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Housing Reform and Lawmaking in Ukraine: Between European Standards and Domestic Challenges

By Tetiana Hudima[1], Volodymyr Ustymenko[2], Anton Soshnykov[3], Vitalii Oliukha[4]

ABSTRACT:
This article examines the implications of draft law № 12377 "On the Fundamental Principles of Housing Policy" currently under consideration in Ukraine, with a particular focus on the regulation of service housing. The study argues that, in its current form, the draft poses significant legal and social risks, including potential violations of constitutional guarantees - such as the right to housing, the right to property, and the principle of legal certainty - as well as inconsistency with European human rights standards. The article evaluates the draft through the lens of the European Convention on Human Rights (Articles 1 of Protocol № 1 and 8), the European Social Charter, and the European Pillar of Social Rights. Drawing on comparative legal analysis, the paper identifies critical gaps in the proposed regulation - particularly the absence of transitional provisions, the introduction of paid rental without safeguards, and the lack of mechanisms to address legitimate expectations of long-term residents. The article proposes legal amendments aimed at aligning the reform with the principles of proportionality, social justice, and good governance. Special attention is given to the principle of preventing unintended consequences, which the author recommends integrating as a foundational element of Ukraine's lawmaking process to ensure that vulnerable groups are adequately protected during systemic legal transformations. By linking housing security to broader questions of social sustainability and institutional resilience, the article contributes to the scholarly debate on sustainable legal reform and inclusive urban development within the framework of the Sustainable Development Goals (SDG 11 and SDG 16).

Keywords: service housing, housing policy reform, legal certainty, legitimate expectations, European Convention on Human Rights, social protection, unintended consequences, better regulation, transitional justice, Ukraine

1. Introduction

Ukraine is currently undergoing a major reform of its housing legislation, aimed at replacing the outdated 1983 *Housing Code of Ukraine* (HCU) (Verkhovna Rada of Ukraine, 1983) with a modern framework law on housing policy. One of the key novelties introduced by the government's draft law № 12377 *"On the Fundamental Principles of Housing*

[1]Doctor of Legal Science, Associate Professor, Deputy Head of the Department, State Organization "V. Mamutov Institute of Economic and Legal Research of the National Academy of Sciences of Ukraine", Kyiv, Ukraine, https://orcid.org/0000-0003-1509-5180
2 Doctor of Legal Science, Professor, Corresponding Member of NAS of Ukraine, Director, State Organization "V. Mamutov Institute of Economic and Legal Research of the National Academy of Sciences of Ukraine", Kyiv, Ukraine, https://orcid.org/0000-0002-1094-422X
3 PhD in Legal Sciences, Senior Research Fellow, State Organization "V. Mamutov Institute of Economic and Legal Research of the National Academy of Sciences of Ukraine", Kyiv, Ukraine, https://orcid.org/0000-0003-4998-9713
4 Doctor of Legal Science, Professor, Leading Research Fellow, State Organization "V. Mamutov Institute of Economic and Legal Research of the National Academy of Sciences of Ukraine", Kyiv, Ukraine, https://orcid.org/0000-0002-3339-1154

Policy" is the revision of the legal regime governing service housing - that is, accommodation provided to employees in connection with their employment - and the abolition of the existing mechanism for the privatisation of state-owned housing stock. The absence of legal safeguards for vulnerable social categories, such as pensioners, persons with disabilities, and single-parent families, raises serious concerns regarding the proportionality and foreseeability of the proposed measures. Automatic eviction without individual assessment risks violating fundamental rights protected by Article 47 of the Constitution of Ukraine, Article 8 of the European Convention on Human Rights, and Article 1 of Protocol № 1. To ensure compliance with these legal standards and prevent social dislocation, a more balanced legislative approach is required, including the introduction of transitional provisions and hardship-based exemptions from eviction.

These substantive risks are further exacerbated by shortcomings in legislative drafting. Draft law № 12377 fails to adhere to several fundamental principles of legislative design, including legal certainty, proportionality, and the prevention of unintended consequences. The absence of transitional provisions, social impact mitigation mechanisms, and an assessment of potential side effects indicates a broader deficit in legislative quality - one that ultimately undermines the sustainability and social resilience of the reform.

The relevance of this study stems from the urgent need to raise the standard of legislative drafting in Ukraine, to ensure legal predictability and to protect citizens' legitimate expectations - especially in socially sensitive areas. This is not only an internal constitutional obligation under the Constitution of Ukraine (Verkhovna Rada of Ukraine, 1996) (CU) but also forms part of the country's commitments under its European integration agenda, particularly regarding the implementation of European standards on human rights and good governance. The situation surrounding draft law № 12377 clearly illustrates how a failure to properly account for potential side effects of regulatory change may result in social tension and a disruption of the balance of interests. This calls for further scholarly inquiry into the conceptualisation and normative consolidation of the principle of preventing unintended consequences as a core element of high-quality and responsible legislative policy.

The aim of this article is to provide a legal analysis of the protection of the right to service housing in the context of draft law № 12377, to assess its compliance with the Constitution and with European standards (notably the case law of the European Court of Human Rights - ECtHR), and to formulate recommendations for improving specific provisions of the draft law and legislative design more broadly. To achieve this, the following objectives are pursued: (1) to examine the constitutional provisions relevant to service housing, including the right to property, the right to housing, social protection, and the principle of legal certainty; (2) to analyse the draft law's compatibility with European standards in the field of property rights and social rights, particularly ECtHR jurisprudence (principle of proportionality, protection of legitimate expectations, the requirement of legal certainty, etc.); (3) to review academic literature and EU Member States' experience regarding the legal regulation of service (departmental) housing, with a view to comparison with the Ukrainian context; (4) to identify the main legal risks to citizens arising from the current version of draft law № 12377 (including potential violations of housing rights, legal uncertainty, and an increase in litigation); and (5) to propose mechanisms for the protection of citizens' rights - such as transitional provisions, exemptions, or alternative

housing solutions - and to offer concrete recommendations for amending the conceptual approach of the draft law in order to bring it in line with European standards and the Constitution of Ukraine.

