

A Program for replacing the damaged houses or for supplanting people's consent?

Recently, the society and the media have been actively discussing the need to replace the derelict housing stock in the city. Replacing the dilapidated houses was also among the electoral campaign pledges of the mayoral candidate from Georgian Dream. In the spring of 2022, the Tbilisi City Municipal Assembly actually developed the terms for replacing dilapidated houses. A little earlier, in March, a similar program was approved in Batumi. According to the program, municipalities will allocate funds from the budget, using which, after dismantling the damaged houses, a private company will build a new house in their place, where a part of the apartments will be given to the owners of damaged houses, and the part will be sold commercially. It should be noted that neither the adopted rules nor the course of their implementation provide answers to many questions that naturally arise in society regarding the process of replacing houses. Due to the absence of public involvement in the decision-making related to the program and vague stipulations in the adopted resolutions, there are suspicions that, despite the budgetary funds spent and the municipal property allocated in the process of its implementation, the program, under the guise of public interests, will actually serve the joint financial interests of business and the government.

Replacement of Damaged Housing is not a targeted homelessness program

Homelessness is an unresolved problem faced by the state of Georgia and its municipalities for years. The country does not have a system for recording the number of homeless people, nor does it have a fair concept or criteria to assess their situation, according to international standards. Sporadic and unsystematically developed services in municipalities can neither serve the homelessness prevention nor solve the problems associated with responding to it. And against the background of all of this, the scale of the problem is increasing. In 2020-2022, 17,000 people applied to Tbilisi Municipality for housing. In October 2022, on the "Real Space" TV show, dedicated to the issues of homelessness and the lack of proper housing policy, strategy and plan in the country, the representative of Tbilisi Municipality described the "Emergency Housing Replacement Program" as a step implemented to prevent homelessness and devoted the entire air time to talking about this program. Could the replacement of the housing in emergency state be considered a targeted homelessness prevention or response program, when the beneficiaries of the said program are only those families/individuals who own property, and furthermore, only those who own it on the territory of a specific municipality. In addition, according to the adopted rules, in order to participate in the program, the apartment owned by them must also meet specific criteria of state of disrepair. It is obvious that the discussed program targets only a certain group of people living in inappropriate housing. People experiencing the various forms and conditions of homelessness cannot benefit from this service: the homeless, victims of domestic violence, people living in institutions who have nowhere to go due to the lack of services.

Privileges for the developers

The main prerequisite for the implementation of the program for the replacement of damaged houses is the consent of the investor to participate in the project. Thus, the project should be financially beneficial for the developer. And this is possible only if the location of the property is attractive and, at the same time, allows for the construction of such a voluminous building that enough marketable property remains after providing the replacement housing. In order to gain the approval from the developers, the regulations of replacing houses in emergency state offer budgetary participation in the project and exemption from a number of urban regulations.¹ Namely, the relevant resolution allows the investor to exceed the land development intensity coefficients during the construction process, to build according to regulations different from the requirements established by the law, to ignore a number of restrictions that determine the maximum height of buildings, functional area, traffic and greening regulations; Moreover, according to the resolution, the decision on the replacement process provides automatically, without the existence of prerequisites stipulated by the legislation, the approval to the signing of the zonal agreement. According to the legislation, evasion of town planning regulations is allowed, as an exception, only in the presence of conditions defined by the law. However, over the years, the main reason for the chaotic development of many cities in Georgia is the uncontrolled growth of construction ratios and changes in town planning regulations. The normalization of rationing and zonal agreements has been the cause of civil group protests for many years. All the more so that such exemptions have become the subject of a "legal deal" between the municipality and the business: in exchange for allowing the exemptions, the developer pays the municipality a sum of money as compensation, or hands over apartments (in white frame condition) in the houses built by him. According to the information provided by the City Hall, only in 2020-2022, more than 8 million GEL was included in the budget as such compensation, and the transferred/to be transferred area (in white frame condition) exceeds 1890 square meters. As a result of changes in coefficients, both Tbilisi and Batumi lost many important recreational and public spaces, important part of cultural heritage. The ecological situation in the cities has worsened. The decision to replace dilapidated houses will, in fact, lay the foundation for even more intense use of this onerous exception condition for the investors.

