

## OVERVIEW

### Regulation of relations with owners of premises in emergency apartment buildings subject to resettlement and destroyed as a result of natural disasters

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#### Latvia

In Latvia, the common property of joint home ownership includes a land plot under the right of private shared ownership. This led to the following practical order of relations between city administrations and co-owners "apartment building - land plot":

- the construction department of the city administration inspects the house, and if it recognizes it as emergency, issues an order to co-owners (owners of premises) to finance restoration work (the city administration helps the poor through special programs)
- if the co-owners ignore the prescription, the city administration decides to evict the residents (provides premises for the replacement fund of the city for up to 1 year) and decides to demolish the house
- another case - a fire that destroys an apartment building to a degree that cannot be restored (this case can be insured for 100% of the value of the house)
- the third case, if the house has exhausted its useful life due to natural aging of the supporting structures, it is impossible to insure
- the bill for the demolition of the house is paid by its co-owners, since the joint ownership does not cease to exist - the land remains in joint ownership
- further, the management company issues monthly invoices to co-owners for expenses related to the maintenance of the land plot, land tax, management costs
- co-owners of the land plot may decide to build a new house on the site of the demolished
- co-owners of a land plot can decide to sell land to one owner, for example, the city administration, only after that the joint home ownership ceases to exist
- social protection of the poor - if such co-owners of a demolished house have nowhere to live and have no income other than a pension, for example, the city administration provides a social apartment without the right to privatization for a period of 10 years (with an extension of 10 years each time)

A list of the main legislative acts that create the framework conditions for the activities of organizations that own and manage the Moscow Railways, including apartment associations.

- Law "On Apartment Ownership" - contains the obligations of the owner in relation to residential real estate, the relationship between the owners and decision-making mechanisms in the case of apartment ownership
- The Law "On the Management of Multi-Apartment Residential Buildings" - contains a list of mandatory management actions, regulation of relations with service providers, a management agreement, professional requirements for a manager, a register of managers
- Law "On the lease of residential premises"
- Law "On Assistance by City Administrations in Resolving Housing Issues»

#### Estonia

The relations with the owners of the premises of emergency apartment buildings to be resettled and destroyed as a result of natural disasters in Estonia are approximately the same as in Latvia, therefore we do not include a detailed description.

The list of the main legislative acts of Estonia, creating the framework conditions for the activities of organizations that own and manage the Moscow Railways, including apartment associations.

- The Law "On Apartment Ownership and Apartment Associations" - establishes two possibilities to create an apartment association, regulates the relationship between owners and decision-making mechanisms in the event of apartment ownership
- Law "On Construction" - establishes requirements for buildings of various types, their construction and operation
- Commercial Code

- The Law "On Non-Profit Associations" - regulates the activities of non-profit organizations
- Law "On Planning" - contains the rules for planning buildings, structures and territories
- The Law "On Compulsory Law" - regulates, among other things, the relationship between the lessee and the lessor
- Law "On Enforcement Proceedings"

#### Austria, Germany (almost complete identity of housing law in the two countries)

In Austria and Germany, OSZH (joint home ownership) is a legally independent form with partial competence, which in the event of a building being destroyed by fire or explosion, demolishes it at its own expense. To do this, the OSZ must provide funding in a form that allows it to protect itself from the dangers appropriately, and provide for all of them. That is, to cover such risks with compulsory insurance.

The state in Germany is also obliged to create the required number of spare (replacement) rental housing, not related to common ownership (OSZH). This is usually the social rental housing of the municipalities..

The procedure for city administrations in Austria and Germany is the same as in Latvia, with the exception of:

- The decision to demolish a house does not fall within the competence of local authorities or other state bodies, except in cases of immediate danger to the lives of residents (then they will be forcibly evicted, but the owners of the premises must take care of housing for themselves and family members, if they are legally capable, and if no - the guardianship authorities are involved)
- The cost of disposal of the house after a fire is paid by the insurance company (in Austria and Germany, insurance of the common property of a house against fire is mandatory).

The list of the main legislative acts of Germany, creating the framework conditions for the activities of organizations that own and manage the Moscow Railways, including joint households (OSZh - associations of homeowners with partial competence):

- • The Residential Property Act (WEG) - Since 1951, regulates the creation and management of residential co-ownership. The most recent extensive amendments to the Law in 2020 are on the modernization of housing and the promotion of electric mobility.
- • German Civil Code (BGB) - is the central codification of German general private law, paragraphs 535-577a regulate tenancy law
- • Law on Trade and Business Cooperatives (GenG) - from 01 October 1889 regulates the creation and management of cooperatives, including residential
- • German Joint Stock Companies Act (AktG) - regulates the establishment and operation of
- • Law on Housing Spaces (Wohnraumschutzgesetz) - develop and approve individual lands and major cities
- • Housing Brokerage Act (WoVermRG) - about any person who acts as an intermediary in the conclusion of residential lease agreements