2. Literature Review

The legal regime governing service housing in Ukraine remains insufficiently addressed in legal scholarship, although certain aspects have been explored within the broader context of housing policy and social guarantees (Galjantych, 2011; Galjantych, 2017; Avramova, 2024; Karmaza, 2016; Krylevets, 2021; Porodko, 2015; Saliy, 2014; Kharechko, 2017). On the other hand, an analysis of legislation and legislative initiatives indicates that the issue remains complex and insufficiently regulated. The retention of service housing status directly affects users' rights, limiting their ability to exercise control over the property and creating risks for long-term use. This frequently leads to legal uncertainty and places employees in a vulnerable position, particularly in the event of termination of employment or broader housing sector reforms. As such, the current legal regulation of service housing is deficient from the perspective of legislative design, making it difficult to uphold the principles of legal certainty and the stability of housing rights for employees who occupy such premises.

It is important to emphasize that the Ukrainian approach to employer-provided housing significantly differs from the models dominant in market-based economies. In Ukraine, such housing is often not merely a temporary accommodation linked to an employment function but may also serve as a potential object of privatization: after a certain period of occupancy, employees may acquire the right to private ownership. This mechanism - an inheritance from the transitional post-Soviet period - combines elements of social security, labour incentives, and housing policy. However, it also generates legal uncertainty, particularly in cases of employment termination or legislative changes.

In contrast, the international doctrine treats employer-provided or workforce housing as part of a clearly defined housing policy, typically without any obligation or expectation of subsequent privatization. In their 2024 study on the evolution of employer-provided housing in industrial and post-industrial societies, Zhang and Luo (2024) highlight that such housing initially emerged within a paternalistic model, aimed at retaining the workforce. Over time, however, the trend shifted towards welfare pluralism, whereby housing responsibilities are distributed among the state, the market, and employees. As a result, this trend has fostered a more balanced system focused on long-term affordability rather than property ownership. Western models, particularly in countries like Germany, France, and Canada, have introduced rent-to-own schemes and employer-assisted rental programmes that provide workers with secure tenure without necessarily transferring ownership. These approaches promote housing stability, especially in urban labour markets, while avoiding the fiscal and legal complications of privatization (OECD, 2021; UN-HABITAT, 2009)).

Similar transformations are discussed by Bingqin Li (2005) in the context of China, where decades of state-led housing provision eventually gave way to large-scale privatization, radically altering the distribution of responsibilities among the state, employers, and employees. However, not all transitional models ensured efficiency or social equity. In

post-socialist countries such as Poland, Hungary, and Romania, rapid privatization often led to unequal access and deterioration in public housing quality (Habitat for Humanity. n.d.; Lux & Sunega (2014)). These international experiences suggest that Ukraine's housing reform could benefit from hybrid models that retain public oversight while expanding employee access to affordable rental options. Incorporating legal safeguards for tenure security, transparent allocation criteria, and gradual ownership pathways could help reconcile market-based reforms with social justice objectives.

In the context of Western democracies, considerable attention has been devoted not only to the formal mechanisms ensuring housing access for workers but also to the broader issue of long-term affordability. For instance, the study by Lazarovic, Paton, and Bornstein (2015) compares the experiences of London and Chicago, both of which are moving away from sector-specific housing provision (e.g. for teachers or healthcare workers) toward income-based models, incorporating mechanisms such as shared ownership and public-private partnerships.

This shift reflects a broader international discourse in which the concept of "housing affordability" extends beyond purely financial criteria. Classic works by Baer (1976), Hulchanski (1995), Stone (2006), and Leishman and Rowley (2012) conceptualize housing affordability as a multidimensional phenomenon encompassing the cost-to-income ratio, residual income, adequacy standards, and patterns of consumption. In particular, Stone (2006) presents a compelling case for the residual income approach, which assesses whether a household retains sufficient income for basic needs after paying for housing.

These approaches are further enriched by Friedman and Rosen (2018), who emphasize that the very definition of affordable housing is deeply shaped by political and cultural factors. Drawing on the case of Israel, they demonstrate how the concept of affordability is employed by various political actors to advance competing agendas, rendering it less a technical term and more a normatively charged construct rooted in national narratives, ideological shifts, and institutional legacies.

At the same time, European legal scholarship has developed a substantial body of research concerning general legal principles relevant to this issue - such as the rule of law, legal certainty, and the protection of legitimate expectations. For example, J. Hofmann argues that the principles of legal certainty and the protection of expectations are sub-principles of the rule of law, requiring state authorities to act in a predictable manner and to honour the commitments they have made (Research Network on EU Administrative Law, n.d.). The ReNEUAL research network has synthesised key European principles of good administration, notably emphasising that public authorities should refrain from retroactive measures except in exceptional circumstances, and must respect acquired rights and final legal positions. When introducing new burdensome regulations, it is advisable to include transitional provisions or to allow sufficient time before such rules enter into force (Research Network on EU Administrative Law, n.d.). These conclusions are consistent with the case law of the ECtHR, which will be examined in the following sections. Accordingly, the methodological and theoretical framework of this study combines domestic scholarship on housing law with the European legal doctrine of general principles of law and human rights.

