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## **THE STATE MECHANISM OF LEGAL REGULATION OF SOCIAL CONSTRUCTION IN THE COUNTRIES OF THE EUROPEAN UNION AND THE POSSIBILITY OF ITS USE IN THE SYSTEM OF STATE REGULATION OF UKRAINE**

**Annotation:** Housing reform is considered as one of the most important problems for the European Union and Ukraine. Providing the public with housing is an important factor in determining the level of development of society and the economy of the country as a whole. However, the possibility of reforming the housing complex is extremely difficult, since Ukraine is in a very complicated situation today (the war in the East, low rates of economic development, the growth of social conflicts and tensions).

Adaptation of advanced foreign experience, consistent and coherent functioning of all authorities, businesses and public organizations are identified as a significant factor in achieving a faster and more qualitative effect of realization of the right to social housing in Ukraine. It is determined that the introduction of European experience in Ukraine is a necessary condition for the effective realization of the right to social housing.

It has been concluded that housing construction satisfies one of the most important human needs - ensuring normal living conditions, which is a priority area of state regulation, namely, raising the level of social security of the population of Ukraine. In the process of transition to market relations, there was a decrease in housing construction and the aging of the existing housing stock, which was the result of the collapse of the existing system of state planning in the housing sector and the further removal of the state from the management of the process of creating an effective market mechanism for providing housing for the population. The course that Ukraine has chosen to integrate into the European community should identify new strategic priorities for socio-economic development of the country, reform the structure of the state economy, create conditions and opportunities for comprehensive human development.

It is specified that the availability of housing and its qualitative characteristics are undoubtedly the main indicator characterizing the standard of living of the population and enshrined in the Constitution of Ukraine as a

necessary condition for ensuring the rights and freedoms of citizens. Therefore, the degree of the solving of «housing issue» in our state from a quantitative and qualitative point of view should be considered as a determining criterion for the approximation and following of European standards of living.

**Keywords:** social housing, housing construction, social construction, investment policy, mortgage lending, risk management.

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## **ДЕРЖАВНИЙ МЕХАНІЗМ НОРМАТИВНО-ПРАВОВОГО РЕГУЛЮВАННЯ СОЦІАЛЬНОГО БУДІВНИЦТВА В КРАЇНАХ ЄВРОПЕЙСЬКОГО СОЮЗУ ТА МОЖЛИВОСТІ ЙОГО ВИКОРИСТАННЯ В СИСТЕМІ ДЕРЖАВНОГО РЕГУЛЮВАННЯ УКРАЇНИ**

**Анотація:** Розглянуто житлову реформу як одну з найважливіших проблем для Європейського Союзу та України. Забезпечення житлом громадськості є важливим фактором у визначенні рівня розвитку суспільства та економіки країни загалом. Проте можливість реформування житлового комплексу є вкрай важкою, оскільки на сьогоднішній день Україна перебуває в надзвичайно складній ситуації (війна на Сході, низькі темпи економічного розвитку, зростання соціальних конфліктів та напруженості).

Адаптацію передового закордонного досвіду, послідовне і злагоджене функціонування усіх органів влади, бізнесу та суспільних організацій визначено як вагомий фактор досягнення більш швидкого і якісного ефекту реалізації права на соціальне житло в Україні. Встановлено, що впровадження в Україні європейського досвіду є необхідною умовою дієвої реалізації права на соціальне житло.

Дійдено висновку, що будівництво житла задовольняє одну з найважливіших потреб людини - забезпечення нормальних умов проживання, що є пріоритетною галуззю державного регулювання, а саме підвищення рівня соціального забезпечення населення України. У процесі переходу до ринкових відносин відбулося зменшення житлового будівництва та старіння наявного житлового фонду, що було результатом розвалу існуючої системи державного планування у житловому секторі та подальшого усунення держави від управління процесом створення ефективного ринкового механізму забезпечення житлом населення. Курс, який Україна вибрала для інтеграції до європейської спільноти, має

визначити нові стратегічні пріоритети соціально-економічного розвитку країни, реформувати структуру державної економіки, створити умови та можливості для всебічного розвитку людини.

