

Legal Regulation of the Post-War Economic Recovery of Ukraine

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ANNOTATION. The article demonstrates that the study of legal regulation of post-war economic recovery in Ukraine is conditioned by the importance of the tasks facing Ukrainian society and the State in the area of economic recovery after the end of hostilities on the territory of Ukraine. The author characterizes the main legal, economic, social, environmental, humanitarian and organizational principles of the State regional policy as an integral part of the country's domestic policy. The author highlights the peculiarities of restoration of regions and territories affected by the armed aggression against Ukraine and demonstrates that they are determined by the Laws of Ukraine "On the Principles of the State Regional Policy" and "On Regulation of Urban Development". A thorough review of the mechanisms of these laws in the context of the requirements for the restoration of the country on the basis of the State regional policy and the principles of regulation in the urban development sector is made. The draft Law of Ukraine "On the Principles of Restoration of Ukraine" presented on May 10, 2024 by the Ministry for Development of Communities, Territories and Infrastructure of Ukraine, which is currently being finalized, is announced and described. The need for proper institutional and legal preparation for the use of the existing legal framework in the recovery process is emphasized, in particular, the activities of the National Council for the Recovery of Ukraine from the Consequences of War, established by the Decree of the President of Ukraine of April 21, 2022 No. 266/2022, which developed the Recovery Plan for Ukraine, are positively assessed. It is stated that international discussion and international support for the post-war restoration of our country on the platforms of such international events as the Lugano Conference (July 2022); Berlin Conference (October 2022); Conference on the Restoration of Ukraine in Rome (April 2023); Conference in London (June 2023); Conference in Berlin (June 2024) are important. Ukraine has developed legislation aimed at regulating the processes of post-war economic recovery. However, this legislation requires further development and specification. In this regard, it is important to adopt a separate special comprehensive law on the post-war economic recovery of Ukraine and to bring other laws of Ukraine into line with it.

KEYWORDS: legal regulation, post-war economic recovery, economic recovery, territorial recovery, local development project, regional development project, comprehensive recovery program, international support.

Introduction

The relevance of the study of legal regulation of post-war economic recovery in Ukraine is stipulated by the importance of the tasks facing

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Ukrainian society and the State in the area of economic recovery after the end of hostilities on the territory of Ukraine. Therefore, the purpose of the article is to characterize the state of legal support for the regulation of post-war economic recovery in Ukraine.

Certain aspects of organizational and legal support for the post-war economic recovery of Ukraine are already the subject of research in legal science^{2;3;4}, but no comprehensive study of the legal regulation of the post-war economic recovery of Ukraine has been conducted.

Legal basis for regional recovery

The basic legal, economic, social, environmental, humanitarian and organizational principles of the state regional policy as an integral part of Ukraine's domestic policy, as well as the specifics of restoring regions and territories affected by armed aggression against Ukraine, are established by the Law of Ukraine "On the Principles of the State Regional Policy" of February 5, 2015, No. 156-VIII. The restoration of regions and territories affected by the armed aggression against Ukraine is one of the directions of the state regional policy. According to Art. 1 of this law, the restoration of regions and territories affected by armed aggression against Ukraine is defined as a set of priority organizational, financial and other measures aimed at accelerating the restoration of critical infrastructure, social infrastructure, residential and public facilities to a state that allows for the return of internally displaced persons and refugees to the region, and the creation of favorable conditions for the activities of all business entities.⁵

The restoration and development of territorial communities and regions is carried out on the basis of local development projects and regional development projects (regional development investment projects). According to Art. 1 of the Law of Ukraine "On the Principles of State Regional Policy", a local development project is a set of interrelated measures to address specific problems of the development of a territorial community aimed at achieving the goals set out in the development strategy of the territorial community and/or the plan for the restoration and development of the

² Orlova O. S. 2024. Postwar reconstruction of Ukraine: analysis of certain programmatic principles. *Analytical and Comparative Jurisprudence*. No. 3. pp. 189–194. URL: <http://journal-app.uzhnu.edu.ua/article/view/308192/299691>.

