

FORMATION OF REQUIREMENTS FOR HOUSING IN UKRAINE: HISTORICAL AND LEGAL RESEARCH

**Mykola Stefanchuk, Research Institute for Private Law and Entrepreneurship Named After Academician F.G. Burchak, NPR of Ukraine
Anatolii Muzyka, State Research Institute of the Ministry of Internal Affairs of Ukraine**

**Maryna Stefanchuk, Taras Shevchenko National University of Kyiv
Olena Cherniak, Leonid Yuzkov Khmelnytskyi University of Management and Law**

**Nazar Rudyi, Lviv State University of Internal Affairs
Igor Meshchan, The National Academy for Public Administration under the President of Ukraine**

ABSTRACT

Research objective – to describe the processes of introduction and development of requirements to accommodation of Ukrainians in the nineteenth century using the example of Kyiv and Kharkiv. The research methodology is based on the interdisciplinary approach. The research was done using a set of philosophical, general scientific and special legal methods of scientific knowledge, the use of which is caused by the specific research subject. Using the method of analysis and synthesis made it possible to reveal the features of the local government policy of Ukrainian cities as to development of requirements to housing of Ukrainians. The scientific novelty of the study lies in the fact that the authors, while using the archive documents and regulations not previously known to the public, have examined and described the processes of development of requirements to housing of Ukrainians in the nineteenth century by the example of Kyiv and Kharkiv. The following technical requirements to suitability of housing were identified to have developed in the nineteenth century: 1) legality of construction (availability of a construction plan agreed with the local government authorities and a legally designated plot of land); 2) safety of the house for residents, neighbors, passers-by; 3) availability of equipment for provision of housing and public utility services. The requirements for the privacy of housing as a necessary element of guaranteeing the right to inviolability of housing were revealed.

It was found that, starting from the nineteenth century, the dwelling was subject to mandatory evaluation. It was determined that there were no consistent sanitary requirements to housing in the nineteenth century. It is found that the suitability requirements to the housing of Ukrainians became the fundamental ones for further development in the twentieth century. They indicate the existence of safety requirements to housing until the establishment of Soviet rule in Ukrainian lands.

Keywords: Housing, Types of Housing, Construction, Socio-Economic Conditions, Retrospective of Construction Requirements, Normative Regulation, Legal Assessment

INTRODUCTION

Housing must meet certain requirements that should ensure safe living. The need for research of the requirements for housing due to the content of the Art. 25 of the Universal Declaration of Human Rights, where everyone has the right to such a standard of living, including food, clothing, housing, medical care and necessary social services, that is necessary to maintain health and well-being (Declaration, 1948). Housing is one of the structural elements

for the realization of the human right to a sufficient standard of living. In order it provides an opportunity to maintain person's standard of living, the housing should meet certain requirements. Let us note that the requirements for housing in various countries were historically formed differently. Thus, different requirements for housing have been formed due to different living conditions, climate, environment, culture, legal support, etc. Despite the different origins, the requirements for housing, in terms of the content of the Universal Declaration of Human Rights, should ensure the safety of human life, preserve his or her health, provide an opportunity to maintain the secrecy of privacy. Ukraine has developed its own experience in creating requirements for housing, which makes it possible to reveal the modern living conditions of Ukrainians.

The history of mankind has evolved along with the evolution of housing, the structure of which has always been associated with the reserves of natural materials well-known in the society (Korotkova, 2013). Requirements for housing were developed, taking into account the weather conditions of living, the environment, the land use patterns and the socio-economic policy (Meen & Nygaard, 2011). Therefore, the processes of developing these requirements in each country have been taking place gradually and with account for its national needs, climate, production and other factors. Whereas at first the housing was primarily needed for obtaining security of residence, over time there appeared requirements for comfortable living in such housing. Development of modern requirements to housing worldwide and, in particular, in Ukraine took place in the nineteenth century. The historical events that took place in the nineteenth century influenced the diversity of the urban form of living and the structure of local authorities in the western cities (Blackwell & Kohl, 2018). For Ukrainian cities, the nineteenth century became fundamental in terms of development of the requirements to housing which provide for suitability of housing for living.

