Complex analysis of legal documents for ensuring the environmental safety of the reconstruction objects of the housing sector of Ukraine and the leading countries of the world.

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ABSTRACT
The article deals with theoretical and methodical approaches for organization of reconstruction and overhaul programs of housing fund. On the basis of national and European experience of reconstruction and overhaul they highlighted the necessity of such programs. Also it was held the analysis of legal documents concerning environmental safety

1. Introduction

The aspiring of Ukraine towards European quality of life requires reviewing the approaches to the formation of housing policy that is focused on its preservation and reconstruction. The housing reconstruction and overhaul programs play an important role on such conditions.
The housing reconstruction programs are considered in the studies by A.N. Osavul [1], M.Komer[2] G.I. Onishchuk [3], A.A.Frankivskyyi [4] and others. However, the approaches to the reconstruction and overhaul programs are not evolved by the authors.

The research of the scope of the reconstruction and overhaul which are practically implemented in all regions of Ukraine has shown their inconsiderable level. In the study [1] it was compared the real scope of the housing reconstruction and overhaul work that had been made with the demand of such work in different regions of Ukraine. This demand was calculated basing on the standard terms of residential building services, their changes in the regions of Ukraine and the depreciation of the housing stock. It was stated that if the current pace of the work performed and the immovable population preserved, it would cover the need in reconstruction in 1003 years and the need in overhaul - in 89 years.

Purpose of the article - is to held the complex analysis of the legal documents regarding the environmental safety ensuring of the reconstruction objects of the residential sector of Ukraine and leading countries such as the USA, the Great Britain, Germany and others, and to give suggestions according the improvements of the legal and regulatory framework of the environmental safety ensuring of the reconstruction objects of the residential sector of Ukraine.

2. Presentation of the main material of the study

In European countries the reconstruction of the old housing stock is held basically via dwelling the additional structures, terraces, balconies, attics and additional stories, also via application of three-dimensional planning decisions for useful area increasing, the change of the architectural appearance of the building, transferring to more economical engineering networks and energy efficient materials etc.

In the most developed countries housing sector is the subject of economical and administrative regulation with the use of diverse forms of financing (subsidy assistance, credit granting, state guarantee). Powerful housing market keeps the constant need in money at a high level, and the created deficit of financial resources increases their turnover dramatically. This factor is one of the main indicators of the "healthy" economy of a country.

In the countries with the developed market economy there is a tendency towards disinvestment into new construction. This is mainly caused, from one side, by the reduced housing loans to the well-to-do population, from the other side, by the reducing demand from the disadvantaged population. In addition, in some countries there is a reorientation of the investments from the construction of new houses into reconstruction and modernization of the old housing
stock. According to experts, the share of investment for these purposes, for example in Canada and Denmark, is close to 50% of the whole amount of funds which are being spent on new construction. In the USA this indicator exceeds 40% [5].

In such a case the role of housing stock quality requirement is growing. Among the criteria of housing quality estimation along with convenience of the interior planning of apartments, their equipment, the following factors are gaining more value: the reliable thermal- and sound-insulation, the quality of environment - clean air, availability of parks and squares, reservoirs etc.

The bulk of the housing stock in the countries with the developed market economy belongs to private homeowners who live in their houses or rent them out. In this regard, Municipal Authorities have problems in implementation of the program of the housing stock reproduction. To solve such problems, they use incentive and coercive measures up to privatization with the subsequent sale of the housing stock to the investor willing to make reconstruction of the stock. Investor receives a housing stock on favorable terms and if the reconstruction is done he will also enjoy subsidies. Such approaches need significant investments from the budget. It is impossible to renew the outdated technical equipment and the elements of enclosure structure of buildings without involving significant investments. But they have accumulated great experience in solving the problems connecting with the housing stock reproducing in the countries with the developed market economy.

Among European countries the greatest help in realization of the outdated homes reconstruction programs is provided to the governments of France and Germany. In France the reconstruction is mainly implemented by resettlements of the residents during 3-6 months.

In France the State regulation in the field of housing stock restoration is based on federal laws and regulations; from the one hand, they determine the degree of state bodies’ intervention, from the other hand, - the guarantees and rights of private homeowners and citizens. Herewith the separate intervention functions belong only to the state.

In France there are several state programs on housing stock reconstruction in old city quarters.

- the program for houses improving - Operations deAmelioration de la Habitat (OPAH) - the homeowners are given the subsidies to 35% of the work cost and privileges for the reconstruction term, not more than 3 years on certain conditions.

- thematic social programs - Programmes Socials Thematique (PST) - homeowners are given the subsidies to 70% of the work costs of small residential buildings reconstruction in behalf of the population with law income.
- the program of houses renewal - Operations de Restaurations Immobiliere (ORI) - the significant tax privileges that are given to homeowners while conducting a reconstruction. In case of rejection local authorities may sell the object to investor for reconstruction.

