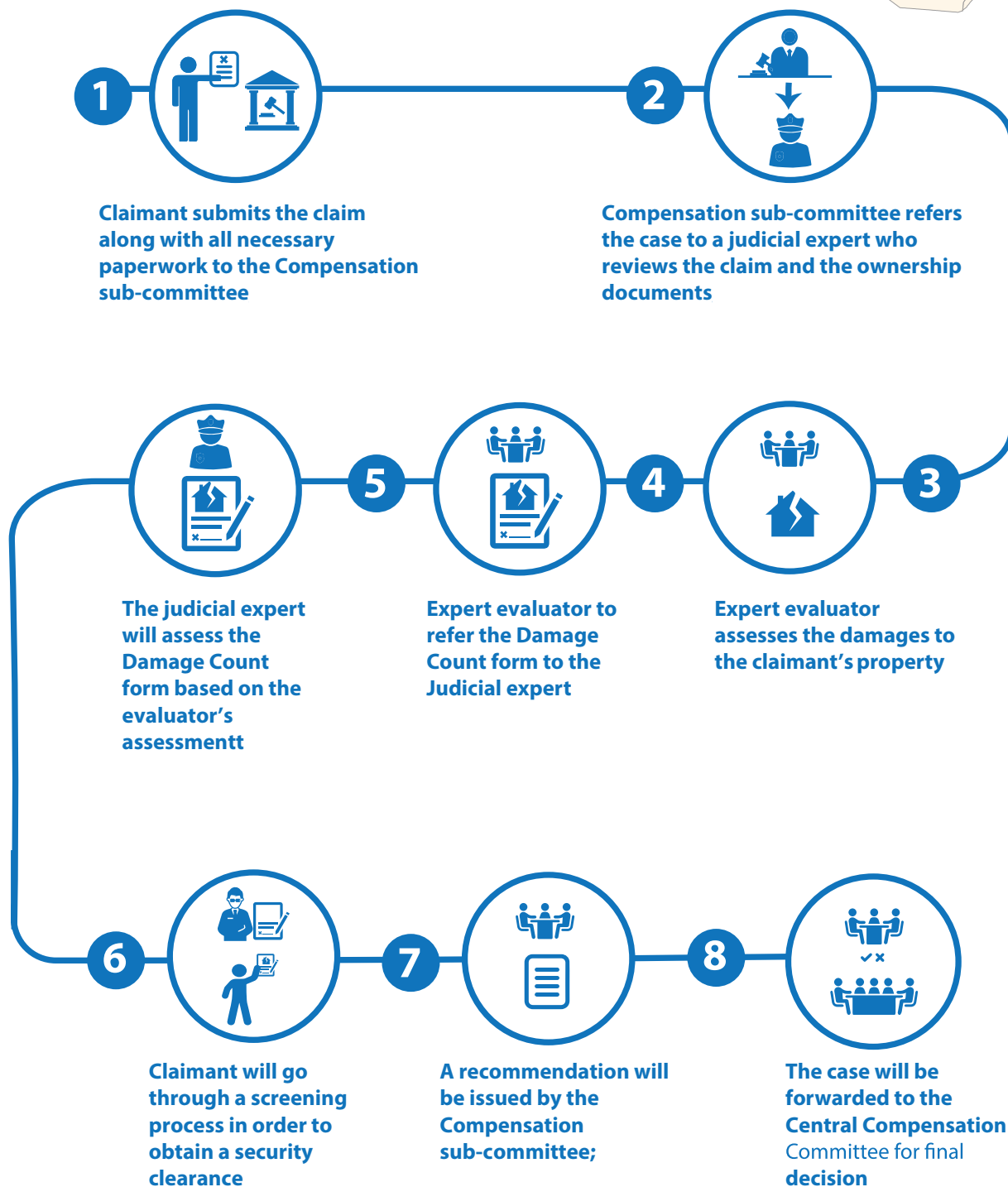


## Annex 1: General Process Flowchart