3. Methodology.

Doctrinal (normative) analysis is used to examine the relevant provisions of the Constitution of Ukraine, the current Law *"On the Privatisation of the State Housing Fund"*, draft law № 12377, and related legislative acts. A comparative legal approach allows for the juxtaposition of Ukraine's regulation of service housing with that of EU Member States and international standards. A case-law analysis focuses on the jurisprudence of the European Court of Human Rights concerning the right to property (Article 1 of Protocol № 1) and the right to respect for the home (Article 8 ECHR), as well as decisions of the Constitutional Court of Ukraine interpreting the principle of legal certainty. The formal-logical method is applied to assess the internal coherence of the provisions in draft law № 12377 and their possible consequences, while a prognostic method is used to model legal risks and propose mitigation strategies. The empirical basis includes the expert opinion of the Main Scientific and Expert Department of the Verkhovna Rada of Ukraine (GNEU) on draft law № 12377 (Verkhovna Rada of Ukraine, 2025), as well as statistical data on the volume of non-privatised state-owned housing stock. However, as noted by GNEU, no official statistics have been provided by the Cabinet of Ministers regarding the number, condition, or geographical distribution of service housing units. This substantial information gap impedes the ability to conduct a reliable impact assessment of the proposed reform. Without adequate empirical evidence, it is difficult to model displacement effects or design targeted social safeguards. The lack of transparent, disaggregated figures also undermines parliamentary scrutiny and restricts the formulation of equitable and evidence-based policy responses. While official figures are lacking, approximate estimates from independent research organisations provide a preliminary indication of the scale of the issue. According to a 2024 national survey by the Cedos analytical centre, 0.2% of respondents lived in departmental housing and 0.3% in state-owned housing (Cedos, 2024). While the proportion appears limited in percentage terms, the absolute number of service housing units likely reaches several thousand nationwide. These units are often concentrated in the public sector and linked to employment in education, science, and public administration. Therefore, even modest legal changes may have a disproportionate impact on vulnerable professional groups.

These methods are applied in an integrated manner to ensure a comprehensive and objective analysis.

4. Result.

4.1. Constitutional Foundations for the Protection of the Right to Service Housing

The Constitution of Ukraine guarantees everyone the right to housing (Article 47), providing that the state shall create conditions under which citizens can build, acquire, or rent housing. For individuals in need of social protection, housing may be provided free of charge or at an affordable cost in accordance with the law. While many categories of employees may not formally qualify as socially vulnerable groups—such as persons with disabilities or large families - they may in fact experience low incomes and require additional support in securing adequate housing.

Article 47 Constitution of Ukraine further obliges the state to facilitate the acquisition of housing into private ownership and prohibits forced deprivation of housing except by a court decision based on the law. This is a crucial safeguard: eviction of employees from service housing upon termination of employment should occur exclusively through judicial procedures and under clearly defined legal conditions. The current 1983 Housing Code of Ukraine (Verkhovna Rada of Ukraine, 1983) provides for certain protections against eviction without alternative housing - such as long service or specific social circumstances. However, draft law № 12377 introduces a new approach, under which any termination of employment may serve as grounds for eviction from service housing, with only limited exceptions (e.g., employees who became disabled due to a workplace injury). This narrowing of protections raises concerns regarding compliance with Article 47 Constitution of Ukraine, as it creates the risk of forced eviction without adequate compensatory mechanisms.

In addition to specific provisions on property and housing rights, the Constitution of Ukraine contains general principles relevant for evaluating legislative reforms. Chief among these is the principle of the rule of law (Article 8), of which legal certainty is an essential component. The Constitutional Court of Ukraine has emphasised that legal certainty implies clarity, comprehensibility, and unambiguity of legal norms, as well as their predictability in application. Only under such conditions can the equal and impartial enforcement of laws be guaranteed; otherwise, there is a risk of arbitrariness (Pryimak, 2010). In the context of housing law reform, the principle of legal certainty requires that the rules governing the transition from the old system (the 1983 Housing Code and the Law of Ukraine "*On the Privatisation of State and Municipal Property"*) to the new one must be clear and predictable for citizens. In particular, it is essential to avoid situations in which individuals are left in a state of uncertainty regarding their housing rights.

Moreover, Article 22 of the Constitution of Ukraine stipulates that the adoption of new laws must not result in a narrowing of the scope or content of existing rights and freedoms. While the right to privatise housing is not explicitly enshrined in the Constitution, the legislature is nevertheless obliged to take into account the legitimate expectations of citizens regarding the preservation and adequate protection of their housing rights. Accordingly, in the process of reforming housing legislation, the state must establish clear transitional provisions that safeguard citizens' rights and uphold the principle of progressive development of rights and freedoms.

In summary, the constitutional foundations for the protection of the right to service housing require legal certainty and respect for citizens' legitimate expectations, thereby preventing sudden deterioration in the conditions under which their rights are exercised.

4.2. European Standards on Property Rights and Social Protection in the Housing Sector

In assessing draft law № 12377, it is essential to take into account the standards established within the European legal order - both under the law of the Council of Europe (particularly the European Convention on Human Rights and other instruments) and the law of the European Union. While the right to housing is not explicitly guaranteed by the ECtHR - being instead reflected in Article 31 of the European Social Charter - the ECtHR has developed significant requirements for the protection of housing rights through its

interpretation of other Convention provisions. Chief among these are the right to property under Article 1 of Protocol № 1 to the ECHR, including the doctrinal principle of the protection of legitimate expectations, and the right to respect for the home under Article 8 of the Convention.

The ECtHR has repeatedly emphasised that the notion of "possessions" under Article 1 of Protocol No. 1 has an autonomous meaning. It encompasses not only existing property but also certain claims and legitimate expectations, provided they are sufficiently established under domestic law (Grgiæ, Mataga & Vilfan, 2007). In addition to establishing the existence of "possessions", the ECtHR examines whether the interference was lawful, pursued a legitimate aim, and was proportionate - that is, whether a fair balance was struck between the interests of the individual and those of the community. In the present context, the relevant interference concerns control over the use of property - specifically, service housing that remains in state ownership but has been used by an employee over an extended period of time. Regardless of ownership status, a dwelling that has been continuously occupied by a worker for many years clearly constitutes his or her "home" within the meaning of Article 8 ECHR. Eviction from such housing constitutes an interference with this right.

The Court requires that any eviction must be lawful, pursue a legitimate aim, and be "necessary in a democratic society" - that is, proportionate. Particularly stringent standards apply where eviction may result in homelessness or affect vulnerable groups.