³ Mishchenko V. S. 2023. Post-war reconstruction of Ukraine on the basis of social justice (economic and legal aspect). *Legal scientific electronic journal*. No. 12/2023. pp. 150–152. URL: http://lsej.org.ua/12_2023/36.pdf.

⁴ Organizational and legal support for the reconstruction and economic development of cities in the context of post-war recovery of Ukraine. *Economics and law*. 2023, No. 3. pp. 53–60. URL: <https://nasu-periodicals.org.ua/index.php/economiclaw/article/view/5811/5154>.

⁵ On the Principles of State Regional Policy: Law of Ukraine of February 5, 2015, No. 156-VIII. URL: <https://zakon.rada.gov.ua/laws/show/156-19#Text>.

territorial community.⁶ In turn, regional development project (regional development investment project) is defined as a set of interrelated measures to address specific regional development problems aimed at achieving the goals set by the State Strategy for Regional Development of Ukraine or a regional development strategy and/or a regional recovery and development plan that affects a macro-region, region or part thereof, drawn up as a document in the form prescribed by law, which determines the actions of project participants, and

The documents being developed for the restoration and development of regions and territories affected by the armed aggression against Ukraine include: 1) a plan for the restoration and development of regions; 2) plans for the restoration and development of territorial communities.

The following functional types of territories are defined for the purpose of planning the restoration and stimulation of the development of regions and territories, as well as for the purpose of introducing special mechanisms and instruments by executive authorities and local self-government bodies: 1) restoration territories; 2) regional growth poles; 3) territories with special conditions for development; 4) sustainable development territories.

Restoration territories are micro-regions, territorial communities on whose territory hostilities took place and/or which were temporarily occupied, and/or whose territories suffered destruction of critical infrastructure, social infrastructure, housing facilities as a result of hostilities, and which are characterized by a sharp deterioration in the level of socio-economic development and significant population displacement to other regions and/or other states.⁷

The restoration of regions and territories affected by the armed aggression against Ukraine is carried out in accordance with the plan for the restoration and development of regions, developed and approved in accordance with the Law of Ukraine "On the Principles of State Regional Policy". When developing a plan for the restoration and development of regions, the existing potential and prospective specialization of the territories are taken into account.

The Regional Recovery and Development Plan is approved by the Cabinet of Ministers of Ukraine. The draft plan for the restoration and development of regions is developed by the Ministry of Infrastructure together with other interested central and local executive authorities in accordance with the procedure determined by the Cabinet of Ministers of Ukraine. For example, the Resolution of the Cabinet of Ministers of Ukraine of July 18, 2023 No. 731 "On Approval of Procedures for the Restoration and Development of Regions and Territorial Communities" approved the Procedure for

⁶ On the Principles of State Regional Policy: Law of Ukraine of February 5, 2015, No. 156-VIII. URL: <https://zakon.rada.gov.ua/laws/show/156-19#Text>.

⁷ Ibid.

Determining the Restoration Areas and the Procedure for Developing, Implementing and Monitoring the Regional Restoration and Development Plan and Territorial Community Restoration and Development Plans.⁸

It should be noted that the regional recovery and development plan includes regional recovery and development plans, as well as individual measures and projects of regional development and/or projects of local development of territorial communities. A draft regional recovery and development plan is developed by the relevant Council of Ministers of the Autonomous Republic of Crimea, oblast, Kyiv or Sevastopol city state administration in accordance with the procedure established by the Cabinet of Ministers of Ukraine and submitted to the central executive body responsible for the formation of the state regional policy for inclusion in the regional recovery and development plan.⁹

The plan for the restoration and development of the territorial community is developed and approved by the relevant village, town or city council in accordance with the procedure established by the Cabinet of Ministers of Ukraine.¹⁰

Highlighting the powers of the subjects of state regional policy to restore the respective territories, it should be noted that:

