

## OVERVIEW

### Organization and financing of current and major repairs in joint households in Europe and Asia

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#### Austria, Germany

In Austria and Germany, the Association of Home Owners (OSZH) is created at the emergence of each joint home ownership by the owner of the land plot (developer of an apartment building) and is a legally independent form with partial competence. For the sale of apartments to individual owners, a "Declaration on the division of ownership" is developed and approved. One of the parts of the Declaration is the mandatory "OSZh Rules". Each buyer of an apartment in the house must agree with these rules in writing. There are no citizens who have not agreed to comply with the Rules and be responsible according to the Rules in Austria and Germany.

One of the sections of the Rules states that "OSZh is obliged to carry out proper maintenance and overhaul of common property". And the other - "Homeowners are obliged to accumulate funds for proper maintenance and overhaul of common property. The amount of deductions for current and major repairs is determined by the decision of the first meeting of owners in the OSZH».

Each OSZH necessarily opens a bank account in the name of the OSZH (stipulated by the Rules), through this individual account, the expenses of the OSZH are financed and the accumulation of money for house renovations (except for savings for the modernization of the house). Before concluding a purchase agreement, a potential buyer can familiarize himself with the balance of the account and does not risk becoming a co-owner of an emergency house, making investments in the purchase of residential premises - if there is little money on the account, then the renovation was recently, if there is a lot, then it will be soon.

In addition, according to the Rules, binding for all its participants, the OSZH usually concludes (through the manager) the following insurance contracts:

- a) insurance of the building against damage caused by fire, storm, tap water and hail
- b) land liability insurance
- c) water pollution liability insurance
- d) glass insurance for the entire building.

Insurance of common property should be carried out, as far as possible, at the replacement cost of common property of the OSZH.

Thus, the risks of a transition to an emergency state of apartment buildings of OSZH are minimal - each OSZH necessarily accumulates funds for current and major repairs and insures possible damage from fire and natural disasters at the replacement cost.

But what to do in case of emergency, unforeseen circumstances? According to the Rules, "if an OSZH residential building is completely or partially destroyed, then the owners of residential premises undertake to each other to restore the initial state of the building as it was before the damage occurred". If the amount of insurance and other claims do not fully cover the costs of restoring the building, then each owner of the residential premises undertakes to pay the missing part of the costs in the amount corresponding to the number of his shares.

At the same time, each owner of a residential premises has the right, within one month after the announcement of the identified claims for compensation for losses and the costs of restoration and reconstruction in accordance with the restoration plan, to release from obligations to bear these costs by alienating their residential property. For this purpose, he must issue to the manager a notarized power of attorney for the sale of his dwelling. In this case, the manager must receive a power of attorney for the sale.

apartments - on the market without bidding, or, if necessary and proper execution of § 53 of the "Law on Residential Property", sell it at auction.

In this situation, the state is not obliged to help citizens whose family members own real estate and related shares in the land plot of joint household ownership, any other residential and non-residential premises, summer cottages, cars. Citizens who find themselves without property and without work are provided with social rental housing.

#### Latvia, Lithuania, Estonia

In these countries, deductions for maintenance and major repairs of an apartment building (joint household) are not obligatory, which is already causing criticism of professional managers. But there is nothing they can do - the decision belongs to the exclusive competence of the owners of the house.

In 2020, as a result of an audit of the housing stock of Latvia, representatives of the State Audit Office of this country found out that thousands of people live in dilapidated houses with conditions that threaten life and health. Most of the housing stock is degrading into slums. "After the denationalization, the housing policy in the state is virtually absent," the report says. In 62% of apartment buildings from the total number of inspectors revealed a number of violations related to fire safety. In 60% of apartment buildings, there are a number of such significant damage to buildings, such as leaks or poor technical condition of the roof and damp foundations. Representatives of the State Audit Office have calculated that the repair of one residential building will cost the owners up to 100 thousand euros.