In the area of residential tenancy, the ECtHR initially took the view that where eviction is based on law and enforced by a court order, the state enjoys a wide margin of appreciation. However, with the progressive development of human rights standards, a shift has emerged towards more rigorous scrutiny of the proportionality of evictions, even in disputes governed by private law. For instance, in *McCann v. the United Kingdom* (2008), concerning rented accommodation, the Court required national authorities to assess whether the eviction would amount to a disproportionate interference with the individual's rights.

In the context of service housing, it may be argued that evicting an employee - particularly one of retirement age - from their sole residence following the termination of employment, without offering alternative accommodation, could amount to a disproportionate measure. While the protection of state property rights and the need to reallocate housing to new employees are legitimate aims, the potential harm caused to the individuals concerned must be weighed carefully. The principle of proportionality requires that the interference not be excessive. This implies the existence of effective procedural safeguards, including the opportunity for courts to consider the specific circumstances of the case, as well as the exploration of less intrusive means of achieving the stated objectives.

For example, could the housing be reclassified as social housing if the employee has no alternative place to live? Has a transitional period been envisaged to allow the individual to adapt to the new circumstances? The absence of clear answers to these questions in the current version of draft law № 12377 suggests a potential inconsistency with the European approach to protecting the right to housing. To enhance legal certainty and safeguard continuity of tenure, especially for long-term residents, the introduction of transitional provisions (such as phased implementation timelines or sunset clauses) should be considered. These instruments have been used in European housing reforms to mitigate

the risk of abrupt displacement and ensure that reforms are implemented in a gradual, humane, and proportionate manner. For instance, in Portugal, vulnerable tenant groups benefited from a five-year transitional period, during which rent could not be raised without the tenant's consent and leases could not be terminated unilaterally in the event of disagreement (Feantsa, 2016).

EU law also sets important benchmarks that should guide national policymaking. Although there are no specific EU directives addressing service housing - given that housing policy remains within the competence of Member States - the European Union has proclaimed the European Pillar of Social Rights. Principle 19 of this instrument states that access to social housing or housing assistance shall be provided for those in need; vulnerable groups shall be given appropriate support and protection against eviction, and adequate shelter shall be ensured for the homeless (Inclusion-Europe, n.d.; Housing Rights Watch, n.d.). This form of soft law outlines a standard that EU Member States are encouraged to pursue. Certain categories of workers - such as academic staff, medical professionals, and others- may not traditionally fall under the definition of "vulnerable groups". Nevertheless, if, as a result of state policy, such individuals face the risk of losing their housing in old age, the state must treat them as requiring support and protection.

In addition, Article 17 of the Charter of Fundamental Rights of the European Union guarantees the right of everyone to own lawfully acquired possessions. It prohibits deprivation of property except in the public interest, subject to conditions provided for by law and with the payment of fair compensation (European Commission, 2017). Analogous to Article 1 of Protocol № 1 to the ECHR, this provision is intended to prevent arbitrary interference with property rights. In applying these standards, it must be acknowledged that the state may modify property regulation in pursuit of the public interest - for instance, through reforms of the housing stock - but it must avoid retroactive measures and any serious disruption of citizens' confidence in the stability of the legal framework. The principle of legal certainty in EU law likewise requires that legislative acts should not have retroactive effect, except where this is justified by an overriding public interest and accompanied by due respect for the legitimate expectations of affected individuals (Hofmann, Barnard & Peers, 2014). In other words, even where a legitimate public interest - such as the optimisation of service housing use - necessitates a change in the legal framework, the legislature is under a duty to take into account the expectations of those affected and, where possible, to mitigate any adverse consequences.

To summarise the European context: European standards require that any housing policy legislation strike a fair balance between the public interest and individual rights, respect the established living conditions of citizens, and preserve the social function of housing. The social dimension of property rights is also emphasised in the Constitution of Ukraine, which stipulates that the exercise of property rights must not be detrimental to human rights and dignity (Article 41(6)). Accordingly, the state, as the owner of the service housing stock, must exercise its ownership rights with due regard for the interests of the residents.

4.3. Legal Regulation of Service Housing in the EU: A Comparative Perspective

In Western European countries, the issue of service (departmental) housing has not acquired the same scope as in post-Soviet states, largely because the practice of mass allocation of housing tied to one's place of employment never existed. Instead, two general

approaches can be identified. In some cases, employees are granted access to service housing as a temporary social benefit, primarily for specific categories such as military personnel, police officers, or diplomats - i.e., in professions that require residence in a particular location. In other instances, the state or employer does not provide housing at all. Instead, a well-developed rental market and a system of housing allowances or subsidies serve to meet the accommodation needs of employees.

In most EU Member States, housing is either privately owned or forms part of the social (municipal) housing sector. For example, in the United Kingdom, the 1980s saw the implementation of the "right to buy" policy, which granted tenants of municipal (social) housing the right to purchase their homes at a discount (Kommersant, 2022). However, this policy applied specifically to social housing rather than to dwellings allocated to particular enterprises for the accommodation of their employees. In EU countries such as Portugal, service flats still exist for certain categories of public servants - for example, police officers (The Portugal News, 2023, March 3). However, such accommodation is typically provided only for the duration of employment and must be vacated upon its termination. The right to purchase such accommodation is generally not granted; instead, states may offer other forms of assistance to former employees, such as preferential loans or housing support schemes (Housing Agency, n.d.). Thus, the prevailing European trend favours the development of affordable housing markets and employee mobility, with support for citizens provided through social mechanisms rather than the transfer of service housing into private ownership.

The experience of Central and Eastern European countries is somewhat closer to that of Ukraine, as service (departmental) housing remained a salient issue following the transition to a market economy. In many of these countries, a significant portion of the housing stock was transferred to the private sector during the 1990s, resulting in the near-elimination of the state housing stock. For example, in Poland, state-owned housing now constitutes only a small fraction of the total housing supply (Muczyński, 2024). The issue of service housing was largely addressed either by phasing out its departmental status or by transferring it to municipal ownership for use as social housing.