Встановлено, що наявність житла та його якісні характеристики є, безсумнівно, основним показником, що характеризує рівень життя населення та закріплений в Конституції України як необхідна умова для забезпечення прав і свобод громадян. Тому ступінь вирішення «житлового питання» в нашій державі з кількісної та якісної точки зору має розглядатися як визначальний критерій для наближення та дотримання європейських стандартів життя.

**Ключові слова:** соціальне житло, житлове будівництво, соціальне будівництво, інвестиційна політика, іпотечне кредитування, ризик-менеджмент.

**Statement of the problem.** In their research scientists refer to the positive experience gained by different countries of the world, they emphasize the need to introduce in Ukraine common tools that in the past had an effective impact on the growth of affordable housing for their citizens. Undoubtedly, to define and apply experience is the task of a scientific community, and, accordingly, an authorized state authority. To implement a specific state housing strategy, one needs to trust the correctness of the chosen direction of development and its application in Ukrainian realities. Domestic scientific research in the sphere of state regulation contains very systematic analytical material on the justification of the necessity of using foreign experience in Ukraine.

**Analysis of recent researches and publications.** In recent years, housing problems in the Ukrainian economy have been considered in the works of O. Bilovsky [1], V. Voskalo [2], O. Dimchenko [3], T. Kachala [4], Yu. Mantsevich [5], Yu. Safonov [6], V. Sevka [7], O. Shevchuk [8] and others. The mentioned authors investigate the state and problems of the development of housing and communal services in the country, they proposed different mechanisms for attracting additional financial resources into housing construction, justified approaches taking into account the experience of developed countries to reform the state regulation of housing and communal construction, systematized assessment of the effectiveness of state housing policy and determined the directions of its improvement.

**The purpose of this article.** The purpose of the article is to study the introduction of European experience in Ukraine, which is a prerequisite for the effective realization of the right to social housing.

**Presentation of the basic material.** In the developed countries of the world, there are three types of multi-family houses, which differ in form of ownership and management: private funds - private property and management; condominium, cooperative - collective ownership and management; the municipal leased house is a state-owned form of ownership and management. We can note that the

condominium as a collective form of ownership and management is not sufficiently effective, and therefore its part does not exceed 20-30% of the city fund [9, p. 155].

The part of private rental houses is up to 40%, and in large cities, it even reaches 60%, or even 80% (Vienna). Rental houses are the private property of homeowners. Apartments are rented by residents at commercial prices without the right to privatize them. This is a commercial company that generates income to owners and brings taxes to the budget and represents a significant sector of city business.

Let's consider the positive moments of such housing: firstly, it is affordable housing, which a person can rent in a certain price category for a short time. Secondly, the owner of the apartment does not care about its maintenance, management and payment of taxes, the owner only pays for the apartment. Thirdly, this type of housing does not restrict people and allows for the independent movement of the person. The disadvantages of living in a rental house are the tight regulation of residence, as well as attempts by homeowners to increase the cost of the rent. At the same time, the proposal regulates the level of prices, which in European cities is at the standard level, for example, two-bedroom apartment about USD 300-500 a month.

Municipal rental housing is a social housing category for poor people who cannot solve their housing problem. Such housing is provided not only as an apartment in a social house but also as an apartment in a private house or in a mixed-form house. Assistance to the poor does not take place by providing housing to the property. The rented apartment is provided only for as long as the families are in the category of «poor». The main disadvantage of the social type of housing is not quite comfortable living conditions.

In European countries, the allocations for state social housing programs are: from 0.1-0.3% of GDP in Italy and Greece, to 1.00-1.05% in Denmark and Finland, and in France, this indicator reaches 1.9% GDP. We can note that in developed countries housing is not used by owners for living, but is often leased [10, p. 89].

