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### THE PROSPECTS FOR THE DEVELOPMENT OF HOUSING LEGISLATION IN UKRAINE

**Abstract.** One of the priority tasks of the state is to meet people's housing needs. However, today the implementation of the constitutional right to housing has become one of the most acute problems in Ukraine. Given the low level of housing stock, significant destruction and damage to housing, as well as massive internal displacement, providing citizens with affordable housing has become impossible. Therefore, a large number of various legislative acts that regulate the functioning of housing policy in Ukraine need revision.

The article has been devoted to the prospects for the development of housing legislation in Ukraine. The analysis of the content of the constitutional right to housing was carried out for its compliance with international standards. The main normative legal acts, in accordance with which the procedure for realizing this right is carried out: the Housing Code of Ukraine, the Law of Ukraine "On Housing Fund for Social Purposes", etc., have been analysed. The legal regulation of state targeted programs to provide citizens with affordable housing has been studied. Also the attention is drawn to the fact that the system of providing social housing has not been functioning for many years. Financing of budget housing programs at the expense of the funds of the general fund of the state budget is carried out based on the possibilities of the state budget. Therefore, neither the provisions of the Housing Code of Ukraine on obtaining housing from the state, nor the provisions of the



Constitution of Ukraine on the right to housing, which must be provided by the state, actually work.

The particular attention has been paid to the analysis of the draft law of Ukraine "On the basic principles of housing policy".

It has been concluded that Art. 47 of the Constitution of Ukraine corresponds to international standards, in which the right to housing is recognized as one of the basic human rights. Therefore, the concept of development of housing legislation of Ukraine should be aimed at ensuring the implementation of the constitutional right to housing.

**Keywords:** housing, affordable housing, social housing, contract, law, defence.

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## **ПЕРСПЕКТИВИ РОЗВИТКУ ЖИТЛОВОГО ЗАКОНОДАВСТВА В УКРАЇНІ**

**Анотація.** Одним із пріоритетних завдань держави є забезпечення потреб людей у житлі. Однак на сьогодні реалізація конституційного права на житло є однією з найбільш гострих проблем в Україні. З огляду на низький рівень стану житлового фонду, значну руйнацію та пошкодження житла, а також масове внутрішнє переміщення, забезпечення громадян доступним житлом стало неможливим. Тому велика кількість різноманітних законодавчих актів, які регулюють функціонування житлової політики в Україні потребують перегляду.

Статтю присвячено перспективам розвитку житлового законодавства в Україні. Проведено аналіз змісту конституційного права на житло на його відповідність міжнародним стандартам. Проаналізовано основні нормативно-правові акти, відповідно до яких здійснюється порядок реалізації цього права: Житловий кодекс України, Закон України «Про житловий фонд соціального призначення» тощо. Досліджено правове регулювання державних цільових програм щодо забезпечення громадян доступним житлом. Звернено увагу на



те, що система надання соціального житла не функціонує вже багато років. Фінансування бюджетних житлових програм за рахунок коштів загального фонду державного бюджету здійснюється виходячи з можливостей державного бюджету. Тому фактично не працюють ані положення Житлового кодексу України про отримання житла від держави, ані положення Конституції України про право на житло, яке має забезпечуватися державою.

Окрема увага в роботі приділена аналізу проекту закону України «Про основні засади житлової політики».

Зроблено висновок, що ст. 47 Конституції України відповідає міжнародним стандартам, де право на житло визнається як одне з базових прав людини. Тому концепція розвитку житлового законодавства України має бути спрямована на забезпечення реалізації конституційного права на житло.

**Ключові слова:** житло, доступне житло, соціальне житло, договір, право, захист.

**Formulation of the problem.** One of the priority tasks of the state is to meet people's housing needs. However, today the implementation of the constitutional right to housing has become one of the most acute problems in Ukraine. Given the low level of housing stock, significant destruction and damage to housing, as well as massive internal displacement, providing citizens with affordable housing has become impossible. Therefore, a large number of various legislative acts that regulate the functioning of housing policy in Ukraine need revision.