In some countries, the issue of service housing was addressed through its conversion into municipal housing or by issuing bonds to compensate enterprises for the value of the dwellings, after which residents were permitted to purchase the property (as was the case in the Central and Eastern Europe countries (Czech Republic, Hungary and other CEE countries)) (Muczyński, 2008, 2011, 2024). In several states - particularly post-Soviet ones such as Belarus - the departmental housing stock was maintained for a longer period (Alternativa Brest, n.d). However, even there, mechanisms were gradually introduced to allow for the purchase of such housing or the provision of alternative accommodation upon eviction.

Nevertheless, in many cases, employees in the science and education sectors found themselves in precarious situations similar to those observed in Ukraine - having lived for years in departmental dormitories or flats without a clear pathway to homeownership. As a result, some brought legal claims or sought preferential treatment. This historical experience demonstrates that the challenge of service housing is a structural feature of post-socialist societies, and its resolution typically requires political decisions - whether incentivising or coercive in nature.

European standards do, however, require that any such policy choices respect fundamental human rights. Yet there is no single model or universal solution: countries have adopted different approaches depending on their priorities - whether to preserve state ownership or to improve citizens' housing conditions. Comparative experience from post-socialist countries reveals divergent strategies for transforming employer-provided housing. In Poland, for instance, the introduction of Social Housing Associations (Towarzystwa Budownictwa Społecznego) created a non-profit rental model supported by municipalities, enabling long-term tenancy for low- and middle-income groups without requiring immediate ownership. In parallel, the Polish Constitutional Court prohibited evictions of vulnerable groups without provision of alternative accommodation - a principle known as eksmisja na bruk, which remains a core safeguard in national housing law (Feantsa, 2016) . In Hungary, a different model evolved: following widespread privatization, municipalities retained a limited public housing stock and introduced eviction moratoria for distressed households. The National Asset Management Company was empowered to buy homes in foreclosure and lease them back to former owners as tenants under public schemes (Feantsa, 2016) . These approaches show how combining targeted public rental mechanisms, legal safeguards, and transitional protections can facilitate structurally difficult reforms while preserving housing security and respecting constitutional rights.

From the perspective of legislative drafting, European countries typically include transitional provisions when introducing new rules, particularly in respect of legal relationships that predate the entry into force of the new legislation. The aforementioned Recommendation CM/Rec (2007) 7 of the Council of Europe on good governance explicitly states that, when new burdensome rules are introduced, it may be necessary to provide for a transitional period or to postpone the entry into force of such rules (Research Network on EU Administrative Law, n.d.). Similarly, the case law of the Court of Justice of the European Union insists that retroactivity of legal acts is inadmissible, except in exceptional circumstances where the objective pursued justifies it, and the legitimate expectations of affected parties are respected (Hofmann, Barnard & Peers, 2014). In the area of housing policy, this implies that if a state decides to abolish the right to alternative accommodation upon termination of employment, or to amend other essential safeguards for service housing residents, it must either provide for an adequate transitional period to allow individuals to adapt to the new legal conditions, or implement compensatory measures - such as preferential rental arrangements, access to social housing, or other forms of support.

4.4. Analysis of Draft Law № 12377: Risks to the Rights of Employee Categories Eligible for Service Housing *(Based on Resolution № 37 of the Council of Ministers of the Ukrainian SSR of 4 February 1988)*

This section considers in detail the specific provisions of the draft law that pose potential risks to the rights of employees eligible for service accommodation and evaluates them in light of the legal principles discussed above.

1. New Grounds for Eviction from Service Housing. As previously noted, Article 28 of the draft introduces a rule whereby the termination of an employment relationship constitutes an automatic and unconditional ground for the termination of the right to use service housing and for the subsequent eviction of the former employee (Judicial and legal

newspaper, 2025; Verkhovna Rada of Ukraine, 2025). An exception is made only for individuals who have acquired a disability as a result of an occupational injury - they are not subject to eviction. However, no such exceptions are provided for pensioners, families with children, internally displaced persons, or other socially vulnerable groups, including employees who have worked at the enterprise, institution, or organisation that provided them with service housing for more than ten years. In contrast, the current Housing Code (Article 125) includes certain protective guarantees (Verkhovna Rada of Ukraine, 1983).

The resulting risk is a significant increase in the threat of housing loss for employees upon dismissal or retirement. At present, many individuals continue to work beyond retirement age primarily to retain their service accommodation. Under the proposed reform, however, such strategies may no longer be effective, as dismissal due to retirement or voluntary resignation would immediately trigger the termination of housing rights.

Although evictions must still be carried out through the courts, and Article 109 of the Housing Code allows for a postponement of enforcement for up to one year, the draft law does not require the provision of alternative accommodation (Verkhovna Rada of Ukraine, 1983).

This omission is not merely a technical gap but one with direct social implications. In Ukraine, service housing remains prevalent in sectors such as healthcare, education, and science - particularly in rural or structurally underfunded regions. Professionals residing in such housing are often unable to afford market rent or to relocate without institutional assistance. As such, the absence of a legal requirement to provide alternative accommodation may leave long-serving employees - such as teachers, medical personnel, or researchers - exposed to abrupt housing loss upon dismissal or retirement.

A practical illustration of this is found in the Martynivka rural territorial community (Poltava region), which explicitly allocates service housing to local teachers and medical workers who lack access to private accommodation (Martynivka rural territorial community, 2022). This case demonstrates how such housing arrangements remain essential for sustaining public service provision in rural areas. The removal of legal protections, without transitional alternatives, may thus not only harm individual rights but also weaken local capacities to attract and retain skilled personnel in socially important sectors.

In practice, for example, a retired medical worker may be left without housing or be forced to seek shelter with relatives. Such an outcome is clearly at odds with the European principle of protection against eviction of vulnerable persons (Inclusion-Europe, n.d.). Moreover, the prospect of mass eviction of elderly employees appears socially unacceptable. There is also a tangible risk of violation of Article 8 of the ECHR. In the event that such a case were brought before the European Court of Human Rights, the Ukrainian government would be required to demonstrate that the rigid approach adopted - without the provision of exceptions - was necessary and proportionate.