By joining the Council of Europe on November 9, 1995, Ukraine took on a number of international commitments. In particular, concerning the adaptation of Ukrainian legislation to the legislation of the European Union. To this end, in 2004, the Law of Ukraine «On the National Program of Adaptation of Ukrainian Legislation to the Legislation of the European Union» was adopted (No. 1629-15 dated October 1, 2011) [11]. One of the priority directions of such an adaptation was the ratification of the European Social Charter and its implementation in Ukraine.

An important component of the content of the European Social Charter (No. 994-062 dated 07.09.2016), in accordance with Art. 30 and Art. 31, is to ensure the human right to housing [12]. In order to ensure the effective implementation of this right, the European Social Charter obliges to take measures aimed at:

- 1) promotion of adequate access to housing;
- 2) prevention of homelessness and its reduction in order to gradually eliminate it at all;
- 3) housing prices should be accessible to all segments of the population [12].

In the Constitutions of foreign countries, the right to housing is rarely recognized and, in the case of its recognition, means only an opportunity for a citizen to have housing, the realization of which is associated with certain duties or guarantees of the state [13, p. 194]. The basic laws of most European countries contain a norm on the integrity of housing, and only this covers the «right to housing».

According to Art. 47 of the Constitution of Ukraine, the state must implement programs for the consistent provision of the right of citizens to housing [14]. The state should create all possible conditions under which a person will have the opportunity to build a house, buy or rent it. For citizens in need of social protection the housing is provided by the state and local governments free of charge or at a reasonable cost, in accordance with the Law of Ukraine «On Social Fund Housing» (No. 3334-15 dated July 25, 2018) [15]. A person cannot be forcibly deprived of his or her home, only on the basis of the law by a court decision.

Consequently, taking into account the existing legal framework in Ukraine, organizational and economic conditions and opportunities for the development of housing, a significant factor in achieving a faster and qualitative effect of realization of the right to social housing in Ukraine is the adaptation of advanced foreign experience, consistent and coordinated functioning of all authorities, businesses and public organizations.

In developed European countries, the main tool for providing housing to the population is a social contract. Meeting the needs of citizens in housing is the main purpose of this contract. At present, funding for the program of social housing in Ukraine is practically not implemented, although there is an institution for social housing, and these programs have been operating in Ukraine. The mechanism was as follows: the developer on a commercial basis builds housing, then 5-10% of the apartments from the developer receives local government and free or for small money transfers to people who need to improve living conditions. In fact, people who really need to improve housing conditions do not always get social housing [16, p. 43].

The state plays a leading role in resolving this issue, as the main source of funding for this program is the state budget. Of course, considering the experience of the developed countries of the world, one can state that only a combination of efforts between the state and the private sector will give positive results in solving this issue. Importantly, governments of the European Union are increasingly taking decisions regarding the introduction of opportunities for the subsequent redemption of social housing, since private property is considered as an incentive

for citizens to engage in active social work. Thus, social housing becomes affordable, and the housing problem of low-income citizens is gradually being solved.

In the UK, since 1988, almost all social housing is provided by housing associations, which are clearly focused on solving the problems of certain social groups. As early as 1979, 93% of social housing was owned by public authorities. Due to the complexity of managing a huge municipal housing stock, most of the housing stock was transferred from the ownership of local authorities to the property of newly formed housing associations. [16, p. 122].

Here should be noted Denmark with a similar practice in the application of social associations. In this country, there is almost no housing that would be owned by municipalities, and social housing here is also the prerogative of residential associations, which receive in return certain benefits and subsidies. With regard to the effectiveness of these organizations, today, according to various statistics, Denmark is one of the most successful countries in the world to provide housing for the population.

A key role these social housing organizations play also in the Netherlands, where every third person lives in housing provided by such organizations [16, p. 135].