- the powers of the Cabinet of Ministers of Ukraine in the field of state regional policy include, inter alia, approval of the State Strategy for Regional Development of Ukraine, the plan of measures for its implementation, the list and composition of the relevant functional type of territories, as well as the plan for the restoration and development of regions; determining the procedure for the development, implementation and monitoring of the plan for the restoration and development of regions, plans for the restoration and development of territorial communities;
- the powers of the central executive body responsible for the formation of the state regional policy include the preparation and submission of draft regulatory legal acts on the restoration of regions and territories affected by armed aggression against Ukraine in accordance with the established procedure; development of a plan for the restoration and development of regions in cooperation with other central and local executive bodies;
- the powers of the central executive body implementing the state regional policy include the implementation of measures to restore regions and territories affected by armed aggression against Ukraine in cooperation with

⁸ On approval of procedures for the restoration and development of regions and territorial communities: Resolution of the Cabinet of Ministers of Ukraine of July 18, 2023, No. 731. <https://zakon.rada.gov.ua/laws/show/731-2023-%D0%BF#n36> [In Ukrainian]

⁹ On the Principles of State Regional Policy: Law of Ukraine of February 5, 2015, No. 156-VIII. <https://zakon.rada.gov.ua/laws/show/156-19#Text>. [In Ukrainian]

¹⁰ On approval of procedures for the restoration and development of regions and territorial communities: Resolution of the Cabinet of Ministers of Ukraine of July 18, 2023, No. 731. <https://zakon.rada.gov.ua/laws/show/731-2023-%D0%BF#n36> [In Ukrainian]

other central and local executive bodies, the Council of Ministers of the Autonomous Republic of Crimea, and local self-government bodies;

- the powers of the Council of Ministers of the Autonomous Republic of Crimea, regional, Kyiv and Sevastopol city state administrations in the field of state regional policy include ensuring the drafting of a regional recovery and development plan and its submission to the central executive body responsible for the formation of state regional policy for inclusion in the regional recovery and development plan; approval of draft plans for the recovery and development of territorial communities;

- village, town and city councils approve plans for the restoration and development of territorial communities.¹¹

The coordination of activities of central and local executive authorities and local self-government bodies in implementing the State Strategy for Regional Development of Ukraine and regional development strategies is determined by the Action Plan for the Implementation of the State Strategy for Regional Development of Ukraine, action plans for the implementation of regional development strategies, and the plan for the restoration and development of regions.

In accordance with the requirements of the Law of Ukraine "On the Principles of State Regional Policy", in order to effectively implement regional policy, develop and implement regional development projects and obtain funding for such projects (both from the budget and from international financial and grant projects), the relevant regional councils and regional state administrations and other co-founders may establish regional development agencies. The legislation stipulates that a regional development agency is a non-profit institution established for the purpose of effective implementation of the state regional policy in the region and is not a budgetary institution. The tasks of the regional development agency in the field of state regional policy include, among other things, participation in the drafting of a regional recovery and development plan, plans for the recovery and development of territorial communities.

One of the mechanisms for financing the state regional policy is the plan for the restoration and development of regions, which is financed by state support for regional development. Prioritization of the implementation of measures and projects of the plan for the restoration and development of regions is one of the principles of state support for regional development. When preparing the Budget Declaration and the draft State Budget of Ukraine for the relevant period, a separate budget program is envisaged to finance measures to restore regions and territories, as well as regional development programs and projects and/or local development projects.

¹¹ On the Principles of State Regional Policy: Law of Ukraine of February 5, 2015, No. 156-VIII. URL: <https://zakon.rada.gov.ua/laws/show/156-19#Text>. [In Ukrainian]

Programs for comprehensive restoration of territories

In addition to the Law of Ukraine "On the Principles of State Regional Policy," the issue of restoration of territories is regulated by the Law of Ukraine "On Regulation of Urban Development Activities" of February 17, 2011, No. 3038-VI, which uses the term "comprehensive restoration program"¹².