- the program of demolition of buildings with unhealthy living conditions - Resorption de la Habitat Insalubre (RHI) - the privileges to homeowners for demolition or reconstruction of old homes. In case of refusal the government has the right to conduct the necessary works at the expenses of a homeowner [7].

The above programs of state intervention are chosen by the government bodies depending on particular conditions and building types.

To make a decision many factors are taken into account they are the following:
- municipal strategy in the field of spatial development, social stability and real estate market;
- availability of financial resources in local government;
- peculiarity of a region and a specific situation;
- incentives of homeowners in the sphere of reconstruction of their housing stock;
- the level of social security of the families with low income and their lodging;
- economic viability of the money invested in reconstruction.

Many of these factors are taken into account while solving the problems with housing stock renewal not only in France but in almost all countries of Western Europe [8]. However, in some of them they make an accent on the social side of a problem striving to provide the optimal combination in real estate renewal with preservation of former social functions of the city regions being destroyed.

Since 2003 and till now there has been a program of city renewal in France [7]. It is worth noticing that the program was accepted with transformation of legal policy in the sphere of city development. The reform of city developments documentation was held, it could give a new impulse for new residential areas planning and to make it possible to develop new documents with the more simple procedure of acceptance (the scheme of territory correspondence, the plan of city development, the map of municipal education). Before the introduction of new legislation the main instrument of city development activity was the Law "on the territory development" since December, 30 1967.

The substantial experience of Germany on the housing stock reconstruction is connected with the necessity of cities renewal in the postwar period which gave opportunities to try different mechanisms of reconstruction and to choose the appropriate ones.
The Federal reconstruction programs on the city district levels are widely spread in the USA. Estonia has been already practicing for many years' soft credits for lodging and residential cooperatives for overhaul and reconstruction of the residential sector. Sweden has also its interesting experience when the costs for service and reconstruction of residential houses are paid from the monthly rent. The accommodation payment finds the substantial part in the income of any Sweden family but due to the stocking system during long period of time the monetary fund is being created that is enough for reconstruction and overhaul. In Netherlands the privileges in the framework of reconstruction of the districts with old residential houses are the main costs of the state budget.

The reconstruction projects of residential houses considering the raising of their energy efficiency are supported greatly by the state and municipal authorities in many countries. For example, in Japan they give subsidies for residential houses reconstruction to comply the regulatory requirements on thermal isolation, energy efficiency of home appliances and usage of the systems with renewable energy sources. In Slovakia the homeowner association can get soft credit from the State Fund on residential sector development to increase energy efficiency of a multistory residential building. In Lithuania the measures on energy efficiency improving that are held by homeowners are credited by International bank of reconstruction and development. In Armenia for mass installation of accounting devices in the city Erevan they decided to partially write off the debt on accommodation payment to the customers who have installed such devices.

In Ukraine in the framework of realization of the housing stock reconstruction program the European bank of reconstruction and development has developed special energy saving program which will help the Ukrainians to boost energy efficiency of their homes preserving comfort level and reducing energy consumption. The program "IQ energy" is based on the best energy saving experience that has been tested in 22 countries of the world and that is the reliable foundation for energy saving improving in private sector in Ukraine.

The program on improving of public awareness level "IQ energy" is implemented with the support of Eastern European Partnership in the sphere of energy efficiency and ecology (E5P) where EU is the biggest sponsor, and also the Swedish International Development Cooperation Agency (Sida). The aim of the program is the improving of energy efficiency level in the residential sector of Ukraine due to new technologies and extra class equipment. The Program gives Ukrainians useful recommendations for the most effective energy use and how to reduce heat loss which, in turn, will reduce their utility bills.
Studying of foreign approaches towards housing stock overhaul and reconstruction gave an opportunity to generalize the conditions which are primary when drawing up the programs of overhaul and reconstruction at the region level.

Estimation of the present overhaul and reconstruction programs that are approved in separate regions of Ukraine evidences of their revision necessity in order to strengthen the energy saving component, to form the effective monitoring of the program performance at the regional level and for the program efficiency for social economic development in the whole region, prospects for the housing stock restoration, stimulating of the extrabudgetary funds attraction for overhaul and reconstruction, increase of population activeness in preservation and restoration of the housing stock.

Today the legislative work in the sphere of energy efficiency is being actively pursued. In the beginning of 2017 the Law "On houses energy efficiency" was accepted. Its purpose to increase the energy efficiency of the existing housing stock. According to the Law from January, 1 2018 there will be compulsory certification of energy efficiency of the houses.


In Ukraine the private incentives are being implemented that are aimed to assist the enterprises which carry out rationale management. The "Steady household" in among them. In the framework of the project they carried out the training of incentive groups for practical implementation of environmental principles in the households.

The construction of the first passive house in Ukraine (projected by Ernst T.in the city of Kyiv) has become an important event. The project has been added to the global catalogue of the buildings built in accordance to the same standards as the passive house in Darmstadt (Germany). The building was designed by the German agency "Architecture and Environment" that is specialized in the field of ecological architecture design, ecological design of buildings and also the design of energy efficiency and passive buildings.