2. Introduction of Paid Rental for Service Housing. The draft law defines service housing as accommodation provided for rent to individuals who are required to reside at their place of work (Verkhovna Rada of Ukraine, 2025). Under the *Civil Code of Ukraine* (Verkhovna Rada of Ukraine, 2003), the rental of housing is presumed to be paid, meaning that the draft effectively abolishes the possibility of using service housing free of charge. In practice, many employees currently pay only utility costs for such accommodation, without

making rental payments. Following the adoption of the law, it is likely that new rental agreements will be concluded, requiring tenants (i.e. employees) to pay a fixed rental fee. On the one hand, this shift reflects a move towards market-based relations. On the other, it imposes an additional financial burden on the household budgets of such employees. The imposition of rental payments does not take into account the actual financial situation of many employees for whom, due to the specific nature of their work, housing ought to be provided free of charge - for example, young teachers in rural areas or medical assistants. Young researchers also typically do not have high incomes, and paying rent for service housing may represent a significant financial burden.

As a result, there is a risk that some academic or public sector employees may refuse the offered accommodation due to the inability to pay, thereby complicating their ability to work -particularly when employment requires relocation. Alternatively, they may be forced to pay a market-level rental fee for service housing, which would consume a substantial portion of their income. This raises broader concerns about the adequacy of wages and the level of social protection afforded to these professionals. Previously, the provision of free housing served as a form of compensation for low public-sector salaries. The proposed legislative change eliminates this compensatory function. Consequently, there is a tangible risk of staff attrition, particularly in the scientific and research sectors.

3. Absence of a Transitional Period or Safeguards. Draft law № 12377 does not include any specific provisions addressing the legal status of individuals who are already residing in service housing at the time of its adoption. Once the law enters into force, for instance, a retired doctor who was previously protected under the Housing Code - due to age and length of service - would formally lose that protection. The law offers no transitional period or compensatory alternatives. This creates a classic "gap" scenario, in which an individual falls between the old and new legal regimes and is left outside the scope of either.

The principle of legal certainty requires that such situations be avoided. As emphasised in Council of Europe documents, public authorities must refrain from interfering with acquired rights and finalised legal situations, unless such interference is justified by an overriding public interest (Research Network on EU Administrative Law, n.d.). Where legal rules are being changed, the legislature must either provide transitional provisions or allow sufficient time for individuals to adapt (Research Network on EU Administrative Law, n.d.). As things currently stand, no such measures have been included. This creates the risk of so-called "frozen" cases, in which residents of service housing are left in a state of legal uncertainty - unsure whether they will be evicted, permitted to privatise their accommodation, or transferred into social housing. The draft law remains silent on these matters. Thus, the key risks posed by draft law № 12377 to employees eligible for service housing can be summarised as follows: (1) the loss of any prospect of acquiring the dwelling into private ownership; (2) potential deprivation of housing upon termination of employment without alternative solutions, thereby undermining legitimate expectations of continued use of the dwelling into old age and jeopardising the fundamental right to housing - especially for those who accepted low public-sector wages in exchange for housing benefits; (3) increased financial burden due to the imposition of rental payments, which is not offset by any additional guarantees or social safeguards; (4) legal uncertainty regarding the status of non-privatised service housing and the absence of transitional

provisions, which undermines legal predictability and may lead to a surge in litigation and social tension.

4.5. Proposals for Mechanisms to Protect the Rights of Employees Eligible for Service Housing *(Based on Resolution № 37 of the Council of Ministers of the Ukrainian SSR of 4 February 1988)*

To mitigate the risks identified above and to align the reform with European standards, it is advisable to introduce a set of legal mechanisms aimed at protecting the rights of employees eligible for service housing. These mechanisms should be embedded both in the legislative text itself and in the implementation of housing policy. The following measures appear particularly appropriate:

- Targeted (individualised) exemptions. If full-scale privatisation of the service housing stock is deemed inadvisable for any reason, the law could nonetheless provide for specific exemptions allowing residents to retain their housing. For instance, it could be stipulated that individuals who have worked for the housing-providing institution for more than 20 years and have since retired may be granted ownership or indefinite use of the dwelling. Such a provision would represent an act of social justice for older employees.

Alternatively, retired employees could be allowed to retain their service accommodation by converting it into social housing. In other words, upon retirement, their dwelling could be formally reclassified as part of the social housing stock and transferred to them for use on that basis. Under Article 47 of the Constitution of Ukraine, social housing is to be provided free of charge or at an affordable cost to those in need of protection - and pensioners with low income clearly fall within this category.

This would require coordination with local authorities, but a statutory mechanism could be established - for example, the local government, upon submission by the relevant institution, could transfer the dwelling to the social housing fund and conclude a social tenancy agreement with the retired employee. This approach would preserve the balance between maintaining state ownership of the property and ensuring that individuals are not left without housing.

- Alternative mechanisms for acquiring housing. It would be advisable to introduce a rent-to-own scheme specifically for those service housing units currently occupied by employees. As the legal owner, the state could conclude a long-term rental agreement (e.g., for 20 years) with the tenant, incorporating a clause under which ownership of the dwelling is transferred to the tenant at the end of the term, provided that rental payments have been made regularly and in full. This would serve as a form of mortgage substitute - effectively enabling individuals to "buy out" their housing through monthly instalments without involving a commercial bank.
- Protection from eviction and support in case of displacement. The law should include provisions to soften the harshness of eviction measures. For example, a rule could be introduced requiring that, in cases where a person who has occupied service housing for a certain number of years and owns no other property is evicted, they must be offered alternative accommodation - either social housing or temporary housing from a municipal reserve. Similar guarantees have previously existed in legislation governing dormitories and transitional housing. This aligns with the European legal principle that vulnerable persons should be provided with support and protection against homelessness.