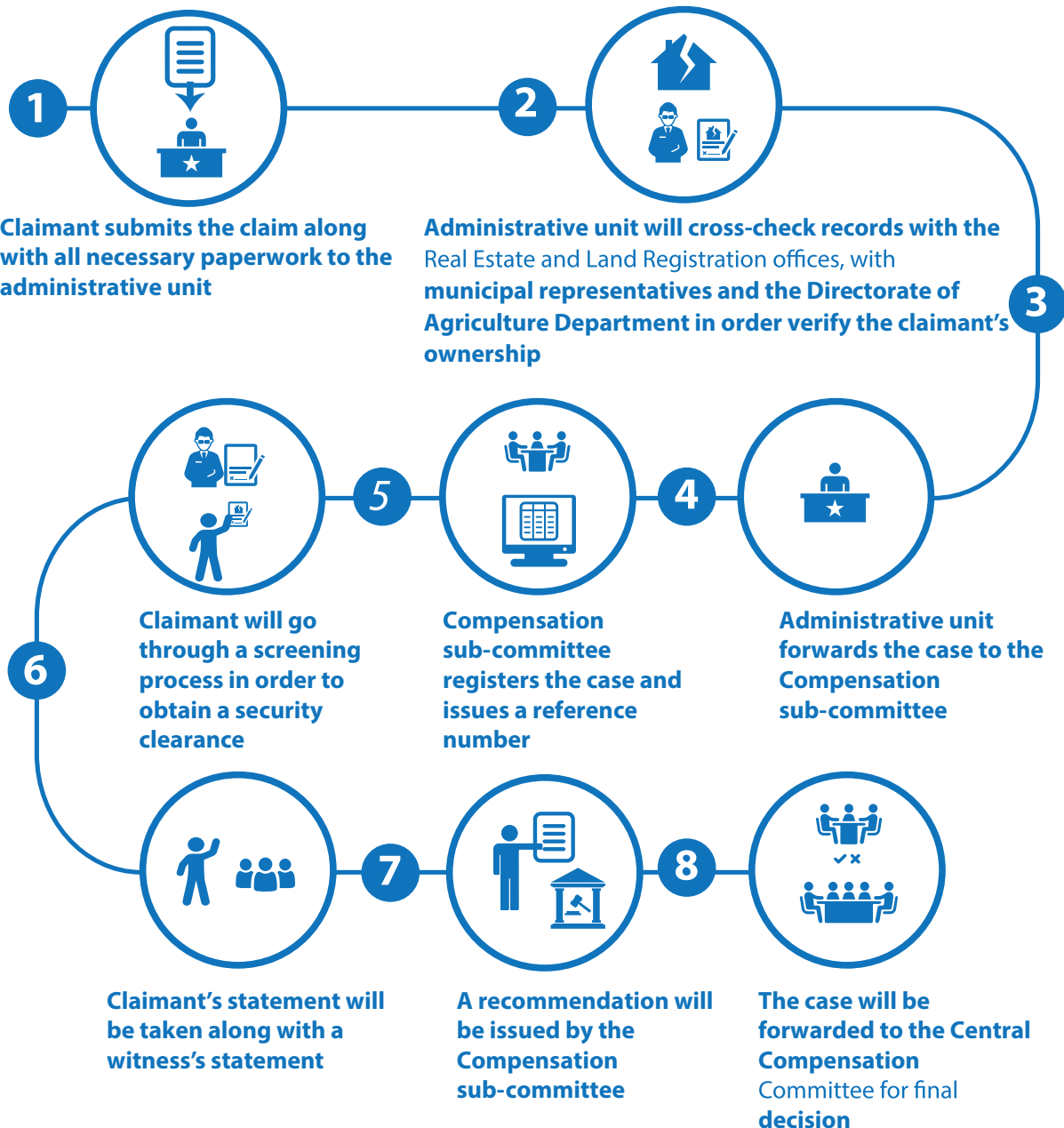
# PROPERTY COMPENSATION PROCESS

# CLAIM PROCESS IN ANBAR GOVERNORATE