The authorities granted a similar privilege to the developers of Batumi in the summer of 2022 by making changes in the "Code of Spatial Planning, Architectural and Construction Activities of Georgia" in an accelerated manner. On the basis of the changes, it became possible to remove such construction obligations for the wide range of constructions planned in Batumi, which ensure the safety of the building, a safe environment for health, and the execution of the right of accessibility for disabled people. According to the explanatory note to the draft law: "The interest of construction and development companies in the replacement of such objects is possible only if they both satisfy the population and produce the type of construction (high-rise, larger construction areas, etc.) that will satisfy their financial interests." The Public Defender deemed these changes incompatible with the Constitution and appealed to the Constitutional Court. Construction carried out by neglecting safety standards and evading a number of

¹ Tbilisi budget has allocated 20 million GEL in 2022 and another 20 million in 2023 for replacing the damaged residential houses with new ones. This money is supposed to be used for the implementation of civil works and the purchase of construction materials.

regulations, comprises a special danger, especially taking into account the frequent earthquakes in the region in the recent period. The rule on the replacement of damaged houses clearly defines that the replacement does not apply to buildings with the status of a monument, because the law on cultural heritage strictly protects them. However, the rule does not say anything about the replacement of those buildings located in the historical part of Tbilisi, which, although not protected by the status of a monument, exist in the fabric of the historical development of Tbilisi and are located in the cultural heritage protection zone. Dismantling such houses and replacing them with large-scale constructions that do not correspond to the historical part of the city has also become an established practice over the years. The City Hall claims that there are no plans for replacement of dilapidated houses in historical districts under current program. At the government meeting held at the beginning of 2023, the mayor gave an order to develop a different program for the owners of dilapidated houses in the historical part of Tbilisi. Against the background of the shortcomings reviewed here and the most serious interventions carried out in the territory of Old Tbilisi in recent years, even the expectation of a new program does not give reasons for optimism.

Replacement or coercion?

The program of replacement of the dilapidated houses is proceeding at a slow pace. So far, the process of replacing only one house in Tbilisi, a residential building in Varketili, has been started. According to the Mayor and members of the City Council, the process is being delayed due to the owners of the damaged houses not giving their consent for replacement. It is obvious that making the fate of the owners of dilapidated houses the subject of a deal between the municipality and the developers and the vagueness of the processes has led to a serious mistrust towards the program among the large part of the population. Initially, in order to solve this problem in Batumi, the authorities tried to make changes in the legislation on forced confiscation of property. According to the draft law, the refusal to participate in the program was deemed to be a prerequisite for forcible confiscation of property. The proposal was so obviously in breach of the constitution that, in the end, the parliament refused to pass it. After that, Tbilisi Municipality tried to solve the same problem, this time by making changes in the resolution of the Municipal Assembly. According to the new regulation: the city government "is authorized to consider the issue of replacing the damaged housing on another plot of land without the full consent of the stakeholders". This completely vague stipulation caused even more distrust in the public. In social networks, discussions on the possibility of forced evictions were renewed, and in response to these the mayor issued a statement. He rejected the possibility of any kind of coercion and noted that the change in the resolution allowed the City Hall to start the construction process on the municipal plots of land without the consent of the population. What the mayor failed to explain was why it was necessary to make changes to the replacement regulation, given that construction by the mayor's office on municipal property does not require the consent of the population anyway. The City Hall also failed to answer the question as to why it linked the construction of housing on 4 municipal plots with the replacement of damaged houses, if the owners of these houses do not give their consent to the replacement; it is also unclear what will happen if only part of the owners agree to the replacement. In this case, what will happen to the residents who will stay in the damaged house, a replacement housing for which has been already built and municipal funds have been spent? The City Hall will have to

answer these questions, if not publicly, then at least in the Constitutional Court, because the change was challenged by a group of citizens as containing serious threats to property rights.

There is much that is unclear about the Program for replacement of houses in emergency state. What is clearly visible is that there are the dangers of further damage to the urban fabric of the city and the already disturbed structure of the historical quarter. The mistrust is caused by the vagueness of this regulation, lack of communication with the population, and, on the contrary, the search for ways to take into account the interests of businesses, create legal guarantees for them. However, the attitude of the municipality cannot be altered even by the distrust of the population. The attitude is as follows: if the population does not agree with you - change the law, or at least, change the resolution.