Another potential safeguard could be introduced for cases in which an employee is dismissed due to institutional reorganisation or for reasons not attributable to their own conduct (e.g., redundancy, liquidation) (Inclusion-Europe, n.d.; Aranguiz**,** n.d.). In such cases, the employee should not only be granted additional time to vacate the property, but also receive compensation for relocation or for renting alternative accommodation. These provisions could be structured as part of a broader social protection package.

- Clarification and Phased Implementation. It is essential that the reform not be implemented abruptly. The competent authorities should formally communicate to the public the rationale behind the changes - for example, why the option of privatisation is being abolished, what alternatives are available, and where individuals may seek assistance. Consideration should also be given to introducing a moratorium on evictions from service housing during the first year following the law's entry into force. This would help reduce social tensions and allow for the legal relationships in question to be regulated at the level of secondary legislation.

Based on the analysis provided above, the following specific amendments to draft law № 12377 are recommended in order to bring it into conformity with European standards and the constitutional requirements of Ukraine:

1. Introduce the possibility of purchasing service housing on preferential terms. A new article should be added to the main text of the law (possibly in the section concerning the state and municipal housing stock) to regulate the alienation of service housing to its current occupants. For example, the article could state: "The authorised managing authority shall have the right to decide on the alienation (sale) of service housing to the individual residing therein, at market value or on preferential terms as determined by the Cabinet of Ministers of Ukraine. In cases where the individual has worked at the institution maintaining the property for at least 15 years, a discount of up to 50% of the market value or a payment instalment plan of up to 10 years may be granted." This is merely a sample formulation - details would require further development. The key idea is to legally permit (rather than prohibit) the transfer of service housing to employees, where the owner (i.e. the state) does not object. At present, the Law of Ukraine "*On the Privatisation of State and Municipal Property*" is being repealed, and no alternative mechanism for alienation is proposed.
2. Expand the list of exceptions to the eviction rule. In Part 5 of Article 28 of the draft law, it is proposed to add that, in addition to persons with disabilities, the following categories should also be protected from eviction: persons of retirement age who do not own any other housing; families with dependents or minor children, until the children reach the age of majority; individuals who have worked at the relevant institution for at least 10 years (a guarantee currently enshrined in the existing Housing Code). This would effectively reinstate the social guarantees previously provided under the Housing Code and ensure consistency with the principle of proportionality. Alternatively, it could be stipulated that eviction of such persons is permissible only if they are offered alternative suitable accommodation - mirroring existing provisions in the current Housing Code.
3. Establish a procedure for converting service housing into social housing**.** The law should define a clear mechanism by which a dwelling may be reclassified from service housing to social housing. Specifically, it should allow for a flat to be removed from the service housing category - based on a decision by the owner or the authorised management

body - and transferred to the social housing stock of the relevant territorial community, with a social tenancy agreement concluded with the current occupant(s). This is particularly important in situations where the institution no longer requires the dwelling to accommodate new employees, and the individuals residing in the property are in need of social protection. Such a provision would resolve a legal gap previously identified by V. I. Konoval, who has pointed out that the current legislation does not clearly establish the procedure or grounds for revoking the service housing status. As a result, authorised bodies frequently deny residents such reclassification requests without sufficient justification (Zhytomyr.Info, 2021). The new law should address this legislative gap by setting out clear criteria for when and under what conditions the status of a dwelling may be changed. For example, if a person has worked for a certain number of years and meets the criteria for low income, the service dwelling could be converted into social housing at their request. This would ensure both legal guarantees for individuals and flexibility in the management of the housing stock.

The proposed amendments aim to render the draft law socially just, legally certain, and compatible with European legal principles. Their implementation would help ensure that housing reform achieves its intended objectives - modernisation and efficiency - without unjustified infringement of the rights and interests of employees who have contributed to the development of the country.

4.6. Accounting for Unintended Consequences in the Legislative Process

Of particular interest in the context of housing reform in Ukraine is the EU-recognised principle of preventing unintended consequences in lawmaking. Since the times of Adam Smith and John Locke, scholars have emphasised that government regulation may produce not only its stated aims but also side effects - often negative - for certain social groups (Norton, n.d.). This notion was further developed by Robert Merton in his theory of the unintended consequences of purposive social action. Merton argued that such effects often arise due to the neglect of indirect outcomes or a limited assessment of potential risks (Merton, 1976).

This approach has found practical application in EU lawmaking, particularly within the framework of the *Better Regulation* agenda, which requires not only the assessment of direct impacts, but also of indirect social and economic consequences, including potential risks for vulnerable groups. Specifically, under the *Impact Assessment* system, the European Commission requires that potential side effects of regulation be evaluated - for instance, the risk of increased homelessness or the destabilisation of housing rights for certain categories of individuals.

In light of the above, it appears appropriate not only to apply this approach during the impact assessment phase, but also to elevate it to the level of a fundamental principle guiding legislative activity in Ukraine. Unlike the principles of proportionality or necessity, which primarily concern the selection of regulatory instruments, the principle of preventing unintended consequences is aimed at ensuring strategic foresight in lawmaking and protecting socially vulnerable groups from collateral risks that may arise beyond the explicit aims of the legislation. Incorporating this principle into Ukraine's legislative framework would not only harmonise domestic lawmaking with European standards, but

also contribute to upholding the principle of legal certainty, enhancing public trust in the legislative process, and increasing the social responsibility of the legislator.

In view of the foregoing, it is proposed to introduce corresponding amendments to the Law of Ukraine *"On Legislative Activity"*. In particular, Article 3 of the Law should be supplemented with a new paragraph 9, worded as follows: *"prevention of unintended consequences - the identification and mitigation of potential adverse effects of legal regulation on society or on specific categories of individuals"*. This would incorporate, at the level of fundamental principles, the requirement to consider collateral risks during the legislative process. In addition, it is recommended to improve Article 30 of the Law by amending paragraph 2 of Part 1 to include an explicit obligation to assess indirect and unintended consequences for each of the alternative policy options under consideration. This would bring Ukrainian lawmaking practice into closer alignment with European approaches to *Impact Assessment*.

