

Наведені рекомендації допоможуть спростити механізм введення воєнного стану в Україні або на окремих її територіях і, в той же час, захистити права і свободи людини і громадянина, зокрема конституційне право на таємницю кореспонденції від незаконних або надмірних обмежень. Водночас, удосконалення законодавства і його практичної реалізації в цій сфері дозволить позитивно вплинути на світовий порядок як в умовах запровадження воєнного стану, так і в післявоєнний період.

Література:

1. Левченко А.В. Можливість втручання у право на таємницю кореспонденції як спосіб отримання доказів у період воєнного стану. *Науковий вісник Ужгородського Національного Університету. Серія Право*. 2022. Випуск 70. С. 411-416. URL: <https://visnyk-juris-uzhnu.com/70-2> (дата звернення: 25.07.2022).

2. Олександр Сич. Світовий порядок: суб'єктивний характер і національний інтерес. *Недержавний аналітичний центр «Українські студії стратегічних досліджень»*. URL: <https://usss.org.ua/2020/03/28/svitovuj-poryadok-sub-yektyvnyj-harakter-i-natsionalnyj-interes/> (дата звернення: 25.07.2022).

3. Дімітрій Торгонський. Світовий правовий порядок: теоретичні основи формування. *Публічне право*. 2021. №2 (42). С. 149-156.

4. Марусяк О.В. Проблеми імплементації особливих правових режимів в Україні на прикладі введення воєнного стану в 2018 році. *Центр політико-правових реформ*. URL: <https://pravo.org.ua/wp-content/uploads/2022/01/Marusyak.-Problemy-implementatsiyi-osoblyvyh-pravovyh-rezhymiv.pdf> (дата звернення: 25.07.2022)

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THE ISSUE OF IMPLEMENTATION OF CONSTITUTIONAL LAW FOR HOUSING IN UKRAINE

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Ukraine is one of the European countries in the world whose citizens need housing place. It is characterized by the longest queue of Ukrainians in the apartment register, compared to other European countries. In order to obtain housing and improve living conditions, various sections of the population are

forced to stand in the district administrations and wait for years for their turn. It should be noted, that the affordable housing program is an affordable housing program. This program provides for the attraction of budget funds to compensate a person who is on the apartment register for a certain share of the cost of living space. However, unfortunately, there is a tendency to inefficiently provide the Ukrainian population with the necessary housing, including under this state program.

The modern system of normative legal acts of Ukraine, which regulate the issue of providing the Ukrainian population with housing under the affordable housing program, is quite ramified and diverse.

The Universal Declaration of Human Rights of 1948 provides for the right of every person to a standard of living, that is necessary to maintain the health and well-being of himself and his family (Part 1, Article 25). This Declaration states that the necessary standard of living is provided, in particular, by housing [1].

According to Part 1 of Art. 11 of the International Pact on Economic, Social and Cultural Rights of States 1966, participating to this Pact, recognize the right of everyone to sufficient standard of living for everyone and everyone's family, including sufficiently nutrition, clothing and housing, and to the continuous improvement conditions of life. In addition to the above, the obligation of the states participating in the Pact to take the necessary measures to ensure the exercise of such a right is established [2].

Article 47 of the Constitution of Ukraine defined, that everyone has the right to housing. The state creates the conditions under which every citizen will be able to build, own or lease housing. Citizens in need of social protection are provided with housing by the state or lease free of charge or for an affordable fee according to the law [3].

In addition to the Basic Law, the Housing Code of Ukraine belongs to the system of legislative acts in the field of housing provision. In Art. 1 of this Code defines, that according to the Constitution of Ukraine, citizens have the right to housing. This right is ensured by the development and protection of the housing stock, the promotion of cooperative and individual housing construction, the fair distribution under public control of the living space, which is provided in the course of the implementation of the program for the construction of improved housing, the provision of monetary compensation to citizens at their request for the housing they are entitled to receive for categories citizens defined by law, as well as a low fee for an apartment and utilities [4].

According to Part 2 of Art. 9 of the Housing Code of Ukraine, provision of permanent housing to citizens, who according to the law have the right to receive it, can be carried out through the construction or purchase of

affordable housing at the expense of providing state support according to with the procedure established by the Cabinet Ministers of Ukraine [4].

