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PERMANENT MISSION OF
THE REPUBLIC OF ALBANIA
GENEVA

No Protocol 831

The Permanent Mission of the Republic of Albania to the United Nations Office and Other International Organizations in Geneva presents its compliments to the UN Special Rapporteur on adequate housing and has the honor to transmit herewith the Albania *Questionnaire on the responsibilities of sub-national governments with respect to the right to adequate housing*.

The Permanent Mission of the Republic of Albania to the United Nation Office and Other International Organizations in Geneva avails itself of this opportunity to renew to the UN Special Rapporteur on adequate housing the assurances of its highest consideration.



Geneva, 11th of November 2014

UN Special Rapporteur on adequate housing
Office of the High Commissioner for Human Rights

GENEVA



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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Mandate of the Special Rapporteur on the right to adequate housing

I. Background and objectives of this questionnaire

In her upcoming report to the General Assembly, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Ms Leilani Farha, outlines some of the priority themes that she intends to address during her mandate (A/69/274).¹

Among others, she identifies the increasingly important role of governments at the sub-national level (state, provincial and municipal) in the implementation of the right to adequate housing. In many countries sub-national levels of government hold key responsibilities for a range of programs and policies linked to adequate housing, including not only housing programs but also income assistance programs, provision of water, sanitation, electricity and other utilities, tenancy and security of tenure legislation, programs assisting particular marginalized and vulnerable groups (such as migrants, persons with disabilities, women, Indigenous peoples, among others) and implementation of housing strategies and strategies to address homelessness.

Since under international law, accountability to human rights norms and standards operates primarily through the national level government, there are often particular challenges facing countries in ensuring implementation of the right to adequate housing by sub-national levels of government. The Special Rapporteur notes that this issue has not attracted concentrated attention from special procedures mandate holders though often arising in the examination of the situation in many countries. Hence, she has decided to focus her first thematic report to the Human Rights Council, pursuant resolutions 15/08 and 25/17, on the question of enhancing accountability to international human rights norms and standards of sub-national governments in relation to adequate housing.

The Special Rapporteur is mindful of diverse domestic arrangements of responsibilities among various levels of government. She wishes to better understand those arrangements and existing mechanisms for monitoring and accountability for the implementation of binding international human rights treaties related to the right to adequate housing. This questionnaire is designed to invite Governments and other relevant stakeholders to share information and inputs for the report, which will be presented to the Human Rights Council at its 28th session in March 2015.

This questionnaire aims to identify key challenges facing States in relation to the implementation of the right to housing by subnational levels of government and the primary means through which accountability to international human rights can be ensured. It also aims to identify illustrative examples of the kinds of issues faced by countries in the implementation of the right to adequate housing through sub-national governments and new and innovative strategies that have been developed to address these issues, or other examples of good practices. The Special Rapporteur also hopes to learn of sub-national initiatives to ensure accountability to the right to adequate housing, in particular to those vulnerable to rights violations (eg. incorporating the right to adequate housing, non-discrimination and other housing-related rights into city, provincial/state Charters).

¹ The report is available at: <http://www.ohchr.org/EN/Issues/Housing/Pages/AnnualReports.aspx>

II. Submission of Responses

Kindly bear in mind that the study does not intend to address the detailed distribution of responsibilities in each country, but aims to focus on an overview of challenges and examples of practices which will be of benefit to the Special Rapporteur in understanding the situation. Therefore, it is hoped that responses will provide a brief overview of how responsibilities are divided up and some concrete examples of challenges and how these have been addressed.

When possible, please identify links or provide copies of any law, regulation, policy or other document related to your answers. Due to limited capacity for translation, we kindly request that you submit your answers, if possible, in English, Spanish or French and, **no later than Friday, 31 October 2014.**

Please send your responses preferably via email to: srhousing@ohchr.org, or to:

UN Special Rapporteur on adequate housing
Office of the High Commissioner for Human Rights
Special Procedures Branch, Palais Wilson, Room 3-077
CH – 1211, Geneva 10
Switzerland

For any question, please contact the Special Rapporteur through her assistant, Ms. Juana Sotomayor, Special Procedures Branch- OHCHR: email: jsotomayor@ohchr.org; phone: +41 22 917 94 45.

III. Questionnaire

A. Distribution of responsibilities related to the right to adequate housing:

- Please identify the levels of government (national, provincial/state, municipal) primarily responsible for the following: (where primary responsibility is shared please check more than one):

	National/ Federal	Provincial / state	Municipal	Explanatory Notes
Housing programme	x	x	x	See explanatory notes below
Income support (eg: transfer payments to individuals, welfare, social security and/or rent subsidies/supplements)	x	x	x	See explanatory notes below
Tenancy and security of tenure legislation	x		x	See explanatory notes below
Infrastructure (eg: Water/sanitation, electricity)	x	x	x	See explanatory notes below
Prohibition of discrimination in housing	x	x	x	See explanatory notes below

Answer

Explanatory Notes:

Housing Programme

In National Level, ministry drafts policies for housing. In local level, municipalities and provincial state implement the housing programs and select the beneficiaries.

