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**THE IMPACT OF RUSSIAN FEDERATION'S ARMED AGGRESSION ON PROPERTY AND OWNERS' RIGHTS: PROTECTING THE LEGAL INTERESTS OF UKRAINIAN CITIZENS IN OCCUPIED AND DE-OCCUPIED TERRITORIES**

The introduction of martial law across Ukraine has led to significant changes in the life of the state, society as a whole, and every individual citizen. Protecting the lawful rights and freedoms of citizens is one of the state's primary duties. However, there are situations where such restrictions are inevitable and can only be applied in a manner and within limits provided by current legislation. The Constitution of Ukraine allows for exceptions regarding the imposition of certain restrictions on human rights and freedoms, directly related to the application of martial law and states of emergency. The introduction of martial law across Ukraine has led to significant changes in the life of the state, society as a whole, and every individual citizen.

Analyzing the sources on this research topic, it can be concluded that issues related to property rights during martial law generate significant interest among many scholars. Important in this direction are the studies by A. Khrebtov and I. Taran [6], which provide a better understanding of the essence of property rights in conditions of martial law, as well as the processes of compulsory alienation and seizure of property. Essential information for this research is contained in the report of the Human Rights Representative of the Verkhovna Rada of Ukraine on the observance of rights of persons affected by the armed aggression of the rf against Ukraine [5].

It should be noted that one of the key directions of national development is a policy aimed at protecting rights. This directive is focused on ensuring human and citizen rights and freedoms, creating necessary guarantees for their realization, and effective mechanisms for protecting rights in case of their violation. The main means of legal protection for violated rights is the court, which guarantees everyone the right to appeal court decisions, actions, or inactions of state and local authorities, officials, and civil servants.

Due to the temporary occupation of part of Ukraine's territory, it is impossible to physically establish courts, law enforcement bodies, and free legal aid centers on this territory, as well as to take all possible measures to ensure access to the Ukrainian justice system. For Ukraine, it is crucial to ensure access for citizens living in temporarily occupied territories to the Ukrainian justice system.

In situations where the functioning of courts and law enforcement bodies in the temporarily occupied territories is halted, the only effective mechanism for citizens under temporary occupation to access Ukrainian justice (courts and law enforcement bodies) is electronic communication.

Article 41 of the Constitution of Ukraine stipulates that no one can be unlawfully deprived of property rights. The right to private property is inviolable. Expropriation of private property can only be applied as an exception for reasons of public necessity, in the manner prescribed by law, and on condition of prior and full compensation for its value. Only in cases of martial or emergency states is the forced alienation of such objects allowed with subsequent full compensation for their value [2].

Article 2 of the Civil Code of Ukraine [7] defines the subjects of property rights as Ukrainian citizens, namely, individuals and legal entities. Owners have the right to possess, use, and dispose of property at their discretion and to perform all actions related to the property to the extent that they do not contradict the law. Therefore, Ukrainian citizens, along with the Ukrainian state, territorial communities, and other subjects, are independent subjects of property rights, distinct from individuals and legal entities, territorial communities, and participants in the respective relations.

The procedure for the expropriation of property in conditions of martial law is also regulated by the Law of Ukraine of May 17, 2012, № 4765-VI «On the transfer, compulsory alienation, or seizure of property under the legal regime of martial or emergency state», which was

approved by the Cabinet of Ministers of Ukraine on October 31, 2012 [4].

It is also worth noting that the compulsory alienation or seizure of property in connection with the introduction and implementation of measures of the constitutional regime of martial law is carried out by local administrations, executive bodies, or military command with the agreement of the respective executive bodies of local councils. The decision is made in the form of an act according to a single sample approved by the Council of Ministers of Ukraine.

Refusal to sign documents and leaving the place of residence does not prevent the expropriation of property for the benefit of the state. Expropriation of property in conditions of martial law occurs even in the presence of certain debts, such as mortgages, pledges, or rights of pledge. Property is subject to compulsory alienation or seizure even if the owner was not present during the drafting of the act of compulsory alienation or seizure of property.

Expropriation of property must be based on an expert assessment. However, if it is not possible to hire an expert, such an assessment may be conducted by state authorities and local self-government after consultations with the property owner. If the property owner refuses or is absent, these bodies have the right to conduct their assessment. The property valuation can be challenged in court. It is important to note that there are cases when the expropriated property survived after the lifting of martial law, and the original owner demands the return of the property. Such a return will be made through the court. The court's decision will be the basis for the return of the property, and it will have legal force. In such a case, the owner is obliged to return the sum of money received in connection with the transfer of property, deducting a reasonable fee for the use of the property.