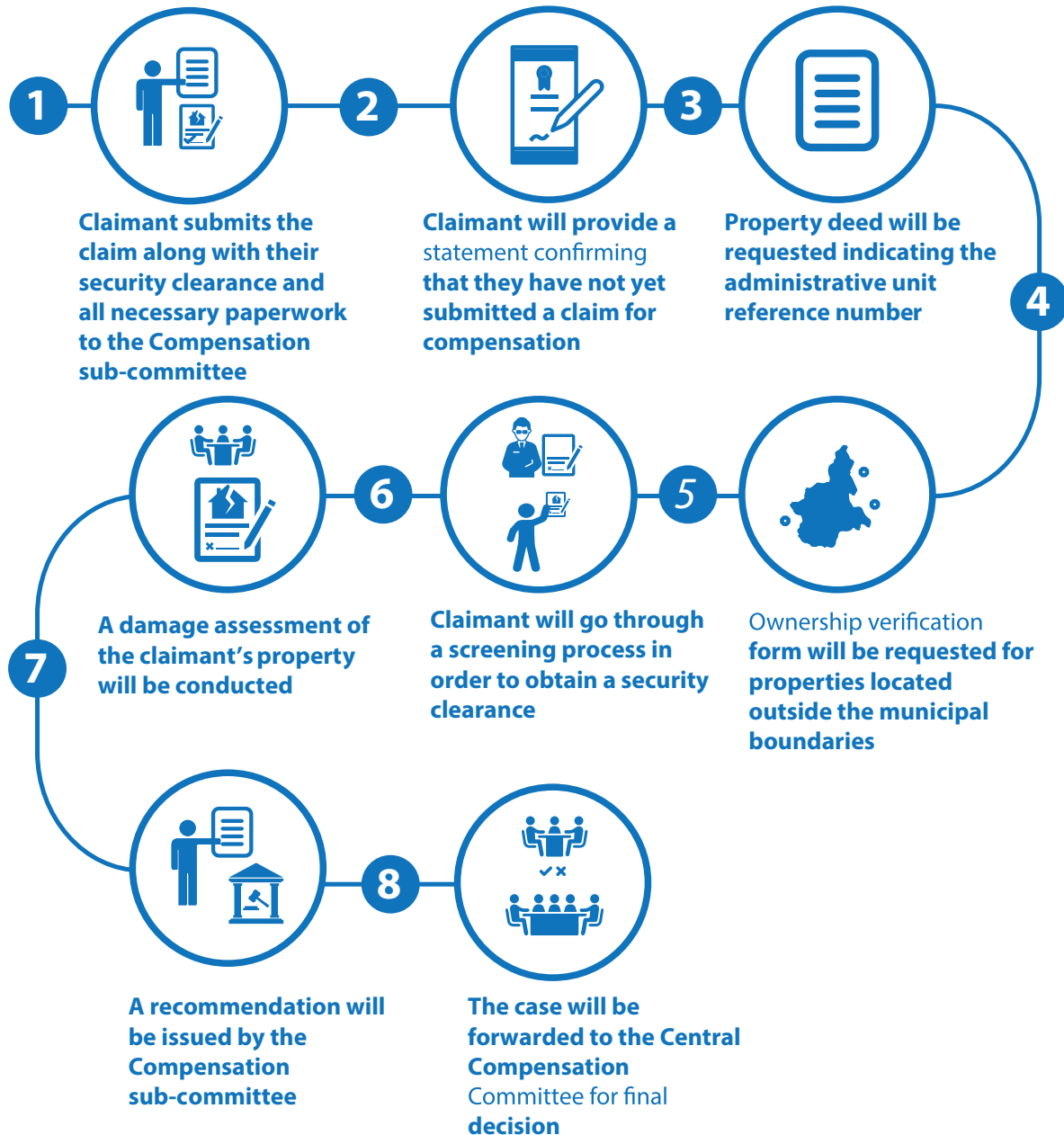
The duration of the process is approximately thirty days