A way out of the situation, for example, could be the rules of the Cabinet of Ministers of Latvia No. 408 on the establishment of fees for maintenance of apartment buildings. These rules clearly state that the manager is obliged to set the maintenance fee for the house next, taking into account the cost of restoring that house. Further, this payment for restoration was proposed to be distributed over three years. In fact, the government in these rules provided for a mechanism that would allow the restoration of all the houses of the country in three years. However, this mechanism did not work. For example, the managers in Jelgava have tried in good faith to apply these rules and have calculated the appropriate maintenance fees for the apartment owners. The highest payment for one of the houses reached 20 euros per 1 m<sup>2</sup> per month, over the next three years (43,200 euros for three years for an apartment of 60 m<sup>2</sup>). As soon as the managers informed their clients of the new fees for the management of the common property and the maintenance of the common property (including the cost of house restoration), the apartment owners made the decision to better "take over the rights to manage the houses" and keep the funding to a minimum. This is understandable, there are very few apartment owners who could pay for the restoration of a house for 20 euros per 1 m<sup>2</sup> per month within three years, and the decision must be made by a majority vote.

Practice often shows that if the general meeting of almost every joint household has at least some opportunity not to raise the fees for maintenance and repair work, then it votes in favor of not raising the fee. This creates the prerequisites for a technogenic and social catastrophe on a national scale in the next 20-25 years.

#### Armenia, Georgia, Tajikistan, Turkmenistan, Kazakhstan, Kyrgyzstan, Moldova, Uzbekistan, Ukraine

After the large-scale privatization of housing, these countries were guided by the recommendations of the IMF and other institutions based on fragmentary ideas about the housing policy of the developed countries. The main thesis is that private owners must make their own decisions, the housing market will regulate everything. Important circumstances not taken into account by governments that led to a significant deterioration in the state of the housing stock after the state left housing policy in all of the above post-Soviet countries:

- in the developed countries of the world, housing relations have been formed for centuries and reached their optimal legislative phase in the 50s of the 20th century
- the housing stock of these countries is diverse (a combination of rental, cooperative housing and joint households) and is more stable, resilient to challenges and risks
- the state in developed countries, although it does not interfere in the relations of the participants, but creates a clear and real, carefully written legal framework for them
- organizational forms of managing joint households (OSH in Austria and Germany, Associations in Sweden, etc.) are completely different from legal entities created to manage joint households in post-Soviet countries - this fact is still not known to most legislators of post-Soviet countries

- Western democracy in joint households is built on very strict rules and even stricter restrictions, and not on the right of the majority to make any decisions, and from the point of view of Western law, “free freedom” in the private housing stock of post-Soviet countries is chaos and anarchy, but not democracy
- the mono-structure of urban housing, consisting exclusively of joint households without rules and with owners of completely different incomes, is in itself a threat to security in the long term
- Having given collective owners the right not to finance capital and current repairs of apartment buildings for decades, these countries will have to liquidate huge underrepair of private housing stock in order to avoid a catastrophe - on an emergency basis and unpopular measures (forcing the population) or at the expense of significant budget borrowings.

And in some countries, for example, in Kazakhstan, housing policy is starting to change. In this country, since 2019, a minimum amount of deductions for major repairs has been established, the procedure for its implementation has been approved, the possibility of penalizing owners who evade paying deductions has been discussed, financing (from the akimat budget) of measures to replace elevators, repair roofs and other activities related "Condominium objects».

Azerbaijan is a separate place, where apartments were privatized, and the common property of apartment buildings remained in state ownership. Nobody knows what to do with this common property and who will finance its capital and current repairs.

#### the Russian Federation

Depreciation of fixed assets of housing and communal services in Russia, according to government estimates, already exceeds 60%. In particular, the condition of many apartment buildings requires major repairs. According to Rosstat, at the end of 2013, the share of dilapidated and emergency housing in the country amounted to 2.8%.

