



DIFFERENCE OF THE RIGHT OF HOUSING INTEGRITY FROM SOME RELATED RIGHTS

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Article history:	Abstract:
Received: 11 th February 2024 Accepted: 20 th March 2024	This article examines the essence of the right to the inviolability of the home, and identifies the subjects of this right. A comparative legal analysis of the right to privacy of housing with the right to housing, the right to privacy, and the right to inviolability of property was carried out.
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When analyzing the inviolability of the home, it is important to identify the subjects of the implementation of the inviolability of the home. According to E.A. Vologina Considering the implementation through the prism of the participants, they can be divided into two groups:

1. subjects - holders of rights;
2. subjects - obligated persons.

We agree with her classification by E.A. Vologina, by directly analyzing the subjects of the holders of the right, we can cite the tenant (tenants) of a certain dwelling, who, based on their will, either consent or refuse to enter the dwelling. Whereas the subjects of the obligated persons have an obligation to respect the right of inviolability and fulfill the will of the tenant (tenants), except for the exceptions established by law. Consideration of the issue related to the inviolability of the home must be carried out while simultaneously analyzing related fundamental rights and freedoms of man and citizen.

The right to inviolability of property is a fundamental economic right of a person guaranteed by the Constitution, meaning a prohibition on the alienation of items of property legally owned by him.

A.Ya. Ryzhenkov identifies three possible options for the concept of inviolability of property:

1. inviolability of the owner's property, that is, the absence of anyone's access to this property;
2. the inviolability of property as a relationship, that is, the absence of the opportunity to interfere in the process of the owner exercising his powers;
3. the inviolability of the property right itself, as one of the fundamental principles of law enshrined at the constitutional level.

Comparing the concepts of inviolability of home and inviolability of property, V.D. Zorkin said that the inviolability of home is one of the most important

elements of the legal status of an individual. It provides a person with the opportunity to use his home at his own discretion, without interference from anyone. Whereas L.V. Smirnov argues that the inviolability of property is one of the basic principles of the rule of law. It guarantees the protection of a person's property from arbitrary seizure.

In our opinion, the inviolability of home and property are two separate rights guaranteed by the state. The right to inviolability of the home means that access to a residential space is permitted only with the consent of its residents, while the right to inviolability of property implies the protection of property from unlawful interference. This right to the inviolability of the home belongs not only to the owners, but also to those who temporarily reside in the premises with their permission. The inviolability of the home is considered as an element of the rule of law and legal capacity, ensuring the protection of life, health, personal dignity and other aspects of private life. While the inviolability of property is more aimed at protecting the owner's rights to his property.

The inviolability of home and the inviolability of property are two fundamental human rights, usually enshrined in constitutions. However, there are a number of important differences between them:

1. Object of protection:

The inviolability of the home protects the home, that is, a room suitable for permanent or temporary residence of a person.

Property rights protect any property owned by a person, including real estate, personal property, securities, etc.

2. Grounds for restriction:

Restriction of the inviolability of the home is possible only in cases strictly established by law, for example, during investigative actions, during natural disasters, to prevent a crime.



Limitation of the inviolability of property is possible in a greater number of cases, for example, when seizing property for state needs, when foreclosure on obligations.

3. Restriction procedure:

Restriction of the inviolability of the home is permitted only with court approval.

Restriction of the inviolability of property may be allowed in some cases without a court decision, for example, when the debtor's property is detained.

4. Protective measures:

In case of violation of the inviolability of the home, the victim has the right to compensation for moral damage and material damage.

In case of violation of the inviolability of property, the victim also has the right to compensation for moral damage and material damage, as well as to restoration of his property rights.

In conclusion, the difference between the inviolability of the home and the inviolability of property is significant and is associated with different areas of legal protection. The inviolability of the home provides guarantees against illegal invasion of living space and is considered as a means of ensuring the rights and freedoms of the individual in the context of his private life. This right applies not only to the owners, but also to those who live on the premises with their permission. On the other hand, the sanctity of property is more aimed at protecting the owner's rights to property from unlawful interference. It provides legal protection of property and establishes the basis for the free disposal and use of this property.

Both of these rights are considered important elements of the legal order, striking a balance between the interests of the individual and the owner, as well as providing the basis for compliance with laws and the protection of the private sphere of citizens.