# CLAIM PROCESS IN DIYALA GOVERNORATE



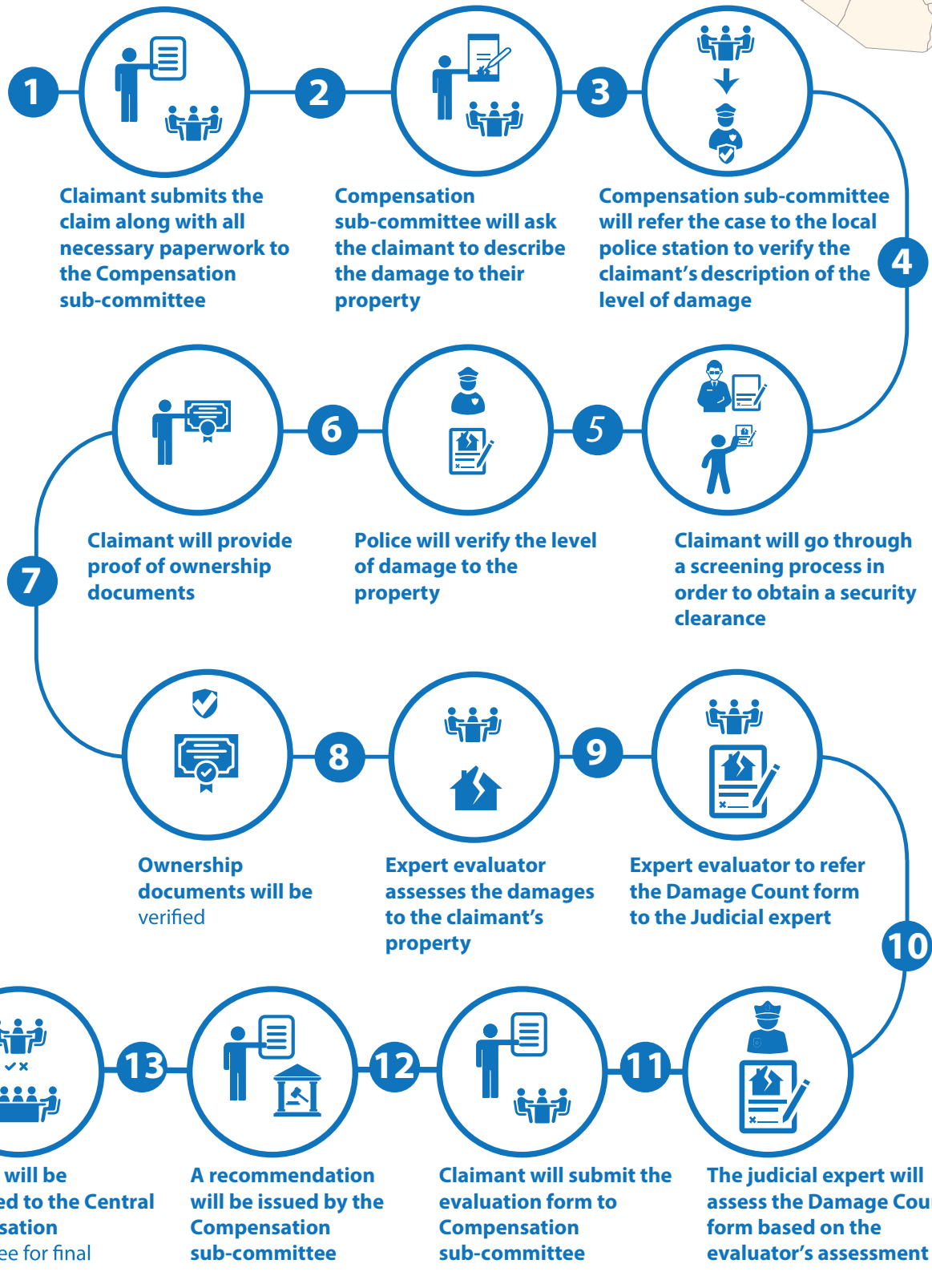
The Duration of the process is from six to nine months