**The analysis of the recent researches and publications.** Such scientists as: K. Borysova, O. Hnativ, O. Kashchuk, Yu. Kyrychenko, M. Kovtun, S. Komnatnyy, Yu. Ryzhuk, Yu. Tyuleneva, S. Yatsenko and the others have devoted their works to the issues of prospects for the development of housing legislation. However, in connection with the beginning of russian aggression in 2014 and the full-scale invasion on February 24, 2022, the study of this issue is still relevant.

**The purpose of the article** is to analyze the housing legislation of Ukraine and develop, based on it, the author's vision of the prospects for improving legal regulation in this area.

**Presenting the main material.** One of the necessary human rights for a dignified life is the right to housing [1, p. 48]. This right is recognized both at the international and national levels. In particular, in Art. 31 of the European Social Charter (revised) of 1996 [2], ratified by Ukraine, it is stipulated that in order to ensure the exercise of the relevant right, the state undertakes to take measures aimed at: facilitating access to housing of an appropriate level; prevention of homelessness and its reduction with the aim of its gradual elimination; setting housing prices affordable for low-income people. However, only those provisions of the Charter had been ratified, where the parties set the goal of their policy to create conditions



that ensure the effective exercise of every person's right to housing. Unfortunately, Ukraine has not accepted the obligations of paragraph 3 of Art. 31 Charters regarding the establishment of affordable housing prices for low-income persons. According to K. Borysova, this reflects the insufficient level of social development of Ukraine [3, p. 1].

Along with this, Art. 25 of the Universal Declaration of Human Rights of 1948 [4], Art. 11 of the International Covenant on Economic, Social and Cultural Rights of 1966 [5] and Art. 28 of the 2006 Convention on the Rights of Persons with Disabilities [6] guarantee the right to housing as part of the right to an adequate standard of living.

Precepts of Art. 47 of the Constitution of Ukraine [7] ensure the right to housing and it is emphasized that the state must create the conditions under which every citizen will be able to build housing, purchase it as a property or rent it. However, there will always remain a part of citizens who, for objective reasons, will not be able to take advantage of the available opportunities. Such citizens, for the purpose of social protection, are provided with housing by the state and local self-government bodies free of charge or for an affordable fee in accordance with the law.

The procedure for implementing the corresponding constitutional right is regulated by a rather extensive system of normative legal acts. In particular, the procedure for providing housing in the buildings of the state and public housing fund, as well as some other issues of housing law, are regulated by the Housing Code of Ukraine [8]. However, scientific sources rightly draw attention to the fact that the Housing Code of Ukraine was developed back in 1983. Despite a significant number of changes, it contains outdated approaches and does not take into account the modern needs of providing housing for various categories of the population [9, p. 28].

The legal basis of state policy regarding the provision of the constitutional right of socially vulnerable sections of the population of Ukraine to receive housing has been defined by the Law of Ukraine "On Housing Fund for Social Purposes" [10]. This law provides that such housing is provided to citizens free of charge on the basis of a rental agreement. It also has defined the categories of citizens who have the right to receive social housing and the sources of the formation of the social housing fund. At the same time, they rush to privatize the small amounts of housing provided to citizens as social housing, which does not contribute to the formation of the appropriate housing stock [11].

Along with this, the separate norms of the following legislative acts have been also devoted to the implementation of the right to housing: Art. 138 of the Law of Ukraine "On the Judiciary and the Status of Judges"; Art. 83 of the Law of Ukraine "On the Prosecutor's Office"; Art. 96 of the Law of Ukraine "On the National Police"; Art. 54 of the Law of Ukraine "On Civil Service"; Art. 38 of the Law of



Ukraine "On Scientific and Scientific-Technical Activity"; Art. 57 of the Law "On Higher Education", etc.

E. Bersheda and Yu. Mantsevych have noted that more than 40 legislative acts, in one way or another, determine the right to receive housing or benefits upon receiving it. However, according to these scientists, most of the relevant legal norms do not have an economic justification and have been preserved since the time when there was a system of distribution of young specialists. Some of them provide for subsidized or free housing for highly paid employees, including judges, prosecutors, people's deputies, etc. At the same time, staffing problems in certain spheres of activity should be solved by regulating the level of income and should not create conditions for corruption schemes in housing, contributing to inefficient spending of state and local budgets [12, p. 86].