As you know, suitability of housing assumes the use of a system of rules that must apply to housing: technical, sanitary, architectural, urban planning, etc. (Avramova, 2014). These requirements are the result of development of technical construction and legal provisions aimed at ensuring safe living conditions of people in the home. In scientific studies of Ukrainian researchers, the topic of the history of development of requirements to housing is not explored enough, which does not give a complete picture of the origins of the modern rules of housing suitability. Therefore, this topic should be given attention when studying the Ukrainian urban planning and the housing law.

The gradual formation of the requirements for housing allows forming an idea and awareness on the need to establish certain standards of requirements for housing at the level of legal regulation. It is this approach allows us to understand the importance of safe living in housing, which is currently the result of significant work of researchers in the field of real estate.

Requirements for housing are revealed taking into account the fact that housing must ensure the safety of living and privacy that takes place there. Therefore, it is necessary to pay attention to the existence of technical and legal requirements set for housing.

MATERIALS AND METHODS

Archival materials, scientific publications, and normative acts were used to establish the formation characteristics of the requirements for housing. Obtaining the results of the study became possible due to the selection of a set of general philosophical and special methods of scientific cognition. The fundamental method of this study is an interdisciplinary method that combines the scientific conclusions of history and law. Due to this method, complex research results have been obtained that can be used by both historians and legal scholars. Such methods as analysis and synthesis were used (analysis revealed separate historical requirements for housing, synthesis made it possible to group different requirements for housing into a single holistic concept). Historical method was used to identify historical documents and facts. Method of assumption allowed assuming future conclusions on the gradual formation of sanitary and

technical requirements for housing. The application of the axiological method revealed the value of the requirements for housing that ensure security and privacy in housing.

RESULTS

Fundamental Principles for the Origin of the Requirements for Housing

In Ukraine, the requirements to primary housing were developed, taking into account the cold winter, presence of wind and rapid change of air temperature. Such basic consideration of the features of Slavs' accommodation influenced the demand for construction of premises which would only be heated and would have a complex entrance. Slavic buildings originally were designed as a pit dug in the ground to the depth of 1 meter or more and only be covered by a roof made of vines, leaves, cane, sod and clay (Nyderle, 2010). Over time, this form of housing changed under the influence of socio-economic relations, technical design, state of the construction material and sanitary-hygienic living conditions of the population. For example, starting from the tenth century, construction of multi-storied buildings began in Kiev that had internal structure, partitions, functional distribution of the rooms, appeared five-wall houses (Tolochko, 1981). The main type of popular urban housing up to the twelfth-thirteenth centuries was a half-dugout structure, the bottom of which was a rectangular recess dug in the soil.

Requirements for housing are the standards that must be met by premises that provide safe living. Housing as an element of a sufficient standard of living should maintain health; promote the preservation of human life. Therefore, each state forms an independent system of standards and requirements that are set for the accommodation. Relevant requirements have also been formed in Ukraine. Requirements for Ukrainians' housing have a fairly long retrospective of emergence. In particular, the first Slavs used housing to protect themselves against bad weather, predators (housing was a large pit covered with a protective layer of ground and straw). Over time, housing contributed to the emergence of family ties and a large family related to a clan. The development of everyday life, changes in working conditions and family life lead to the emergence of buildings that are built in Ukraine with wood, clay, reeds, *i.e.*, material available to anyone. The housing depending on the social status had an interior decoration that created more comfortable living conditions. Subsequently, housing began to be used for profit. Gradual development of using housing, the formation of new building materials, means of construction, climate changes have led to the formation of modern requirements for housing.