Income support

In National level, the rent is subsidized for municipality owned dwellings and the interest rate is subsidized for soft loans. In local level, the bonus rent is subsidized for dwellings in the free market up to 50% of the market rent.

Tenancy

In National level, ministry drafts policies, agreements (when programs are financed from foreign investors), and co-finances with municipalities which they determine the criteria for the beneficiaries. Local levels/municipalities finance the construction of social housing for rent and they select the beneficiaries through the municipal council decision based on law. Also, the national housing agency in an agreement with the municipality constructs social housing for rent.

Infrastructure

In National level, ministry drafts policies and invests in land with infrastructure (to develop housing programs). Also, ministry drafts programs for infrastructure development for Roma and Egyptian community. In local level, municipalities present projects to the ministry which aims the development of programs for the Roma community (e.g. immediate grant).

Prohibition of discrimination in housing

Law nr.9232, date 05.13.2004, is drafted in such a way that it's all inclusive approach with the vulnerable groups and avoiding any discrimination

2. What are the primary bases for the allocation of responsibilities among different levels of government? Please identify the appropriate provision(s) and provide a copy or link if possible:

- Constitutional
- National framework legislation or housing strategy X
- Sub-national level legislation or housing strategy
- Inter-governmental agreement
- Other – Please explain

Answer

Primary bases are national framework legislation or housing strategy (second check) www.ligjet.org (Law nr.9232, date 05.13.2004, "On social programs for housing on urban areas")

Ministry is preparing a strategy on social housing with experts from TAEIX and UNDP.

3. What role does the national level government play in relation to housing and related programs? How is compliance with the right to adequate housing structured between the national and sub-national levels? If possible please kindly provide concrete examples of how these roles and compliance mechanisms are operationalized.

Answer

In national level, ministry drafts policies for housing and through mechanisms encourages municipalities to implement the programs stated in the law. The constitution determines the housing as a right. In national and sub-national level, ministry drafts policies in supporting housing programs.

4. Where sub-national governments hold key responsibilities in relation to the right to adequate housing, please describe how programs and policies are co-ordinated nationally and what responsibilities remain with national level institutions.

Answer:

Municipalities have the main responsibility in selecting the beneficiaries for social housing. Also, based on law municipalities have competency in developing the housing programs. Housing programs are also programs in collaboration between municipalities and national level. Municipalities need to prepare 10-years long plan/projects for housing and presents these projects to the ministry along with the requests for funds to finance such projects (e.g. rent subsidy or funds for immediate grants)

Ministry is responsible in evaluating projects presented from the municipalities and planning middle and long term budget for the funds requested by the municipalities. Also, ministry drafts supporting and incentives policies for the municipalities to present such projects.

5. Where housing and related programs are administered by sub-national level governments, by whom and how are these programs funded? Are conditions attached to the funding which seek to ensure the resources are spent in a way that protects the right to adequate housing? How is this monitored?

Answer:

All the housing programs are administrated from municipalities, which they present the requests for housing programs in the ministry. The ministry plans funds for mid and long term budget, based on the immediate requests. Some of this programs, such as Social Rental Housing, are in co-finance with municipalities and ministry. Funds are approved in the state budget and gets allocated to the appropriate municipalities for this program. Every 3 months is asked from the municipalities to show the costs for this projects and the ministry controls the development for various phases of the project.

B. Accountability of Sub-National Governments

1. Are sub-national governments legally accountable to the right to adequate housing on the basis of any of the following?

- International human rights law? (Yes/No) No
- Constitution/National Bill of Rights (Yes/No) N/A
- National or sub-national legislation (Yes/No) No
- State level or municipal level Bills of Rights/Charters (Yes/No) N/A
- Inter-governmental agreements (Yes/No) Yes
- Conditional financing (eg: budget transfers from national level to sub-national) (Yes/No) Yes

2. With respect to the above and where applicable, please identify:

- i. the relevant provision.

Answer:

Agreement e HUAS no f/p 1580(2006)-Housing with Social propose in Albania via the Council of Europe Development (CEB) and government and also the agreements e HUAS with 8 municipalities taken place in the project.

- ii. the sub-national levels of government to which the legal provision applies.

Answer: Implementation is in 8 different municipalities, Tirane, Durres, Kavaje, Fier, Elbasan, Korce, Peshkopi, and Berat.