It is believed that the practice of economically developed countries of Western Europe contravenes the Ukrainian approach, where social housing predominantly belongs to the state or communal property. European experience, on the other hand, demonstrates the expediency of reducing the role of the state and local authorities as a homeowner. In turn, it will contribute to the efficiency of the maintenance of the housing stock and will provide a better quality of its services. After all, given the problems that exist with the formation and filling of the state budget, it is impossible to provide through it the expenses necessary for the reconstruction and repair of the housing. At the same time, the practice of providing social tenants with the right to buy housing has become widespread in Western European countries. In Ukraine, the specifics are different. In accordance with clause 5 of Art. 3 of the Law of Ukraine «On Social Fund Housing» [15] social housing is not subject to redemption. At the same time, Ukraine is the leader among the European countries in terms of the number of homeowners. According to various sources, about 95% of households own housing. Relying on a positive European experience, it would be advisable to legislatively establish the possibility of obtaining social housing with a right of redemption. Such a step should intensify the process of building new social housing.

Ukraine is not the only state facing the housing problem. It occurs in each transition country, which is transitioning to the formation of a modern type of triple economic regulation (market, state and civil). However, choosing a solution to a housing problem depends on many factors.

World experience shows that solving this question is possible in two ways:

the state is one of the sources of financing for the provision of housing for the country's population (providing housing at public expense and preferential long-term lending for housing);

the state indirectly participates in the process of providing housing for the population of the country (creates favorable conditions for the construction of residential real estate in order to provide the population with affordable housing).

The first method is less effective since it is based on the allocation of centralized and decentralized sources of financial resources, which adversely affects the development of the national economy by increasing budgetary expenditures. On the other hand, by receiving free housing or subsidies the population ceases to worry about raising its wealth and profits, which, in turn, leads to the demoralization of society.

In our opinion, the second method is more effective, because the state does not assume the main obligations to provide housing to the population of the country, therefore, it does not reduce the motivation among those who need improvement of living conditions in the context of personal development and economic prosperity and significantly reduces budget expenditures.

At present, housing provision in the countries of the European Union consists of a private housing where its owners live; private, intended to be rented to the low-income population, which is registered in the state housing stock.

If we consider the states of the West, Northern and southern Europe, housing support for groups of socially vulnerable citizens in these countries is generally trying to overcome on the basis of economic opportunities. In many of these countries, the social housing fund belongs to the state and is not subject to privatization. Analyzing, we see that in the countries of Southern Europe (Spain, Portugal, Greece) and Russia, the selection of applicants is more severe than in Western Europe (the Netherlands, Austria, France, Denmark, Finland). Therefore, it is possible to state that the higher is income of citizens and the economic development of the state, the more affordable is the housing, and vice versa, with low housing stock families undergo rigorous selection, with the availability of a mechanism for the release of social housing after the family loses its right.

The focus of the state housing policy of European countries is to reduce the allocations of social housing funds and to focus on the development of public housing construction sectors with the use of public funds. Given the above, the solution to a housing problem should be based on two basic principles:

social housing is provided to vulnerable groups of the population exclusively for lease, and not for the right of ownership;

provision of other categories of the population must be carried out by creating conditions for independent participation in the process of building residential property.

State regulation of housing policy should focus on the development of the construction industry, which in turn will allow creating the most attractive conditions for the population of the country, to encourage it to invest in the process

of housing building, and not to formulate state regulation of housing activity in allocations from the state budget. The above principles of state regulation of housing policy can be described with the help of a scheme of directions for solving the housing problem, which is presented in fig. 1.