Formation of the Types of Housing Facilities during the XIII-XX Centuries

Up to the thirteenth century, three types of residential housing existed on the territory of modern Ukraine: dugout, half-dugout and ground-based. Ground-based buildings had a foundation. Wood and clay were used as construction materials. The type of primary residence of Ukrainians in cities as described above was gradually changing due to emergence of new construction technologies, the use of brick, as well as the policy pursued in the state. For example, under Peter it was forbidden to build brick buildings except in St. Petersburg (decree of April 9, 1714) because the construction material and experts in construction could be sent to this city only. At the beginning of the nineteenth century, the local governments and rules of construction were developed, while the building materials was determined taking into account its wear and cost.

In the nineteenth century, classification of buildings started to be used. In particular, the buildings started to be classified, depending on the form of ownership (state, public, private) and their use (for public and private use). State-owned buildings belonged to the state and were managed by the relevant ministry. There was a small number of such buildings and this could be explained by the fact that the state did not perform any construction, whether it is for personal or for public use. The most common practice was hiring (rent) of private buildings for public use. Public buildings were owned by local caste organizations, societies, city administrations. For state-owned or local needs, residential buildings were purchased or leased from private owners.

For example, on 23 December 1800, the Kharkiv Six-Vote Council allocated 400 rubles to purchase a house for the mayor (State archive, f.3, op. 2, case 247, 1800), on 23 December 1800 three private homes were purchased for the commander of the first regiment (State archive, f.3, op. 2, case 300, 1800).

Private buildings were owned according to the right of ownership to individuals and legal entities. Private households were classified, depending on: 1) Specifications: residential and mixed (containing both residential and retail, industrial premises) (Assessment materials, p. 2); 2) Period of stay: permanent and temporary; 3) Building materials: stone, mixed (ground floor made of stone, first floor made of wood) and wooden (they included wooden buildings lined with bricks (List, 1915), 4) Legality of construction: legitimate and illegally built houses.

The above classification of buildings emphasizes the passive role of the state in the development of public housing. Only private housing actively developed. Therefore, the requirements for housing in the nineteenth century actually extended to private owners. The city boundaries gradually expanded due to construction of private housing. One of the signs of gradual expansion of the boundaries of cities was the abolition of barriers at the entrances to the cities in 1800.

Types of residential buildings continued to be developed. Thus, building standards were approved in the XX century, which did not always meet the conditions of comfort. They were built of monolithic concrete structures, which were designed according to model projects. This approach to housing construction was justified by the need to maximize the provision of housing needs at the expense of the state housing stock. Today there is a need to reconstruct such housing, which was built for up to seventy years, in particular by carrying out major repairs.

Initiation and Development of Construction and Sanitary Requirements for Housing

The construction regulations formed both as the national (in building charter) and at the local level. To oversee their implementation at the local government level, construction committee were organized. In 1833, the Kharkiv Provincial Committee was founded, whose main task was to supervise the implementation of building regulations. Since December 1849, this commission and the Road Commission united and formed the Kharkiv Provincial Construction and Road Committee, which lasted until 1865 (State archive, f. 3, op. 44, case 160, 1790-1870).

The Construction Charter included the following technical requirements for housing. The property was to be legally constructed, in particular, the construction had to be approved by the City Council which reviewed a detailed plan of the building and its facade. In cities it was forbidden to add wooden staircases to buildings (Art. 194 of the Construction Rules). The building was not to threaten public health and public order had to be safe for the people who live in it and others, including neighbours and passers-by (Charter, 1881). For example, starting from 1887, in Kyiv it was forbidden for the premises to be located in the basement. In violation of the above requirements, the building owner had to provide for its demolition, transfer or reconstruction. The above requirements of the nineteenth century were made more specific in the twentieth century and got the name 'suitability of housing', *i.e.*, housing safety requirements for living.