# CLAIM PROCESS IN KIRKUK GOVERNORATE



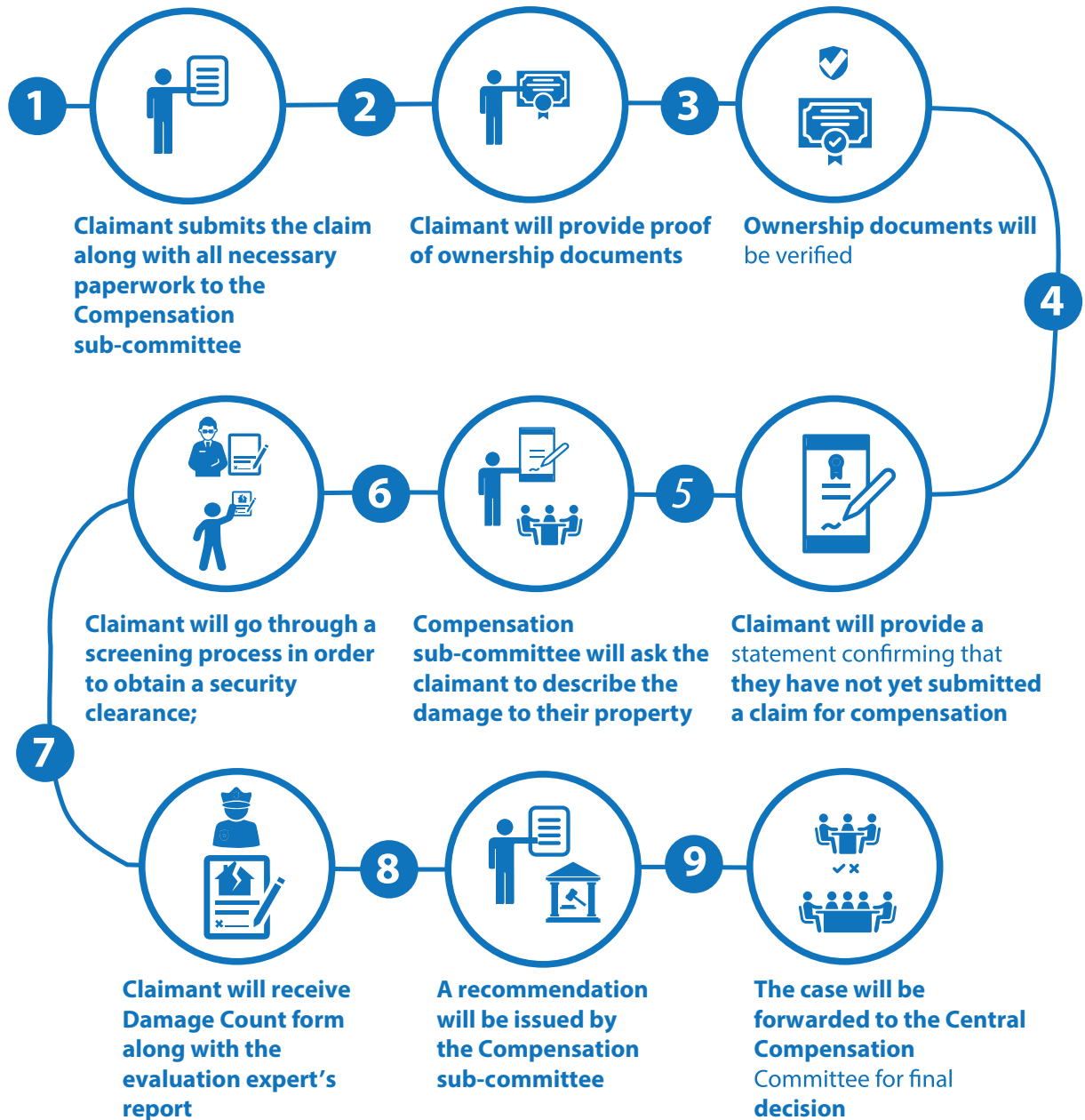
The Duration of the process is from two to six months