5. Conclusion

The analysis conducted in this study demonstrates that, in its current form, draft law № 12377 contains provisions that may potentially infringe upon constitutional guarantees - particularly the right to property, the right to housing, and the principle of legal certainty. Moreover, the draft does not fully align with European human rights standards. In particular, the provision mandating immediate eviction following termination of employment creates a situation in which the legitimate expectations of a significant category of citizens - namely, the expectation to either acquire housing or at least not be left without shelter - are disregarded by the state (Research Network on EU Administrative Law, n.d.). The absence of transitional arrangements and social safeguards within the draft raises serious concerns regarding its compliance with the rule of law, which obliges the legislator to ensure predictability and fairness in legal decision-making (Research Network on EU Administrative Law, n.d.). European standards - including the case law of the European Court of Human Rights on the protection of property rights and the proportionality of state interference, as well as recommendations issued by the Council of Europe - underscore the necessity of exercising caution in relation to acquired rights and of implementing reforms gradually and with due regard for legal continuity (Research Network on EU Administrative Law, n.d.).

For Ukraine, which aspires to integrate into the European community, it is of utmost importance that domestic reforms comply with these standards not merely on a declarative level, but in substance. In the present case, the issue concerns the lives of thousands of employees whose personal circumstances are closely tied to service housing. This balance cannot remain abstract; it must be implemented through enforceable legal and policy mechanisms that ensure effective protection for individuals affected by reform. In particular, the legislator should introduce proportionality requirements for tenancy termination decisions, establish transitional safeguards for long-term occupants, and prohibit evictions without adequate alternative accommodation - especially in the case of vulnerable groups. Anchoring such guarantees in national legislation - drawing on Article 8 ECHR, Article 1 of Protocol № 1, and relevant decisions of the Constitutional Court of Ukraine - would enhance legal certainty, strengthen public confidence in the reform process, and align Ukraine's housing policy with European legal standards. The legislator

must strike a reasonable balance between the interests of the state as the owner of the housing stock and the rights of these citizens. Based on the analysis conducted, the following conclusions and recommendations can be drawn:

- adherence to the principle of legal certainty. It is essential to eliminate the legal uncertainty surrounding the status of residents of service housing. To this end, transitional provisions must be incorporated into the draft law to ensure a smooth shift from the existing regime to the new one. The non-retroactivity of provisions that worsen the legal position of individuals is a core requirement of the rule of law and of public trust in the state (Hofmann, Barnard, & Peers, 2014);
- respect for legitimate expectations. The state must recognise that employees who have diligently worked for many years while residing in service housing have developed legitimate expectations regarding continued use of such accommodation. A complete denial of those expectations without compensation would appear unjust. It is therefore recommended to establish specific mechanisms for addressing or compensating such expectations - through measures such as the permitted purchase of service housing, lifetime tenancy for pensioners, or priority access to public housing programmes. This would reflect continuity in social policy and demonstrate that the state honours its "promissory" obligations towards its citizens (Research Network on EU Administrative Law, n.d.);
- ensuring social protection in the event of eviction. If an employee is nevertheless subject to eviction from service housing due to termination of employment, the law must ensure that such eviction does not amount to a disproportionate penalty. It is recommended that the law be supplemented with provisions prohibiting eviction without the provision of alternative accommodation for certain vulnerable groups (pensioners, persons with disabilities, families with children), or requiring deferral of eviction and relocation assistance. This would be consistent with the requirements of Article 8 of the ECHR regarding proportionality in interference with the right to housing, as well as with the principles of the European Social Charter, which prohibit homelessness (Kenna & Aldanas, n.d.);
- strengthening social guarantees. At a strategic level, the state should view housing support for employees in socially vital professions - such as healthcare workers, teachers, and others - as an integral component of policies aimed at reinforcing human capital and social cohesion. The reform should therefore be accompanied by additional measures: increased funding for housing programmes for young professionals, the provision of subsidised loans for home purchase, the construction of modern service dormitories, and so forth. Although some of these intentions are already stated in the draft law (e.g., preferential credit schemes and rent-to-own mechanisms) (Ukrinform, 2025), it is crucial to ensure their effective implementation for the target group that is losing access to privatisation;
- revision of specific provisions in the draft law. In particular, the provision requiring payment of rent for service housing should be reconsidered for those categories where it is inappropriate. A differentiated approach could be introduced - for example, reduced rental payments for young specialists during the first years of employment, in order to attract them to sectors such as science and research. In addition, the law should provide, at the secondary legislation level, a transparent procedure for removing a dwelling from

the service housing category. This would resolve the current legal conflict and prevent abuse by managing institutions that have previously denied such requests arbitrarily.

The implementation of the above recommendations would not only replace outdated Soviet-era approaches, but would also align Ukrainian housing policy with contemporary European values - respect for human rights, legal predictability, and the balancing of public and individual interests. The result would be a reformed and effective legislative framework for the state, and meaningful guarantees for employees that their housing rights will be properly protected and respected. In this way, the objectives of housing reform can be achieved without infringing constitutional rights, thereby contributing to the success and legitimacy of the reform in the eyes of society.

It should be emphasised that the effectiveness of the above recommendations would be significantly enhanced by enshrining a new principle of legislative activity - the prevention of unintended consequences. This approach is consistent with modern European practices and would enable policymakers to systematically consider both the direct and indirect effects of legislative changes, particularly on vulnerable groups. In the context of service housing reform, this principle could help minimise the risks of social tension, increased homelessness, and other negative outcomes that may result from insufficient analysis of long-term impacts. Introducing such a principle would not only align Ukrainian legislative practice with the *Better Regulation* methodology of the European Union, but would also promote sustainability and social sensitivity in domestic reforms.

Ultimately, this would represent an important step towards building a predictable and effective legal environment - one that is essential for Ukraine's integration into the European legal space and its progress toward the standards of good governance.

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