The general state regulations for housing construction and the housing specifications were refined by the local government. In 1870, the "City Regulations" were introduced in the Russian Empire, which defined the structure and powers of the city government. According to the "City Regulations", the municipal affairs were managed by the City Parliament and its executive body - the City Council. The City Council was in charge of approval of the plans and facades of private houses, provision of permits for construction and reconstruction, control over the correct construction process. The city architects became hired employees working in the city council. In fact, the urban construction policy was defined by a certain member of the council

which was responsible for the construction business. He was also called the head of the construction department of the city council or the chairman of the building committee of the City Parliament (Serga, 2011).

Construction of private homes within the city boundaries since 1857 was carried out only on a plot of land that was allocated on the basis of public auction, at which the construction site was purchased. Supervision over the legality of housing construction was vested on the police. If it was found that construction is carried out on an illegally allocated plot of land and/or without a construction project, a commission was created that was composed of a policeman, a city architect, a surveying engineer and a technician. The commission inspected the house and had the right to give an opinion on the penalty, demolition of an illegal building or part thereof. Starting from the nineteenth century, urban housing construction was to be performed only according to an approved technical plan of the project and on a legally designated land. This rule in the twentieth century was further developed, including the formation of a legal institution of illegal unlicensed housing construction.

Developments of construction and technical requirements for housing have led to the construction of safe housing for the future owner, neighbors and other citizens. For example, a newly built residential house was not supposed to block the light in the home next door. To this effect, there was a dispute in the late nineteenth century regarding windows, which was vividly discussed with the legal community, as it was about demolition of a seven-storied building containing 200 apartments. The story was as follows. In 1864, a Letter of Permission was signed between the former owners of buildings Chizhov (Shilovskiy) and Gorchakova (Shamardina). According to the Letter, Shamardina allowed Shilovskiy to make windows in the stone wall facing her house, including as many window grates as he needed without any fee. This Letter of Permission was to pass on to the heirs and any other persons who would acquire their homes in the future. In 1900, Prince Gorchakov purchased Shamardina's house, demolished it and built a seven-storied building. This new house was built at the boundary of the Chizhov's house. New building was blocking the windows that had been installed by the former owner. In 1900, Chizhov applied to the court seeking to demolish the building, which prevented penetration of daylight into the building (Law, 1904). Despite the just demands, the court dismissed the claim.

In the nineteenth century, there was a construction boom in Kiev. In particular, in May 1861, under the approved plan, all the streets and squares

Analyzing the construction and technical requirements for housing, as well as development of utilities in the buildings, it can be concluded that in the nineteenth century a stock of private dwellings was formed in such cities as Kyiv and Kharkiv. The suitability specifications for accommodation formed in the nineteenth century were as follows:

- 1) Legality of construction (availability of a construction plan approved by the local authorities, and a legally allocated plot of land).
- 2) Safety of building for residents, neighbours, passers-by.
- 3) Availability of equipment for provision of housing and public utility services.

Another demand that has been put forward for the housing was the demand for its assessment. In the nineteenth century, mandatory assessment of real estate, including households, was taking place. It was carried out by an assessment commission of the Kharkiv City Duma, and eventually – by the Duma Civil Chamber. Evaluation of the household was confirmed by a certificate. Since 1851, mandatory assessment of newly built houses was performed. Introduction of requirements for assessment of housing was due to the fact that, depending on the cost of housing, taxes were imposed (including the mandatory 1% tax on residential buildings), fees at the conclusion of contracts of employment (rent) of a building or room, as well as taxes and fees at the conduct of housing transactions. Mandatory assessment of residential buildings has become a legal requirement for the lawfully build housing and its use.