# CLAIM PROCESS IN NINEVEH GOVERNORATE



The Duration of the process is from three to six months

# COMPENSATION CLAIM PROCEDURES IN SALAH AL-DIN GOVERNORATE



The Duration of the process is from three to six months

## ANNEX 3: MATRICES OF COMPENSATION PROCESS

	Anbar	Diyala	Kirkuk	Nineveh	Salah Al Din
Claimant submits the claim to the Compensation sub-committee	X	X	X	X	X
Written statement will be requested stating no compensation claim have been submitted			X	X	X
Claimant will be asked to testify the damages at the court				X	X
Police will provide snapshots showing the damage that has occurred to the property				X	
The claim is forwarded to the administrative office to receive the property supporting documents		X			
Claimant will obtain newly issued ownership documents or ownership proof forms				X	X
The administrative unit will initiate property ownership verification process, which will be authenticated by the Real Estate Registration Office, District representatives and Directorate of Agriculture Department		X	X	X	X
The case will be sent to Head of the Administrative unit of the Compensation sub-committee		X			X
Compensation sub-committee receives the case, which afterward will be registered to the database and provide a reference number		X			
Court receives the claim and refers it to the judicial investigator or investigation officer to process the paperwork and verify the claim	X		X	X	
The investigation will be initiated to obtain a security clearance	X	X	X	X	X
Claimant's statement will be taken along with the witness's statement	X	X	X	X	
The judicial expert will be assigned to provide Damage Count form and list the damages	X	X		X	
The judicial expert will approve/deny the Damage Count form, based on the endorsement of the Evaluation Expert assessment	X	X	X	X	X
Compensation administrative staff makes a recommendation	X	X	X	X	
Claimant will be notified about the decision				X	X
Compensation sub-committee prepares the paperwork and refers the case to the Central Compensation Committee for the final decision	X	X	X	X	X
Compensation sub-committee prepares the paperwork and refers the case to Central Compensation Committee for the final decision	X	X	X	X	X

## ANNEX 4: STEPS TO BE TAKEN BY HLP AND NON-HLP ACTORS THROUGHOUT THEIR ACTIVITIES (LEGAL ASSISTANCE/REHABILITATION/DEMINE)ING)

Below are the necessary steps to be considered by humanitarian/development actors prior to the implementation of their projects.

### **1. To include compensation-related questions in any project assessments;**

1.1 Questions to be asked related to the availability/functionality of Compensation Sub-committees in the target area, governorate, or district;

1.2 Questions to be asked related to the beneficiaries' awareness of the compensation mechanisms, including filing claims, locations, and pending processes;

### **2. To include compensation-related issues and disseminate information in any awareness-raising activities, including rights under the law, eligibility, and procedures.**

### **3. Prior to the commencement of any activities, it is important for humanitarian/development actors to ensure that:**

3.1 Beneficiaries are aware of the available compensation scheme and services; if needed, referral to HLP actors shall be sought

3.2 Whether the households, owners, and beneficiaries have filed a compensation claim for their damaged/destroyed property;

3.3 If yes, to ask for a copy or the reference number of the claim to be included in the contractual documentation;

3.4 To indicate in the shelter agreement the reference number of the compensation claim in case of needed referral;

3.5 If they have not submitted a claim, strongly recommend that it is vital to do so;

3.6 Explain that if any rehabilitation occurs prior to submitting a claim and receiving a visit from the evaluation expert, obstacles in proving the level of damage may arise;

3.7 If they are not interested in submitting a claim, humanitarian/development actors need to have a written statement/agreement/waiver indicating that the beneficiary is aware of their rights to compensation and choose to proceed with intervention to his/her property prior to submitting a claim;



## ANNEX 5: QUESTIONS TO BE ASKED ABOUT COMPENSATION WHEN IMPLEMENTING ANY PROJECT

- Are you aware of the Iraqi compensation scheme?
- Have you been informed about existing laws for compensation (Law 20 of 2009, 57 of 2015 and 2 of 2020)?
- Are you aware if there is a compensation office open in your area?
- Have you been briefed about the process for compensation?
- Are you aware of the procedures on how to file a claim for compensation?
- Have you been informed about the available services for compensation claims?
- Did you file any compensation claim for your damaged/destroyed property?
  - If yes, do you have the reference number or copy of any document of your filed claim?
  - If not, are you intending to file the claim for compensation?
- Are you planning to file the claim for your damaged/destroyed property?
  - If yes, do you need any assistance to follow the procedures to file the claim?
- Do you know the process of filing the claim?
  - Did you receive any legal assistance or counseling for filing the claim for compensation?
- Do you need legal assistance/counseling to file the claim?
  - If yes, do you know any organization that provides legal assistance for compensation?
  - If no, would you like us to refer your case to other partners for legal assistance?
- If not interested to file the claim, is there a particular reason for this?
- HLP can partners provide legal services for free
- If you are not interested to file the claim, you may reconsider your decision as you may lose your opportunity to be compensated for your damaged/destroyed property
- Are you still interested to continue with rehabilitation of your house without filing the compensation claim?
- If yes, would you be ready to sign the pledge/waiver that you are not interested to file the claim?
- Can we include your statement for not willing to file the claim in the rehabilitation agreement?