In addition, for example, human rights in Islam related to housing are characterized by the right to housing, the right to inviolability of the home, and the right to privacy. In addition to the home, that is, the place that a person uses for temporary or permanent residence and where he spends time as a home, all surrounding outbuildings legally owned by the person enjoy the same inviolability. Muslim law prohibits entry into a home without the owner's permission, regardless of the status of the person committing such actions. This regulation is due to the fact that Islam prescribes the following: "Do not enter houses (except your own houses) until you ask permission and wish peace to their inhabitants." Based on this, we should understand the difference between the inviolability of the home and the inviolability of privacy.

Privacy - considered non-interference of other persons in personal, family, psychological and other personal relationships, not to disclose personal, family and other personal secrets, to collect, store, change, use, distribute or process personal data in any way without the consent of the person, the state of the inviolability of the home.

The right to privacy is considered in two aspects: as an independent subjective right and as a complex of its components, which include the right to privacy of personal secrets, the right to privacy of family secrets, the right to privacy of correspondence, telephone and other communications, postal, telegraph and other messages of a personal nature, the right to inviolability of home, to confidentiality of information about a person's private life. Each of these components is, on the one hand, an independent right, having specific goals, structure, content, objects of inviolability, each corresponding to its own principles of legitimate restrictions. But, on the other hand, they are united by a generic concept.

Inviolability of the home and privacy are two separate but interrelated rights that protect the private spheres of citizens. The difference between them can be distinguished as follows:

Inviolability of the home:

- this right guarantees the protection of living space from illegal intrusion;
- focuses on protecting the physical integrity and security of the home, as well as controlling access to it;
- the focus is on the place of residence, providing citizens with confidence that their home and personal space will remain inaccessible without their consent;

Privacy:

- this is a broader concept that covers all aspects of the personal life of citizens;
 - includes the protection of not only the physical environment, but also personal data, communications, freedom of expression and other aspects not directly related to the place of residence;
 - reflects the more general rights and freedoms of a person in the sphere of his individual life and activities.
- Thus, the sanctity of the home focuses on protecting the living space, while the sanctity of privacy extends to a wider range of personal and intimate areas of an individual.

Moreover, it is necessary to clarify the difference between the right to housing and the right to inviolability of the home. Some scientists believe that the definition of the content of the "right to housing" should be based on the principle of sectoral affiliation of this legal category. For example, Skripko V.R. believes that this right is exclusively constitutional, which in turn



presupposes the legal possibility of using a citizen's existing residential premises, its inviolability, and the prevention of arbitrary deprivation.

Khaldeev A.V. notes that it is precisely the belonging of the category "dwelling" to the constitutional branch of law that contributes to the connection of the spheres of property and personal interests of citizens, in which fundamental human rights and freedoms are expressed, which explains the multidimensional, complex nature of housing.

A different position is taken by Bogdanov E.V., who believes that, the right of citizens to housing is a type of subjective civil law.

In our opinion, the most well-reasoned position is the position of L.M. Pchelintsev, who quite rightly noted that "the right to housing is a subjective right of citizens and, taking into account its complexity and multifaceted nature, is implemented in legal relations of different legal nature - general constitutional legal relations, organizational (administrative)), property (civil) legal relations, etc. In our opinion, the most well-reasoned position is the position of L.M. Pchelintseva, who quite rightly noted that "the right to housing is a subjective right of citizens and, taking into account its complexity and multifaceted nature, is implemented in legal relations of different legal nature - general constitutional legal relations, organizational (administrative)), property (civil) legal relations, etc. In this regard, it is regulated by legal norms of various content, and not just the one in which this subjective right is formulated in a general form.

In this regard, we believe it is appropriate to conclude that the right of citizens to housing in its content is a broader legal category than the right to inviolability of housing. The right to housing, first of all, includes the actual possibility of owning a thing. That is, this is a right that ensures the satisfaction of the interests of the authorized person by directly influencing a thing that is in the sphere of a person's economic management.

Comparing the opinions of scientists, one can note differences in the interpretation of the concepts of "privacy" and "inviolability of the home." While F.H. Madiev sees them as interconnected elements; other scientists, such as A.A. Karitonov, believe that the inviolability of the home is an independent right, covering not only the place of residence, but also physical and mental integrity.

We can note that the inviolability of the home is an inalienable and independent right, which has deep roots in the concept of natural human rights. This right arises from the awareness of the inalienability of the individual sphere of life and the physical space in which a person lives.

The independence of the inviolability of the home is manifested in the fact that it is not limited only to the physical security of the place of residence. This right also provides a psychologically comfortable space for a person where he can feel protected and free from unwanted interference.

Thus, the inviolability of the home is a natural right that exists independently of specific laws and political systems. This right expresses the importance of the integrity of each person's personal space, making it fundamental to ensuring a just and free society.