The sanitary rules put forward for housing in the nineteenth century only began to emerge and be explored. For example, since 1880, the doctors of the St. Petersburg Medical Academy have begun to study the sanitary conditions of residence in the State, particularly in

the Ukrainian lands. The findings of these studies contained in the reports (e.g. in 1871, N. Lentovych prepared a description of the medico-topographical and medico-statistical state of the Kharkiv province). In 1884, I. Mekhmandarov prepared a medical and statistical report on the Kobylyanskiy district of the Poltava province. According to these studies, the living conditions of the population were the worst in Europe. Formation of sanitary norms was the duty of the Sanitary Commissions on the city council. These commissions were formed by the city dumas (parliaments). They controlled and monitored the epidemiological condition of the population, the spreading of infectious diseases, the living conditions in premises and in prison castles. In general, in the nineteenth century there was no state policy on formation of sanitary requirements for housing. The sanitary living conditions of the population were classified, depending on belonging to a particular layer. The living conditions of factory workers in Ukrainian cities were the worst in Europe. Thus, men and women, they all slept close to each other on the floor. If the factory worked in two shifts, there was no possibility to clean such a "bedroom". It was progressive to install plank beds and curtains which separated the rooms into certain parts. However, unlike the workers' barracks in Ukraine and Russia, in Western Europe separate houses were built for accommodation of workers. After analyzing the living conditions of workers in this period, it is fair to say that one of the reasons for the 1917 revolution was the housing crisis that arose due to the lack of consistent steps taken according to the state mechanism in the field of formation of housing legislation and development of safe affordable housing for the population. Regarding the health requirements that should be set for housing, it can be argued that they were not available in the nineteenth century.

From 1900 to 1917, the first housing laws began to appear in Ukraine, which was a part of the Russian Empire at that time. First of all, the conditions for providing housing and the rules of living there for military servicemen were regulated. For example, the Decree of July 22, 1914 «On granting the military servicemen the right to refuse to enter into tenancy agreements», the Order of the Commander of the Moscow Military District of April 5, 1915 «On the prohibition of eviction of family members called up for military service» and the Order of the same Commander about the ban on raising rents for apartments (Avramova, 2019).

Gradually, sanitary and technical requirements for housing are being developed. The definition of living standards was intensified during the Soviet era, which led to the adoption of a separate normative act in 1983 – the Housing Code of the Ukrainian SSR. The preamble of this document defined the main directions of housing policy, in particular, provision of safety of the housing stock, increase of its service life, raise of the level of improvement of residential buildings (Law, 1983). The Article 6 of the Code established that residential premises were intended for living, *i.e.*, they had to meet certain requirements. Housing requirements are consolidated in the Art. 50 of the Code. Thus, the accommodation provided to citizens for living must be well-equipped in relation to the conditions of a particular locality, meet the established sanitary and technical requirements (Law, 1983). It should be emphasized that the Soviet norms for determining the suitability of housing continue to be applied in modern Ukraine, in particular, they are set out in the Regulations on the procedure for inspection of the conditions of residential buildings in order to establish their conformity to sanitary and technical requirements and recognition of residential buildings and residential premises as uninhabitable, approved by the Resolution of the Council of Ministers of the Ukrainian SSR of April 26, 1984 No.189 (Law, 1984).

Given the peculiarities of climatic conditions, housing must meet the following technical requirements: should have heating, ventilation, be located on the ground floor, and meet the minimum living space (13, 65 sq. m. per person). It should be emphasized that it is possible to identify cases in modern conditions, when the accommodation does not meet these requirements. Today, the housing market offers apartments in the basement of an apartment building. As a result, the owner will not be able to register the place of residence, use economic, social, political rights, as the apartment in the basement does not belong to the category of official housing.

Sanitary standards for housing are intended to limit or prohibit a dangerous factor influencing the safe living of a person in the housing. For example, the Order of the Ministry of Health of Ukraine "On approval of the State sanitary norms of permissible noise levels in the premises of residential and public buildings and in residential areas" of February 22, 2019 No.463, states that sanitary norms are intended to limit the intensity or duration of exposure to a dangerous factor (noise) by establishing criteria for its permissible impact on human health, as well as to prevent deterioration of the living environment in case of noise impact (Law, 2019).

