

Summary of the Special report

On the protection of rights to joint ownership of the owners of the constructions of blocks of flats

During the year of 2011 inhabitants of some blocks of flats in Nagorno Karabakh Republic particularly in the town of Stepanakert, in applications, addressed to me, expressed their dissatisfaction with the fact that the local governing bodies gave the basements and other territories around their buildings to other people, and they asked my interference in the matter of re-establishing their violated constitutional right of privacy.

After some investigations we found out that such legal relations are regulated by the Civil Procedure Code of Nagorno Karabakh Republic (NKR), by the NKR law on “Managing the blocks of flats” as well as by resolution № 135 adopted by the NKR Government on March 27, 2007.

According to Article 224 of the Civil Procedure Code, the constructions of the building, the basement, the technical floors, the roof and a number of other equipments and territories necessary for keeping and supplying the building, which are not the privacy of other people, belong to the owners of the blocks of flats by the common partial privacy right.

The NKR law on “Managing the blocks of flats” gives the same and more detailed regulation to the above written matter.

The term “the area for keeping and supplying the blocks of flats “, found in the mentioned juridical documents, was interpreted by the NKR Government’s resolution on March 27, 2007, according to the first paragraph of which the same is considered to be both the areas under the buildings and the territory around the building (with the width of 1,5 metres), if it is not a road, a street, a pavement or property of another person.

In accordance with points 3 and 4 of the same decision, during 6 months after it came into force, the mayor of Stepanakert and the leaders of regional administrations of NKR had to give the State Committee of Real Estate Cadastre the plans of the areas for keeping and supplying the blocks of flats, as well as the decisions concerning the unauthorized annexes.

On the basis of these documents the head of the State Committee of Real Estate Cadastre should have to register the common rights of partial privacy of the owners of the flats and (or) the places not fit for living.

During the investigation of the matter it has been found out that the demands of the above-mentioned decision were not done though, particularly, were not registered the joint privacy rights of the owners of blocks of flats concerning these areas.

The reason is the leaders of regional administrations and the mayor of Stepanakert didn’t give the necessary documents to the NKR State Committee of Real Estate Cadastre, on the basis of which the committee would register the rights of privacy.

The created situation can violate and do violate the joint privacy right of the owners of the blocks of flats and the buildings, as the owners must themselves decide the fate of these areas, and not the local self-governing bodies.

Thus, as the demands of resolution № 135 of the NKR Government on March 27, 2007 haven’t been done, such violations are still taking place in Stepanakert and in some regional centres. The same is not excluded in other areas as well.

Taking into account the above-given and guarded by point 1 of part 1 of Article 15, and by Article 16 of the NKR law on “Human Rights Defender,” by the resolution № g-1-008/11 on October

2, 2011, I suggested the mayor of Stepanakert and the leaders of regional administrations to take measures for registering the common partial privacy rights of the owners of habitable and inhabitable areas and subsequently to avoid doing actions which would violate these rights.

Proceeding from the above- written facts and being guarded by Article 16 of the NKR law on “Human Rights Defender”, I ask your interference in the question of rehabilitation of the above mentioned violated human rights and in preventing the further possible violations.

Human Rights Defender
of the Republic of Nagorno Krabakh

Yuri Hayrapetyan

November 16, 2011