Thus, the program of comprehensive recovery of the region, territory of the territorial community (its part) (comprehensive recovery program) is defined as a regional or local program of territorial recovery, which defines the main spatial, urban planning and socio-economic priorities of the recovery policy and includes a set of measures to ensure the recovery of the territory of the relevant region, territory of the territorial community (its part), which suffered as a result of armed aggression against Ukraine or where socio-economic, infrastructural and The Comprehensive Recovery Program does not belong to urban planning documentation.¹³

The program for the comprehensive restoration of the region is developed by the decision of the head of the regional state administration in the form of an electronic document and entered into the Register of Construction Activities in the format specified by the Cabinet of Ministers of Ukraine in the Procedure for Maintaining the Electronic System.¹⁴

The program of comprehensive recovery of the region includes: 1) a general description of the region; 2) information on the availability of urban planning documentation in the region, analysis of its relevance and the degree of its implementation; 3) analysis of the negative impacts (including hostilities, terrorist acts, sabotage, emergencies) that led to the need to develop the program; 4) analysis of the territory's resources for the restoration of the region's vital activity; 5) information on the need to prepare the territory (including demining, dismantling of destroyed buildings and structures, land reclamation); 6) information on the technical feasibility and economic feasibility of restoring settlements (territories) affected by hostilities, terrorist acts, sabotage, and emergencies; 7) information on the technical feasibility, economic feasibility of restoring the engineering, transport, energy infrastructure, infrastructure of electronic communication networks, engineering infrastructure of land reclamation systems; 8) substantiated proposals for changing the functional purpose of certain territories of the region (which affect the interests of several territorial

¹² On the regulation of urban development: Law of Ukraine of February 17, 2011, No. 3038-VI. URL: <https://zakon.rada.gov.ua/laws/show/3038-17#Text>. [In Ukrainian]

¹³ Ibid.

¹⁴ Some issues of ensuring the functioning of the Unified State Electronic System in the field of construction: Resolution of the Cabinet of Ministers of Ukraine of June 23, 2021 No. 681. URL: <https://zakon.rada.gov.ua/laws/show/681-2021-%D0%BF#n40> [In Ukrainian]

communities), taking into account existing buildings and existing urban planning documentation; 9) substantiated proposals for the transfer of the facility. Funding for the development of a program for the comprehensive restoration of the region is provided by budgetary funds, international technical and/or reimbursable or non-refundable financial assistance from international organizations.¹⁵

The program of comprehensive restoration of the territory of the territorial community (its part) is developed by the decision of the executive body of the village, settlement, city council. The program of comprehensive restoration of the territory of the territorial community (its part) is developed in the form of an electronic document and entered into the Register of Construction Activities in the format determined by the Cabinet of Ministers of Ukraine in the Procedure for maintaining the electronic system.¹⁶

The program of comprehensive restoration of the territory of the territorial community (its part) includes:

1) a general description of the settlement (territory) for which it is developed, including: a) geographical location; b) general economic assessment; c) general environmental assessment; d) number of permanent residents; e) number of temporarily displaced residents;

2) information on the availability of urban planning documentation on the territory of the territorial community (its part), analysis of its relevance and the degree of its implementation;

3) analysis of negative impacts (including hostilities, terrorist acts, sabotage, emergencies) that led to the need to develop the program;

4) analysis of the negative impacts that led to the need to develop the program on the traditional character of the environment, historical areas of settlements, cultural heritage sites;

5) analysis of the territory's resources for restoring the vital activity of the territory of the territorial community (its part);

6) information on the need to prepare the territory (including demining, dismantling of destroyed buildings and structures, land reclamation);

7) information on the damage caused by hostilities, terrorist acts, sabotage, and emergencies: a) residential real estate and public facilities; b) production facilities (industry, agriculture, etc.); c) social facilities; d) cultural heritage facilities; e) housing and communal facilities e) facilities of engineering, transport, energy infrastructure, infrastructure of electronic communication networks, engineering infrastructure of land reclamation