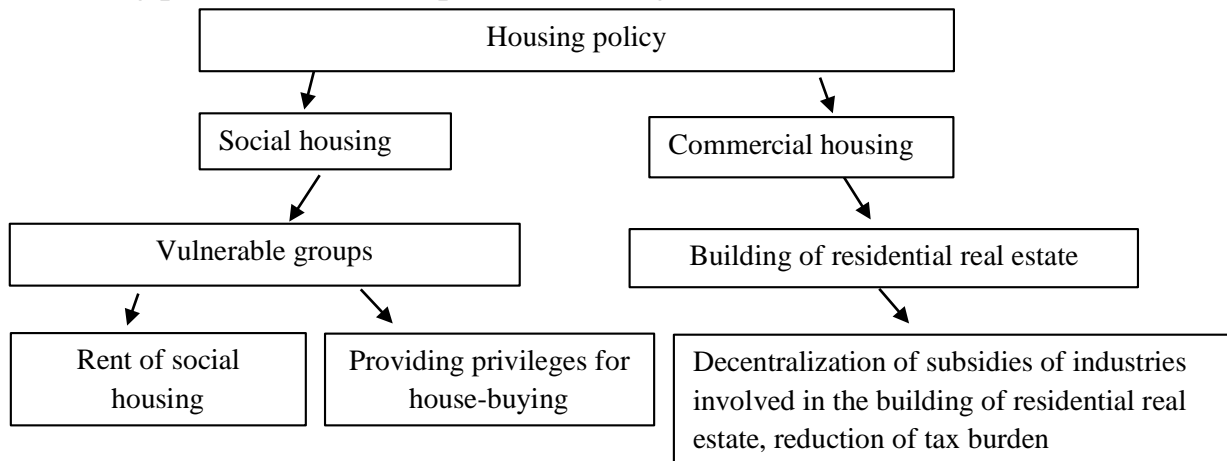


Fig. 1. Scheme of directions for solving housing problems

The state regulation of housing policy, which we outlined in the scheme for the settlement of housing problems, is supported by the program of exit of the real estate markets from the crisis «Fundamentals of policy for sustainable real estate markets. Principles and recommendations for the development of real estate in the country». This program was developed by the United Nations Specialists of the International Real Estate Federation «FIABCI» and demonstrated to our statesmen on June 18, 2010. Governments of many countries were interested in this program. In essence, this document is the outcome of the international summits held at the highest level (New York, Rome, Geneva), which main objective is to reduce the effects of the global economic crisis on the construction industry of both developed and developing countries. [17]. This document presents the need for a more comprehensive and exhaustive approach to the creation of organizations dealing with real estate issues and management, especially in transition economies.

In countries with a developed market economy, housing construction is carried out mainly through private investment. We can note three sources of voluntary contributions [18]:

deposits in banks and savings organizations. This model is called the depository model of housing financing. The depository model of housing financing is based on attracting the funds of citizens who need housing. This model in the developed economies is encouraged by the state in the form of tax privileges on long-term savings deposits and lower interest rates on loans, which allows making this type of loans much cheaper;

contractual lending of residential systems through cooperative savings. This type of financing is most commonly used in Austria, France, Germany;

long-term savings, used by life insurance and pension schemes. This scheme is relatively fast spreading due to the availability of private multi-compound pension funds. But for Ukraine, such financing schemes are not traditional.



Therefore, this fact is one of the obstacles to using the experience of developed countries.

There is a developed credit and financial mechanism, and this is a feature of developed economies that allows people with low incomes to build or buy comfortable housing.

In Europe, the German scheme for housing finance, based on the system of construction and savings banks, which occupy about 30% of the entire German housing industry, has become widespread. In other European states, this percentage is somewhat lower, but also significant [19, p. 13].

If we consider Germany, then construction and savings banks use their own assets without attracting external financing. In other European countries, investors may be attracted. Construction and savings funds are legally societies of mutual credit. Prepayment period is 5 years, prepayment is usually equal to 30 to 40% of the cost of housing. The maximum loan term is from 12 to 18 years, the minimum term does not exist, fines for early repayment are not provided. The rate varies from 3 to 5% per annum [20, p. 74].

In most developed countries is used the system of financing housing construction through the issuance of bond housing subsidies. This practice has become especially popular in EU countries. In particular, in France, about 25% of the population receive housing subsidies, in the UK - 15%, in Sweden - 18% [21, p. 38].

Three forms of housing financing are used in Scandinavian countries: financing by mortgage institutes; residential loans of savings banks; various forms in which the state plays a key role.

When it comes to the construction of new social housing, countries which experience is being considered, are mostly on the way towards mortgage lending.

Mortgage lending sector is not only a financial indicator but also a measure of social security of the population. In general, the mortgage market interacts directly with the real estate market, giving impetus to the development of many sectors of the economy. That is why in European countries, mortgage lending is a widespread instrument in the financial market. For example, in Denmark, about 80% of the cost of building social housing is financed by mortgages.