Another company which works in this sphere in Ukraine is Cetus Ltd. Since 2005 it suggests the services on usage of renewable energy sources in design, construction and reconstruction of the residential houses, energy efficiency, etc. The company is specialized in development and
producing of new technologies of renewable energy sources use based on wind and solar systems, solar collectors and heat pumps.

Special act in the sphere of the existing housing stock is the Law of Ukraine "On complex reconstruction of the quarters (microdistricts) with the outdated housing stock" from December, 22, 2006 (The Law), with the following changes that determines the reconstruction activity as with the housing stock of a quarter (microdistrict) as with a separate residential house.

Reconstruction activity can be understood in the broad sense: both for separate houses, buildings, objects, and for the existing building complexes, linear buildings that are combined with one purpose. According to Article 1 of The Law the reconstruction of the housing stock - is its rebuilding with the aim to improve living conditions, exploitation, the change of the number of apartments, the total living area, etc. that is connected with the change of geometric dimensions, functional purpose, replacing of separate constructions, their elements, main technical economic indicators or demolition of the outdated housing stock in the quarter (microdistrict) and construction of the new housing stock in the quarter (microdistrict). The positive fact is the definition of the notion but it does not embrace all main features that have to be taken into account in the regulatory consolidation in this category. City - in the dynamic system which is constantly developing that causes the difficulty of reconstruction processes in such structure elements as Residential areas (Residential microdistricts, districts). That is why the definition of reconstruction of the existing building must consider not only technical characteristics if the given household activity but also the social and economic criteria which are not given in the definition above.

The basic principles that are necessary for reconstruction of a residential house and which must be followed by all participants have to be displayed in the principles of such household activity implementation. Some guiding basics that are given in the Article. 2 of The Law, in which there are the basic principles of the State policy in the sphere of reconstruction. To them the following aspects are attributed: assistance in realization of the right of a citizen of Ukraine to housing; Implementation of complex reconstruction and construction on the territories of quarters (microdistricts) in accordance to the city development documentation, construction projects, project documentation on construction of separate buildings in these quarters (microdistricts); uniting of investors, developers and local self-governing bodies for engineering preparation, dwelling of social sphere objects, engineering and transport infrastructure, landscaping of the adjoining territories, and if necessary – demolition of the outdated housing stock; determination of an investor-developer of the complex reconstruction of a quarter (microdistrict) on the competitive basis, guarantees and providing property rights protection of citizens to residential and non-residential premises under reconstruction; determination of property rights to erected, reconstructed
residential and non-residential premises on the basis of civil contract the typical form of which is ratified by The Cabinet of Ministers of Ukraine; rationale using of the territory of quarters (microdistricts) according to the established rules and regulations; placing of construction objects in quarters (microdistricts) of the outdated buildings on the territories determined by the construction project and plans of land-economic arrangement; coordination by self-governing local authorities of the actions on reconstruction, replacing of housing stock and develop of programs (investment, organizational, technical, etc), determining of obligations, responsibilities for their non-fulfillment by the participants of reconstruction, replacement of the housing stock; providing guarantees of rights to real estate during complex reconstruction of the quarters (microdistricts) with outdated housing stock; providing compliance of requirements for creation of conditions for people with limited physical abilities and other immobile groups of people to get the barrier-free access to all reconstructed or newly erected buildings including new houses, residential objects and the ones for general purpose and territories of quarters (microdistricts).

An objection is caused by some approaches It is unpractical at the State policy level to fix the definition of property rights to reconstructed residential and non-residential premises only by one typical civil contract which will be validated by legal act as there is a principle of freedom of contract which allows usage different types of contracts. Moreover, it is possible to carry out such kind of economic activity basing on state and private partnership, which is also indicated by a set of relevant agreements by which these rights can be determined. It is necessary to provide the protection of not only citizens’ rights but also of the economic entities which carry out reconstruction activity. While conducting reconstruction the funds not only from local self-governing bodies and investors can be united but also investments from state and other key players, that is why limitations and restrictions from state determined by The Law are inappropriate.

Conclusions

So, foreign experience of effective management of housing reconstruction processes should be adapted to Ukrainian conditions considering specifics of social system. It can be used in Ukraine when solving such problems:

- review of the existing rules, regulations of organization and conducting of reconstruction, overhaul and technical services of residential buildings and objects for communal purpose;

-formation of institutes of effective homeowners in the sphere of housing stock management;
-activation of the processes of housing society creation and other managing bodies in the sphere;

-creating of regulatory and methodical base which can provide organization and reconstruction, overhaul and maintenance of residential houses involving small business entities.

Prompt solving of the above and other issues will facilitate the expansion of the practice of the existing housing stock reproduction by its reconstruction and overhaul.

The use of reconstruction and overhaul programs at the regional level will allow not only determine the problems in the existing housing stock, specify the ways of their solving, but to choose the system of financing of such works, to form an effective monitoring system of social and economic effectiveness of reconstruction and overhaul, to arrange the housing stock management system that is aimed on its preservation and restoration.

References