¹⁵ On the regulation of urban development: Law of Ukraine of February 17, 2011, No. 3038-VI. URL: <https://zakon.rada.gov.ua/laws/show/3038-17#Text>. [In Ukrainian]

¹⁶ Some issues of ensuring the functioning of the Unified State Electronic System in the field of construction: Resolution of the Cabinet of Ministers of Ukraine of June 23, 2021 No. 681. URL: <https://zakon.rada.gov.ua/laws/show/681-2021-%D0%BF#n40>

systems; f) civil defense facilities; g) other facilities that have an impact on the vital activity of the relevant territory of the territorial community (its part) (if any);

8) information on the technical feasibility, economic feasibility of restoring damaged objects by performing reconstruction, restoration, overhaul or current repair;

9) information on the technical feasibility, economic feasibility of restoring objects by means of new construction or proposals for the construction of new objects to replace those that have been damaged or destroyed, with the determination of the application of reuse projects and the development of individual design solutions;

10) information on the necessary measures of engineering preparation and engineering protection of the territory;

11) reasonable proposals on the expediency of changing the functional purpose of the territorial community (its part), taking into account the existing buildings and existing urban planning documentation;

12) proposals for amending or developing urban planning documentation at the local level;

13) substantiated proposals for the relocation of industrial facilities;

14) an action plan to ensure the comprehensive restoration of the territory of the territorial community (its part) with the determination of priority;

15) preliminary financial and economic calculation to ensure the comprehensive restoration of the territory of the territorial community (its part);

16) proposals for sources of financing for measures to ensure the comprehensive restoration of the territory¹⁷.

Institutional and organizational preparation

The Decree of the President of Ukraine of April 21, 2022, No. 266/2022, established the National Council for the Restoration of Ukraine from the Consequences of War as an advisory body to the President of Ukraine, and approved its Regulations¹⁸.

The main task of the Council is to develop an action plan for the post-war recovery and development of Ukraine. In accordance with Presidential Decree No. 266/2022 of April 21, 2022, the National Council for the Restoration of Ukraine from the Consequences of War developed the Recovery Plan for Ukraine within 24 working groups¹⁹.

¹⁷ On the regulation of urban development: Law of Ukraine of February 17, 2011, No. 3038-VI. URL: <https://zakon.rada.gov.ua/laws/show/3038-17#Text>. [In Ukrainian]

¹⁸ Issues of the National Council for the Restoration of Ukraine from the Consequences of War: Decree of the President of Ukraine of April 21, 2022 No. 266/2022. URL: <https://www.president.gov.ua/documents/2662022-42225> [In Ukrainian]

¹⁹ Ukraine's recovery plan. URL: <https://recovery.gov.ua/>.

On May 10, 2024, the Ministry of Communities, Territories and Infrastructure Development of Ukraine presented the draft Law of Ukraine "On the Principles of Restoration of Ukraine". This draft law is currently being finalized. The purpose of this draft law is to regulate the basic legal, organizational and financial framework for the effective, transparent and accountable restoration of Ukraine, as well as the principles of the creation and functioning of the DREAM system. For the first time, it is proposed to regulate at the legislative level the principles of functioning of the Unified Digital Recovery System of Ukraine DREAM – an integrated information and communication system designed to automate the management of recovery projects, as well as to monitor the implementation of these projects and the use of financial resources.²⁰

International discussion and support for Ukraine's postwar recovery are important. Five important international events took place in this direction: The Lugano Conference (July 4–5, 2022); the Berlin Conference (October 25, 2022); the Conference on Ukraine's Recovery in Rome (April 26, 2023); the London Conference (June 21–22, 2023); and the Berlin Conference (June 11–12, 2024).

Conclusion

Ukraine has developed legislation aimed at regulating the processes of post-war economic recovery. However, this legislation requires further development and specification. In this regard, it is important to adopt a separate special comprehensive law on the post-war economic recovery of Ukraine and to bring other laws of Ukraine into line with it.

** This article was translated from its original in Ukrainian*

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Received: November 08, 2024

Accepted: November 20, 2024

Released: December 31, 2024