#### Russia

A feature of the legislation of the Russian Federation is the plurality of normative legislative acts, which are constantly and continuously being amended. Therefore, it is easier for analysis to use references to various programs (federal and regional) and individual laws. The main ones:

- Liquidation of emergency housing: <https://minstroyrf.gov.ru/trades/zhilishno-kommunalnoe-hozyajstvo/20/>
- Resettlement program for emergency housing: <http://government.ru/rugovclassifier/702/events/>
- Law on the relocation of citizens from hazardous housing: <http://duma.gov.ru/news/50221/>
- Law on All-Russian Renovation: <https://realty.rbc.ru/amp/news/5fec53b99a794729d4fa4c02>
- On approval of the Republican targeted program for the resettlement of citizens from emergency housing for 2019 - 2025: <https://docs.cntd.ru/document/553389504>
- Information about the locations of damaged houses and residential buildings recognized as unfit for living (address of the location of damaged houses and residential buildings recognized as unfit for living): <https://minstroy.tatarstan.ru/svedeniya-o-mestah-nahozhdeniya-avariynih-domov-i-3866697.htm>

#### Ukraine

The Constitution of Ukraine (Art. 47) provides that citizens in need of social protection are provided with housing by the state and local authorities free of charge or for a fee available to them in accordance with the law. The Law

"On Social Housing" was adopted quite a long time ago. But neither the Law, nor the provisions of the Constitution work, since until now social housing has not been built and there is no replacement fund (the reason is the lack of money from the city administrations). Therefore, when a situation of collapse of a part of an emergency house occurs, some citizens temporarily settle in sanatoriums (for example), the rest continue to live in an emergency house. A special problem is the lack of a land plot for all condominiums (associations of co-owners of an apartment building), since, in accordance with the legislation of Ukraine, this is not a shared property, but a joint and several property, and in order to register a land plot as joint and several ownership, all owners of the premises of an apartment building must appear before a notary at the same time. In practice, this is not achievable. As a rule, there is no technical documentation for apartment buildings, since it is also not profitable for developers to provide it in order to hide construction deficiencies, and documentation for houses built during the Soviet era has been lost.

The list of the main legislative acts that create the framework conditions for the activities of organizations that own and manage Moscow Railways, including condominiums (associations of co-owners of apartment buildings):

- • Housing Code of Ukraine
- • Law of Ukraine "On Property" dated 07.02.1991, No. 687
- • Law of Ukraine "On privatization of the state housing stock" dated June 19, 1992, No. 2482
- • Law of Ukraine "On the specifics of the exercise of ownership in an apartment building" dated May 14, 2015 No. 417

### Kazakhstan

Law of the Republic of Kazakhstan dated April 16, 1997 No. 94 "On housing relations" in art. 67 regulates the conditions for the provision of dwellings from the state housing stock. In particular, such dwellings are provided to citizens of the Republic of Kazakhstan, whose only dwelling place is recognized as emergency in the manner prescribed by the legislation of the Republic of Kazakhstan. State housing stock is dwellings owned by the state and included in the communal housing stock, the housing stock of a state enterprise, as well as in the housing stock of a state institution. As of January 1, 2017, the share of the state housing stock was 2.4% - 8.1 million m<sup>2</sup>, or approximately 150 thousand apartments.

Registration of citizens of the Republic of Kazakhstan who can be provided with a dwelling place from the communal housing stock or a dwelling rented by a local executive body in a private housing stock is carried out at the place of residence by the local executive body.

In practice, by-laws of local authorities are used.

### **CONCLUSIONS**

In our opinion, the basis of practices in relation to resettlement of emergency housing in the form of joint households, successful in the economies of European countries, is land (land plot) as part of the common property of joint households. Often the cost of land is higher than the cost of building a new building. Loans for the modernization of multi-apartment residential buildings for each member of the joint household are secured not by the value of the dwelling on the right of ownership, but by the value of the share in the land plot. This collateral also allows you to receive loans for the construction of a new building, instead of completing its natural life cycle or completely destroyed as a result of a natural disaster (in the absence of insurance, for example, in the Baltic States).

At the same time, the state, represented by city administrations, never guarantees the owners the return of the lost value of residential premises (this is the role of insurance companies). The state undertakes to organize the construction of a replacement housing stock for emergencies (rental social housing) and to provide them subsequently for a long time only for socially unprotected citizens. And this commitment is real and it is being fulfilled.

The obligation of the state to provide citizens with housing to replace the property lost as a result of natural wear and tear, natural disasters is not feasible, even if it is declared.

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