Thereby at the legislative level Ukraine guarantees the provision of living space for the Ukrainian population who are on the apartment register and according to international and Ukrainian national legislation have an unconditional right to receive it.

For citizens to implement what is fixed at the legislative level the constitutional right enshrined at the legislative level, local governments are entrusted with the functions of adopting relevant acts of individual action in this area. In 2011 and 2012, the Kyiv City State Administration adopted orders on the construction of housing for employees of municipally owned medical institutions of the city of Kyiv, employees of the Municipal Enterprise «Kyivskyi Metropoliten» and Joint Stock Company «Kyivmetrobud».

At first sight everything would seem perfect, but it is not as good, as it would be for a simple average citizen who has been on the housing register for a long time, is a medical worker, a subway builder or a subway worker and is not able to buy housing at market prices. Since the adoption of such subjective decisions by officials of the local governments to provide affordable housing for a certain category of citizens, certain enterprises, institutions and organizations, unfortunately, may lead to their making changes to previously adopted orders. The adoption of further decisions local governments, which amend the ordinances on housing construction about the affordable housing program for a certain category of citizens, may indicate a violation of the population's constitutional right to housing and deprive them of the opportunity to improve their housing conditions at affordable prices.

As an example, can serve as a decision by local governments to set aside a very small percentage of the living space in a residential building for purchase at affordable prices (30% by 70%). However, unfortunately, such acts of individual action by local governments take place and may violate people's rights to improve housing conditions under the affordable housing program.

Considering the court case No. 826/16308/17 on recognition as illegal and annulment of the acts of individual action of the local governments, the court noted that the court agrees with the plaintiff's references that the contested ordinances may violate the rights of the plaintiff, since the change in the distribution of the area made by them may affect the plaintiff's rights regarding the possible conclusion of a housing financing agreement [5]. At the same time, the plaintiff, who was deprived of the opportunity to exercise his right to improve housing conditions under the affordable housing program, was denied the administrative claim.

Let's note, that the protection of housing rights in the context of the judicial practice of Ukraine was also the subject of consideration in modern legal science [6].

Based on the above, can be concluded, that in order to solve the problem of providing housing for various categories of citizens who are on the apartment register and need to improve housing conditions, including, but not limited to, military personnel, medical workers of communally owned institutions, subway construction workers, subway workers etc., it is necessary for the Cabinet of Ministers of Ukraine at the national level to develop special state programs for providing housing for certain periods (years), such as: State program for providing housing for medical workers of communally owned institutions under the affordable housing program, State program for providing housing for employees of Joint Stock Company «Kyivmetrobud» under affordable housing program, etc. This will allow solving the problem of providing housing for this category of people and will gradually reduce the queues of people staying at the apartment registry.

Herewith, in order to implement such state programs of the Government, officials to perform the functions of local governments must allocate a greater number of land plots for residential development, as well as adopt legal acts of individual action on the construction of housing under the program of affordable housing for a specific population.

Literature:

1. Загальна декларація прав людини від 10.12.1948. Офіційний вісник України. 2008. № 93. Стор. 89. Ст. 3103.
2. Міжнародний пакт про економічні, соціальні і культурні права від 16.12.1966 р. URL: https://zakon.rada.gov.ua/laws/show/995_042
3. Конституція України: Закон України від 28.06.1996 № 254к/96-ВР. URL: <https://zakon.rada.gov.ua/laws/show/254к/96-вр#n4320>
4. Житловий кодекс Української РСР: Закон України від 30.06.1983 № 5464-Х. URL: <https://zakon.rada.gov.ua/laws/show/5464-10>
5. Судова справа № 826/16308/17. URL: <https://reyestr.court.gov.ua/Review/76513279>
6. Teremetskiy V., Avramova O., Svitlychnyy O., Sloma V., Bodnarchuk O., Telestakova A., Kokhan V. Housing Rights Protection in the Context of Legislation and Judicial Practice of Ukraine [Захист житлових прав у контексті законодавства та судової практики України]. Journal of Legal, Ethical and Regulatory Issues, Vol. 24, Special Issue 1: Business Ethics and Regulatory Compliance, 1-9. URL: <https://www.abacademies.org/abstract/housing-rights-protection-in-the-context-of-legislation-and-judicial-practice-of-ukraine-11392.html>