Housing Privacy Requirements

Along with the technical and sanitary requirements, there were requirements for housing, which made it possible to ensure the inviolability of private life that took place in housing. Housing, as a mean in the system of human inviolability, has the following functions: it protects the privacy of a person that occurs in the housing; provides a healthy living environment. The implementation of these functions is possible only if the rule of privacy is established in the state. This rule was first established in a court decision in 1900 in the case of the demolition of a seven-story building (Law, 1904). The issue of the rule of privacy of housing was also considered at the World's Fair in Paris in 1910, which resulted in the development of the Resolution of the Fifth International Congress on Housing. This Resolution consisted of nine sections. The first section was focused on the systems of construction of multistory buildings, in particular it was recommended to strive to improve the material and moral living conditions in the construction of multistory buildings (Dikanskiy, 1919). Thus, the privacy rules for housing were formed in terms of technical requirements for housing, which improves living conditions of a human being.

The requirement to preserve privacy in modern Ukraine is formulated in paragraph 5.10. Of the State Building Norms of Ukraine B.2.2-X-20XX «Buildings and Constructions. One-apartment houses»: the distance from the walls of houses with windows overlooking living rooms, kitchens, verandas and main entrances to the house (apartment) to other residential buildings and outbuildings (excluding livestock and birds) must be at least 7 m according to household requirements (requirement for maintaining the privacy of housing) (SBNU, 2020). Therefore, the rules of privacy of housing are formed in accordance to technical requirements for housing. Let us note that the distance between the houses makes it possible to keep in secret the conditions of private housing and what takes place in the housing (relative conditions of privacy in housing); and provide a healthy living environment. The privacy of housing can also be ensured by the installation of means of protection at the choice of the person living in the housing.

From the point of view of the legal characteristics of the rules of privacy of housing, it is worth noting the following. The subject of application of the rules of privacy of housing will be a person living in housing. It is this subject who, on the one hand, has the right to demand the preservation of privacy rules in the housing, and on the other hand, this person has the right to independently formulate privacy rules in the housing. The owner of housing can formulate these rules only on terms of permanent residence in the housing. If he transfers his own housing for use, then with the transfer of the right to use housing, he also transfers the right to form privacy rules in housing.

Housing privacy rules can be considered in an objective and subjective sense. The system of requirements for construction, housing equipment that makes it possible to keep in secret person's private life and what takes place in the housing, and to provide a healthy living environment for a human being is housing privacy rules in an objective sense. It is implemented in the requirements of the distance between houses, by the location of windows, by equipping housing with soundproof doors, etc. The system of requirements for the protection of private life that occurs in housing, which is established by a person living in housing and cannot violate the rights and interests of others, principles of law, justice, reasonableness, and conscientiousness is the rules of privacy of housing in the subjective sense. These requirements may relate to the

rules of construction of the regime of person's living in housing, the rules of visiting housing, behavior in housing, in particular due to national, religious traditions, etc. (Avramova, 2017).

CONCLUSION

The nineteenth century is the main period of formation of the requirements for housing. This is confirmed by examples of such large Ukrainian cities as Kyiv and Kharkiv. During the study, it was found that the following technical requirements to suitability for housing formed in the nineteenth century.

- 1) Legality of construction (availability of a construction plan approved by the local authorities, and a legally allocated plot of land).
- 2) Safety of building for residents, neighbours, passers-by.
- 3) Availability of equipment for provision of housing and public utility services.

It was found that, starting from the nineteenth century, the dwelling was subject to mandatory evaluation. It was determined that there were no consistent sanitary requirements to housing in the nineteenth century. The requirements to suitability for housing of Ukrainians formed the basis for further development in the twentieth century. They indicate the existence of safety requirements to housing until the establishment of Soviet rule in Ukrainian lands.

Requirements for housing in Ukraine were formed in two directions: the formation of sanitary and technical requirements and rules of privacy for living in the housing. Sanitary and technical requirements provide an opportunity to meet safe living conditions. Privacy rules ensure the realization of the right to inviolability of the housing. The combination of these requirements made it possible to consider housing as a complex object of legal relations, which is an element in the mechanism of realizing the right to housing and the right to inviolability of housing.

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