However, at the end of 2012, the Housing Code of the Russian Federation was supplemented with Section IX "Organization of capital repairs of common property in apartment buildings", which provides for the mandatory transfer of funds by owners of premises in apartment buildings to the capital repair fund (Federal Law of December 25, 2012 No. 271- FZ). At the same time, the minimum amount of such contributions was to be established separately by the regions. But for a long time, the law did not actually work due to the lack of necessary by-laws, since the subjects of the Russian Federation had to rely on the methodological recommendations approved by the body authorized by the Government of the Russian Federation when establishing the minimum amount of contributions for overhaul (part 8.1. Article 156 of the Housing Code of the Russian Federation). The action plan for the implementation of this law was approved by the order of the Government of the Russian Federation dated April 30, 2013 No. 720-r, and the corresponding guidelines were introduced on July 10, 2013 (order of the Ministry of Regional Development of Russia dated July 10, 2013 No. 288 "On the approval of guidelines for establishing a minimum contribution for major repairs "). Only after that, the constituent entities of the Russian Federation were able to adopt the necessary regional laws, and the first receipts demanding payment of a contribution to the capital repair fund began to be received by apartment owners already in 2014..

Contributions for major repairs in Russia are accrued according to the personal account on the residential premises to the owner of the premises in a single amount, excluding the number of residents. The list of services and work on overhaul of common property in an apartment building, the provision and implementation of which is financed from the capital repair fund, which is formed based on the minimum contribution for overhaul established by a regulatory legal act of a constituent entity of the Russian Federation, includes:

- repair of in-house engineering systems of electricity, heat, gas, water supply, drainage
- repair or replacement of elevator equipment found unsuitable for operation, repair of elevator shafts
- roof repair
- repair of basements related to common property in an apartment building
- facade renovation
- repair of the foundation of an apartment building.

The formation of a fund for capital repairs of a residential building can be carried out in one of two possible ways:

- on a special account
- on the account of the regional operator - the so-called "common boiler".

At the same time, by default, capital repair funds are formed on the accounts of regional operators and no action is required for this, and in order to choose the method of accumulation on a special account, a decision must be made by the general meeting of owners of the premises of an apartment building. The decision is considered adopted if at least 2/3 of the votes of the total number of owners of premises in an apartment building are given for it.

From 01.01.2016, amendments to the Housing Code of the Russian Federation entered into force, according to which the law of a constituent entity of the Russian Federation may provide for the provision of compensation for the costs of paying a contribution for major repairs to the following categories of citizens:

- single living non-working owners of residential premises who have reached the age of seventy years in the amount of fifty percent of the contribution amount
- single living non-working owners of residential premises who have reached the age of eighty years in the amount of one hundred percent of the contribution amount
- owners of residential premises who have reached the age of seventy years, living in a family consisting only of jointly living non-working citizens of retirement age in the amount of fifty percent of the amount of the contribution
- owners of residential premises who have reached the age of eighty years, living in a family consisting only of jointly living non-working citizens of retirement age in the amount of one hundred percent of the contribution amount.

The minimum amount of contributions for major repairs is established by the regulations of the constituent entities of the Russian Federation and is indexed annually taking into account changes in the consumer price index. The amount of the payment is determined by the characteristics of the building of a residential building (year of construction, number of storeys, type of materials), if such a differentiation of the amount of the contribution is provided in this region, and by the number of square meters of premises.

The final amount of the contribution can be changed upward by the decision of the general meeting of owners, and the amount accumulated due to such an increase can be used for types of capital repairs not provided for in Art. 166 of the Housing Code of the Russian Federation (for example, for the development of project documentation, payment for construction control services and the cost of obtaining guarantees and sureties for loans and borrowings), or to speed up the execution of urgent work (part 3 of article 166 of the Housing Code of the Russian Federation).

## CONCLUSIONS

In our opinion, current and major repairs of apartment buildings - joint households should be mandatory. The minimum list of repair work should prevent unnecessary wear and tear, primarily of structures and utilities that affect safety (load-bearing structures, balconies, elevators, gas equipment and ventilation shafts). If it is possible from an economic point of view, it is necessary to restore the design characteristics of apartment buildings of the entire housing stock of the country within 30-35 years..

What legislative acts will regulate this, and how financing will be carried out (only by the owners of the premises, or with co-financing of the local and national budgets, international programs) - the prerogative of the governments of the countries, taking into account the real calculated possibilities.

A special recommendation is to study the diversity of forms of ownership of urban housing in countries with a successful "housing history", in order to gradually move away from the mono-environment of problematic joint households in cities of post-Soviet countries. The variety of forms of ownership of apartment buildings significantly reduces the degree of the problem associated with financing capital repairs of apartment buildings.

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