## ANNEX 6: KEY QUESTIONS AND ANSWERS ON PROPERTY COMPENSATION

Below are some key question and answers which will help partners to brief beneficiaries on the compensation scheme in Iraq.

### 1. What is the Iraqi Compensation Scheme?

The Iraqi Compensation Scheme is based on Law 20 of 2009, Law 57 of 2015 (first amendment) and Law 2 of 2020 (second amendment), "Compensating the Victims of Military Operations, Military Mistakes, and Terrorist Actions". Above mentioned laws stipulate that all eligible persons who were affected by military operations and terrorist actions, including compensation for damaged and/or destroyed property may claim compensation.

### 2. What can beneficiaries be compensated for?

There are five categories eligible for compensation. The categories described by above-mentioned laws on compensation are:

- a. Martyrdom, missing, kidnapping, citation, loss or injured person;
- b. Persons with disabilities as a result of war;
- c. Injuries that require medical treatment;
- d. Damaged and/or destroyed property;
- e. Disadvantages relevant to job or education.

### 3. What type of property can beneficiaries file the claim for?

Based on the above-mentioned laws, the types of properties that are eligible for compensation claims include houses, land, farming land, shops, companies or vehicles.

### 4. Do IDPs or returnees have the right to claim compensation?

Regardless of their status, the law stipulates (Article 1 of Law 57) that every Iraqi citizen, who has been affected by war is eligible for compensation. As such, all war affected individuals are entitled to claim financial compensation for any type of the above property.

### 5. Who are eligible to be compensated for their damaged property?

The owners of any of the above-mentioned property categories are entitled to claim compensation for all or any type of property damages, notwithstanding the level of damage.

### 6. What if the owner is deceased?

His or her heirs, for example, their spouse, siblings, parents, or any other person who has legally inherited the property - is eligible to claim for compensation. If the owner is missing or not present in the country, any person with a Power of Attorney is eligible to claim compensation.

### 7. Where can beneficiaries submit the compensation claim for their property?

Compensation claims can be submitted at a Compensation Sub-committee office. There are many offices established across different governorates where you can submit your compensation claim. In total there are more than 50 compensation offices established in different districts where you can submit your compensation claim. For example, in Mosul, the Compensation Sub-committee is established to receive claims for compensation. Their office is located at Hay Mansour, Right Bank, near Al Mosul Hospital. Additionally, there are 9 sub-offices located in Al-Hamdaniyah, Zumar, Rabiah, Tal Afar, Ba'shiqa, Bartela, Al-Qayara, Al-Ba'aj, and Telkaif, established across Ninewa Governorate to receive compensation claims.

### 8. Can the beneficiary seek legal aid to submit the claim for compensation?

Yes, there are NGOs who employ lawyers specialized in housing, land and property rights who can provide to beneficiaries legal assistance to submit the compensation claim.

### 9. How much would legal aid cost?

Humanitarian partners/NGOs will provide legal services to beneficiaries for free, so beneficiaries will not be charged for any legal services provided to beneficiaries through HLP partners/NGOs.

### 10. When and how can beneficiaries initiate the procedures?

Beneficiaries can start the procedures immediately.

Iraq Information Center/humanitarian partners can put beneficiaries in contact with HLP partners who will guide them throughout the process and advise beneficiaries on how to initiate their case.