Moreover, the former owner of the compulsorily alienated property may demand the replacement of the property if the circumstances allow.

According to Article 11 of the Law of Ukraine «On ensuring the rights and freedoms of citizens and the legal regime in the temporarily occupied territory of Ukraine», property rights in the temporarily occupied territories are protected in accordance with Ukrainian legislation[3].

The acquisition of property rights to real estate in the temporarily occupied territories occurs outside the temporarily occupied territories in accordance with Ukrainian legislation.

Any actions concerning real estate (including land plots) committed in the temporarily occupied territory in violation of the requirements of this Law and other laws of Ukraine are invalid from the day of their commission. In case of the introduction of martial law, the provisions of this article may be extended to the temporarily occupied territories and airspace by the decision of the Council of Ministers of Ukraine.

In conditions of martial law, within one month from the day of introduction or cancellation of martial law, state registration of property rights to real estate and other tangible property located in the Autonomous Republic of Crimea, Donetsk, Zaporizhzhia, Luhansk, Kharkiv, Kherson oblasts, the city of Sevastopol, or other localities is conducted.

The state registrar can make a decision only after reviewing the application and documents attached to it.

After completing the registration and entering the right into the State Register of Rights, an extract is compiled, which is published on the judicial authority portal. This extract can be accessed at any time and, if necessary, printed. At the applicant's request, the registrar or notary can print the extract instead of a special form with a signature and seal.

The Resolution of the Council of Europe № 1708 is aimed at ensuring timely and effective compensation to refugees and internally displaced persons for the loss of access and rights to housing, land, and property, from which they have been displaced, without waiting for the outcomes of negotiations on the resolution of armed conflicts or the status of certain territories[1].

Currently, there are certain restrictions on the procedure for receiving material assistance for damaged property and compensation for destroyed housing. Thus, monetary compensation is provided only to victims who are owners of houses located in territories controlled by the Government of Ukraine. A drawback is that owners of houses destroyed in the temporarily occupied territories do not have the right to compensation until these territories are again under Ukraine's control.

The lack of legal mechanisms for compensating individuals whose property was destroyed or damaged as a result of armed attacks indicates the state's failure to fulfill its positive obligations. Since access to restitution and compensation are fundamental human rights, such a mechanism must be introduced at the level of a special law, not a decree.

Ukraine is not the first country to introduce and experiment with such a mechanism. In any case, the issue of compensation and restitution of property is already provided for in the legislation of other countries (for example, Georgia). Importantly, such a mechanism has already been applied

multiple times in international practice for compensating damages caused by war. Thus, if damage was caused as a result of a military attack, compensation for damage caused by the destruction of housing can be claimed in the European Court of Human Rights.

Therefore, in conditions of martial law, only procedures for compulsory alienation and subsequent compensation for the value of private and communal property are applied, and their confiscation is carried out only at the expense of state property. The state does not protect property rights and does not recognize acts (decisions, documents) issued by bodies and individuals created, elected, or appointed by bodies or individuals in a manner not provided by Ukrainian legislation in the temporarily occupied territory.

Ultimately, the issue of protecting property rights in conditions of martial law requires more detailed research in its various aspects, including from a scientific point of view.

The occupied territories of Ukraine remain the sovereign territory of Ukraine, despite their temporary uncontrolled status. Ukrainian citizens and legal entities, as well as their property, remain on these territories. As a legal and social state, Ukraine is obliged to guarantee and ensure the rights of these individuals and legal entities. Occupied territories are no exception.

For Ukraine, it is crucial to ensure access for citizens living in temporarily occupied territories to the Ukrainian justice system. The protection of property rights occurs independently of special legal systems, such as constitutional law, international law, civil law, civil procedural law, criminal law, criminal procedural law, etc.

In conditions of martial law, only the procedure for compulsory alienation and subsequent compensation for the value of private and communal property is applied, and its seizure is carried out exclusively at the expense of state property.

Protecting property rights in wartime is, to put it mildly, an extraordinary task. However, international experience proves that this is a lengthy and complex, but entirely feasible process.

Ukraine will undoubtedly first triumph on the military front and then on the legal front. For this, it is not necessary to wait until the occupation is lifted; all damages must be documented, evaluated, and adjudicated in court.

In modern legal literature, there are no clear scientific studies that examine the issue of property rights in conditions of martial law. Therefore, there is a need for a more precise analysis of the provisions of Ukrainian legislation regarding property relations in conditions of martial law.

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