- iii. the means of enforcement (eg: courts, tribunals, national human rights institution, including ombudsmen, administrative mechanisms, etc.) and examples of how these means have been applied.

Answer: Competencies for the local and central governments are legally separated. Local government has no obligation to give account to the central governments. The only exceptions is when the project is financed from the central governments. The relevant provision for Conditional financing is provided every year by the budget law approved the parliament

Explanation: According to article 59 of the Constitution, Housing is a social objective. State, within its Constitutional competences and available means and in addition to private initiative aims ... the fulfilment of housing needs of its citizens”. Fulfilment of social objectives cannot be enforced directly in court. The law determines the conditions of and the extent to which these objectives may be attained.

The right to adequate housing, according to Albanian Constitution is not considered as a fundamental right and, thereof, its fulfilment cannot be claimed through the court. Violation of human rights connected to housing, such as discrimination, can be addressed through the court, Commissioner for Protection against Discrimination (CPD), ombudsman, etc..

Example (from CPD)²:

The ex-officio procedure of the Roma community case, at the Center of Realization of Artworks, at the Street of Kavaja, regarding the removal from their shelters.

During August 2013, the Commissioner for Protection from Discrimination has followed with priority the case of the deportation of Roma families from their shelters near the Kavaja Street. During the meeting with members of the Roma community living in these settlements, the inspectors received information that in this area lived about 37 Roma families. During migration, the members of the Roma Families of the Center of Realization of artworks at the Kavaja Street raised the concern that the police had not reacted to the removal with force and the verbal abuse that was made against them. During the administrative investigation and administered evidence by the CPD, it resulted that there was no documentation to prove that all actions provided by the Albanian legislation for the release of unjustly occupied land were followed. Thus, the Commissioner sent a recommendation to the Police Directorate of Tirana District, where she asked ***“To take immediately the necessary measures to handle the issue in a legal, equitable and non-discriminatory way”***.

² http://kmd.al/skedaret/1410951832-Annual%20Report_2013.pdf

According to information receive, some of them had settled since 1990 in this area. On the other hand there is no information on the measures that responsible institutions have taken to avoid negative consequences for the Roma community. Regarding this situation the Commissioner sent a recommendation to the Municipality of Tirana, to take immediate **action and implementation of programs providing social housing for Roma families. Based on the current legislation, the Municipality of Tirana must mediate with other institutions to make possible the providing of economic assistance to Roma families, who are residents of the Municipality of Tirana.**

In cooperation with Albanian Roma Federation and the Head of Unit no.5 in Tirana, were undertaken all the necessary actions for the benefaction of economic assistance. After examining the case, the Commissioner concluded that there is a need for amendments in legislation to enable the benefits from social services (*from 11 families who were assisted by CPD staff only 1 met the criteria to obtain economic assistance*).

3. Are sub-national governments involved in State reporting to international human rights monitoring mechanisms and in implementing recommendations? (eg, UN treaty monitoring body, Universal Periodic Review). If so, how? Please kindly provide an example.

Answer: Regarding the right to adequate housing, there is not any set-up mechanism for regular reporting.

4. Apart from the legal and international accountability described above, what political or institutional accountability mechanisms are in place in your country through which sub-national governments are held accountable to standards or requirements linked to the implementation of the right to adequate housing (eg, Government review procedures, ombudsman/national human rights institutions, local human rights councils). Please provide any useful examples of how these have been used and, if possible, assess the outcome.

Answer: Due to the fact that housing is not considered as a human right, there are not standards established to fulfil this right. National government designs housing policies to facilitate access to housing. According to the legislation on organization of local governments, housing is a self-function of local authorities. However, due to difficulties of local governments to generate funds for housing programs, national government supports with financing

Law in power for housing is Law no.9232, "On Programs for Social Housing" amended Normative act no 3/2012 " To release the rightful owners of the housing homeless residing housing owned former expropriate subject"

5. Please kindly identify what in your view may be the three most significant challenges in your country to effective accountability of sub-national governments to the right to adequate housing as guaranteed under international human rights law and identify key strategies or ideas for addressing these challenges.

Answer: For local governments to become accountable to the right to adequate housing the followings may be considered:

- Legislation should be developed to accept and acknowledge the right to adequate housing and to establish standards for its achievement;
- Explaining the understanding of the right to adequate housing not necessary as an obligation of the state to provide housing, but as a complex of measures and

policies including housing, employment generation, education and training, urban planning, regularization and legalization of informal settlements, ensuring security of tenure, public services and infrastructure, etc...

- Awareness rising and training for local government on the tools for implementing the right to adequate housing;
- The fact that families work in the black market, there is no way for them to prove their income, therefore families cannot benefit from this program.
- Addressing specific problems for vulnerable groups.
- The lack of dwelling stocks owned by municipalities

Thank you for your contribution