ANNEX 7: WRITTEN STATEMENT TO BE USED BY PARTNERS WHEN PLANNING TO INTERVENE IN THE PROPERTY

Template to be used when beneficiary submitted the claim for compensation

Written Statement	تعهد خطي
<p>I _____  the undersigned, living in the address:  House/Land/Property no. ( _____ )  Village/Neighbor/Area ( _____ )  Subdistrict ( _____ )  District ( _____ )  Governorate ( _____ )  do hereby declare and certify that the property I  designate for the  _____  is my property and is not owned by any other  person. I do acknowledge that I am aware of the  compensation procedure based on the existing  laws (Law 20 of 2009, Law 57 of 2019 and Law 2 of  2020) and I have filled out and submitted the claim  to the compensation committee prior to  _____  of my property.</p>	<p>إني _____  الموقع أدناه والسكن في العنوان التالي:  رقم الدار\القطعة\الأرض ( _____ )  قرية\حي\منطقة ( _____ )  ناحية ( _____ )  قضاء ( _____ )  محافظة ( _____ )  أقر وأتعهد بموجب هذه الوثيقة بأن عقاري المحددة  _____  هي عقار ملك لي وهي ليست مملوكة لأي شخص آخر.  وأقر وأنا على دراية بأجراءات التعويض (إستنادا إلى القانون  رقم 20 لسنة 2009، والقانون 57 لسنة 2015 والقانون  2 لسنة 2020) كما وإني ملأت وقدمت إستمارة المطالبة  بالتعويض إلى لجنة التعويضات قبل  _____  لعقاري.</p>

Organization  
المنظمة

Representative of Organization  
ممثل عن المنظمة

Representative of Municipality  
ممثل عن البلدية

First Witness  
الشاهد الأول

Second Witness  
الشاهد الثاني

Landowner  
مالك العقار

**Template to be used when beneficiary is not willing to submit the claim for compensation**

**Written Statement**

**تعهد خطي**

<p>I _____ the undersigned, living in the address: House/Land/Property no. ( _____ ) Village/Neighbor/Area ( _____ ) Subdistrict ( _____ ) District ( _____ ) Governorate ( _____ ) do hereby declare and certify that the House/Land I designate for the  _____</p> <p>is my property and is not owned by any other person. I do acknowledge that I am aware of the compensation procedure based on the existing laws (Law 20 of 2009, Law 57 of 2019 and Law 2 of 2020) and I agree to be selected as a beneficiary to _____ my property without/prior (to) filling out and submitting a claim to the compensation committee for my property.</p>	<p>إني _____ الموقع أدناه والسكن في العنوان التالي: رقم الدار\القطعة\الأرض ( _____ ) قرية\حي\منطقة ( _____ ) ناحية ( _____ ) قضاء ( _____ ) محافظة ( _____ ) أوقر وأتعهد بموجب هذه الوثيقة بأن الدار\الأرض المحددة  _____</p> <p>هي عقار ملك لي وهي ليست مملوكة لأي شخص آخر (وبخلاف ذلك فأني أتحمل كافة الاجراءات القانونية التي تؤخذ بحقي). وأقر وأنا على دراية بأجراءات التعويض (إستنادا إلى القانون رقم 20 لسنة 2009، والقانون 57 لسنة 2015 والقانون 2 لسنة 2020)، وكما أوافق كوني مستفيد  _____</p> <p>كما وإني ملأت وقدمت إستمارة المطالبة بالتعويض إلى لجنة التعويضات قبل إعادة تأهيل عقاري.</p>
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Organization  
المنظمة

Representative of Organization  
ممثل عن المنظمة

Representative of Mayoralty  
ممثل عن البلدية

First Witness  
الشاهد الأول

Second Witness  
الشاهد الثاني

Landowner  
مالك العقار

## ANNEX 8: KEY FIGURES ON COMPENSATION SCHEME IN IRAQ

Below are statistics related to cases that has been submitted to Compensation Committee. <sup>1</sup>

Claims submitted to Compensation Committee	
Year	Cases
2016	15,031
2017	9,229
2018	8,406
2019	14,419

Financial allocation disbursed to beneficiaries for compensation

Financial disbursement for Compensation	
Year	Amount in IQD
2016	70,110,547,589
2017	149,853,453,472
2018	103,569,770,977
2019	100,000,000,000

<sup>1</sup> All data are provided by HLP partners in Iraq

**FOR MORE INFORMATION**

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