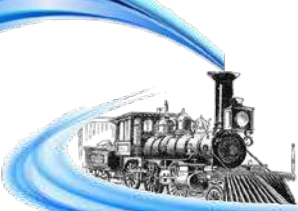
It is worth noting that a number of state-targeted programs for providing affordable housing are implemented in Ukraine. In order to ensure the realization of the housing rights of citizens who need state support, since 2009, the State targeted socio-economic program for the construction (purchase) of affordable housing has been operating in Ukraine, which is implemented in accordance with the Procedure for providing state support and providing citizens with affordable housing, approved by Cabinet resolution of Ministers of Ukraine dated 10.10.2018 No. 819 [13].

In Ukraine, there is also a State program for providing youth with housing for the years 2013-2026, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 24.10.2012 No. 967 (as amended by the Resolution of the Cabinet of Ministers of Ukraine dated 03.11.2023 No. 1147) [14]. Its main goal is to create appropriate conditions for housing young families and single young citizens, including internally displaced persons.

Within the framework of the State program for providing housing to young people, a mechanism for granting preferential long-term loans to young families and single young citizens for construction (reconstruction) and purchase of housing is implemented, which is regulated by the Regulation on the procedure for granting preferential long-term loans to young families and single young citizens for construction (reconstruction) and the purchase of housing, approved by the resolution of the Cabinet of Ministers of Ukraine dated May 29, 2001 No. 584 [15].

Provision of preferential long-term state loans to internally displaced persons, participants in the anti-terrorist operation (ATO) and/or OOS for the purchase of housing is implemented within the state budget program in accordance with the resolution of the Cabinet of Ministers of Ukraine dated November 27, 2019 No. 980 [16].

In addition, it is possible to improve housing conditions with state support within the framework of the budget program "State preferential lending to individual rural developers for construction (reconstruction) and purchase of housing." The Resolution of the Cabinet of Ministers of Ukraine dated October 5, 1998 No. 1597 [17]



approved the Rules for granting long-term loans to individual developers of housing in the countryside, which determine the conditions and procedure for providing preferential long-term loans to individual developers of housing in the countryside for the implementation of regional programs by regional funds supporting individual housing construction in the countryside "Own home".

However, in 2023, under the conditions of an unprecedented increase in the number of internally displaced persons, the destruction of the existing housing stock as a result of hostilities, and a sharp decrease in the number of apartments put into operation (by 39% less in 2022 compared to 2021), the housing issue became particularly acute [18]. After all, the system of providing social housing has not been functioning for many years. Financing of budget housing programs at the expense of the funds of the general fund of the state budget is carried out based on the possibilities of the state budget. Therefore, neither the provisions of the Housing Code of Ukraine on obtaining housing from the state, nor the provisions of the Constitution of Ukraine on the right to housing, which must be provided by the state, actually work.

It is worth noting that the draft law of Ukraine "On the basic principles of housing policy" has been developed today. The draft law provides for a number of opportunities to realize everyone's right to housing in accordance with the following projects: social rent, social housing, financial and economic mechanisms for obtaining housing in private ownership, commercial rent. The provisions of the draft law also contain the principles of providing official and temporary housing, renting housing with the right of redemption. The priorities for solving the issue of providing housing for certain categories of citizens (military servicemen, war veterans, their family members and family members of deceased veterans, internally displaced persons, etc.) have been determined. It is also envisaged to introduce an open Unified electronic register of housing and the ability to choose a program under which each person can exercise his right to housing. Certain clauses of the draft Law relate to the defence of the right to ownership, use and rental of housing. For the transparency of the use of state and communal property, it is proposed to implement the registration of lease agreements [19].

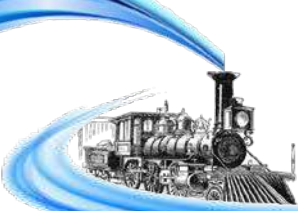
**The conclusions.** Summarizing the above, it is worth noting that Art. 47 of the Constitution of Ukraine corresponds to international standards, where the right to housing is recognized as one of the basic human rights. Therefore, the concept of development of housing legislation of Ukraine should be aimed at ensuring the implementation of the constitutional right to housing.

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