The state should develop a program for the development of this financial sector and interact with all market participants that may influence the development of mortgage loans, should become a guarantee for a citizen to the bank, protect his right to the normalcy in normal living conditions that may be provided by mortgages. [22, p. 72].

In various countries, the state passively or actively intervenes in the development of the system of mortgage lending. The passive participation of the state is the creation of appropriate institutional and legal principles that will promote the development of residential mortgage lending. The active participation of the state is the creation of special mortgage institutions, housing funds,

concessional and cooperation programs aimed at promoting the development and functioning of residential lending in the country.

For example, in Spain, in addition to the regulation of rates, state mortgage regulation is very developed. It allows the social strata to buy their own house on affordable lending conditions. Also, one of the effective schemes for the promotion of mortgage loans in Europe is a subsidy program. In Germany, Greece and Spain, for families who have purchased housing on a loan, there are tax benefits on earnings received in the form of wages. In other countries, for example, in low-income families in Belgium, the state implements programs of paying a large part of the interest on loans, and so on. Of course, such state intervention is not perfect, but despite all this, the volume of mortgage lending in these countries is greater than in Ukraine. And this is due to the use of certain state regulation instruments that are not used in Ukraine [23, p. 233].

In some foreign countries, there is state support of young families for the purchase of an apartment or for housing construction. The general terms of mortgage lending for housing construction are also very soft. The bank rate is 3-5% per annum, as opposed to the average rate for other types of lending. [24, p. 25].

One of the most popular is the Czech mortgage market. There are several programs in this country that help young people to buy housing. Some of them are funded by the Ministry of Regional Development. The state also helps in the form of profitable home loans, so-called construction loans.

The usual practice for Scandinavian countries is lending of an amount that does not exceed 65-80% of the housing cost, which is the provision of credit.

The guarantees provided by the government or the municipality are very important for the borrower, as the amount of funding at their own expense may be reduced. Another advantage of the guarantees is that they allow loans at lower rates, as the risk premium decreases for the creditor.

In Denmark, municipalities provide guarantees only for the construction of housing for the purposes of social hiring. In Norway, government guarantees are almost non-existent, and lending is provided by the Norwegian State Residential Bank. [25, p. 104].

There are a certain difference and similarities in the subsidy policy that is being implemented by the Scandinavian countries. The most important feature is the combination of subsidies for housing construction and reconstruction with subsidies that stimulate housing costs. A common feature is the availability of housing subsidies in all countries. There are also different subsidy scales. Approximately 20% of households in Denmark, Finland and Sweden receive housing subsidies. In Iceland and Norway, subsidies cover about 5% of households. A significant role in the system of subsidies play tax breaks, which consist in the fact that the interest on mortgages is deducted from the tax base. This right operates in all Scandinavian countries, except Iceland [21, p. 74].

The main forms of subsidies are the provision of state residential loans with a lower interest rate compared to the market (Finland and Norway) and interest rate subsidies on market loans (Denmark, Finland, and Sweden).

One of the reasons for the development of the housing subsidy system is the lack of housing construction in order to provide for lease and especially housing construction for students and the elderly.

**Conclusions and perspectives of further research.** Thus, from the foregoing it can be concluded that housing finance systems in developed countries are based on the diversity of specialized financial institutions - construction and savings, mortgage companies, investment banks, credit unions, as well as on several financial technologies: construction savings, mortgage lending, a combination of one another, public and private funding, as well as various mixed forms of public and private funding. In these countries, the state also has active market instruments of state regulation of investment processes through mortgage markets, secondary loans with the help of state (or semi-public) financial institutions.

All more or less successful models of mortgage lending in countries with economies in transition are actually an attempt to adapt certain elements of German and American mortgage models to specific national conditions. However, in our opinion, an attempt to transfer the mechanical, albeit successful mortgage models will not give the desired result. It is necessary to develop their own, national models of residential mortgage lending taking into account the economic situation, mentality, traditions, trends of economic and social development of each individual country.

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