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**Centro Europeu de Pesquisa e Documentação Parlamentar**  
**(CERDP)**

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*Divisão de Apoio às Comissões*

**CONTEÚDO**

<b>A. Introdução</b> .....	3
<b>B. Formulário de questões colocadas e modelo de resposta:</b> .....	3
<b>Question 1:</b> Is the right to housing recognised in the national constitution? Under which terms? .....	3
<b>Question 2:</b> How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfillment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee? .....	4
<b>Question 3:</b> Is there a base law or legal framework for housing? If so, what does it foresee? .....	5
<b>Question 4:</b> What are the legal mechanisms in force in order to guarantee the fulfillment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force. ....	5
<b>Question 5:</b> Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force. ....	5
<b>C. Respostas</b> .....	5
<b>ALBÂNIA</b> .....	5
<b>ALEMANHA</b> .....	7
<b>ANDORRA</b> .....	10
<b>ÁUSTRIA</b> .....	13
<b>CANADÁ</b> .....	13
<b>CHIPRE</b> .....	17
<b>CROÁCIA</b> .....	18
<b>DINAMARCA</b> .....	18
<b>ESLOVÉNIA</b> .....	21
<b>ESPAÑA</b> .....	23

---

<b>ESTÓNIA</b> .....	27
<b>FINLÂNDIA</b> .....	31
<b>FRANÇA</b> .....	33
<b>GEORGIA</b> .....	37
<b>GRÉCIA</b> .....	41
<b>HUNGRIA</b> .....	43
<b>ISRAEL</b> .....	48
<b>LITUÂNIA</b> .....	49
<b>LUXEMBURGO</b> .....	52
<b>MACEDÓNIA</b> .....	53
<b>PAÍSES BAIXOS</b> .....	56
<b>NORUEGA</b> .....	59
<b>REP CHECA</b> .....	62
<b>ROMÉНИЯ</b> .....	64
<b>SÉRVIA</b> .....	66
<b>ESLOVÁQUIA</b> .....	68
<b>SUÉCIA</b> .....	69
<b>TURQUIA</b> .....	73
<b>REINO UNIDO</b> .....	78

## A. Introdução

O presente relatório é emitido na sequência de consulta promovida pelos Serviços da Assembleia da República em dezembro de 2016 junto do Centro Europeu de Pesquisa e Documentação Parlamentar (CERDP), que compreende 47 países membros, três parlamentos internacionais (o Parlamento Europeu, a Assembleia da União da Europa Ocidental e a Assembleia Parlamentar do Conselho da Europa) e conta ainda com a participação de três países observadores.

Através da consulta promovida, visou-se promover a recolha de elementos que possibilitem uma análise abrangente de direito comparado em matéria de direito à habitação, designadamente no que se refere ao respetivo tratamento constitucional e à existência de leis de bases de habitação nos ordenamentos jurídicos dos Parlamentos abrangidos.

Nesse contexto, foram remetidas para circulação na rede CERDP cinco questões sobre a temática da habitação e facultado um modelo de resposta sucinta que atendeu à realidade nacional, cujo teor se reproduz no ponto B, *infra*.

Até à presente data, foram remetidas as respostas de 29 parlamentos nacionais, reproduzidas na íntegra e no respetivo idioma original no ponto C, *infra*.

## B. Formulário de questões colocadas e modelo de resposta:

**Question 1:** Is the right to housing recognised in the national constitution? Under which terms?

### Answer:

The right to housing is expressly recognized in the Constitution of the Portuguese Republic in the following terms.

Article 65 of the Constitution of the Portuguese Republic establishes the following:

*“Article 65*

*(Housing and urbanism)*

*1. Everyone has the right for himself and his family to have an adequately sized dwelling that provides hygienic and comfortable conditions and preserves personal and family privacy.*

*2. In order to ensure the right to housing, the state is charged with:*

*a) Programming and implementing a housing policy that is incorporated into general town and country planning instruments and supported by urbanisation plans that guarantee the existence of an adequate network of transport and social facilities;*

*b) In cooperation with the autonomous regions and local authorities, promoting the construction of low-cost and social housing;*

*c) Stimulating both private construction, subject to the general interest, and access to owned or rented housing;*

d) *Encouraging and supporting local community and popular initiatives that work towards the resolution of the respective housing problems and foster the formation of housing and self-building cooperatives.*

3. *The state shall adopt a policy that works towards the establishment of a rental system which is compatible with family incomes and provides access to individual housing.*

4. *The state, the autonomous regions and local authorities shall define the rules governing the occupancy, use and transformation of urban land, particularly by means of planning instruments and within the overall framework of the laws concerning town and country planning and urbanism, and shall expropriate land that proves necessary to the fulfilment of public-interest urbanisation goals.*

5. *The participation of the interested parties in the drawing up of urban planning instruments and any other physical town and country planning instruments is guaranteed”.*

In addition, no. 1 of articles 70 and 72 of the Portuguese Constitution establish, respectively, that *“in order to ensure the effective fulfilment of their economic, social and cultural rights, young people shall enjoy special protection, particularly (...) in access to housing”* and *“the elderly have the right to economic security and to conditions in terms of housing and family and community life that respect their personal autonomy and avoid and overcome isolation or social marginalization”*.

Finally, article 62 of the Portuguese Constitution foresees the right to private property, stating that *“everyone is guaranteed the right to private property and to the transmission thereof in life or upon death, in accordance with the Constitution”*.

**Question 2:** How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfillment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?

**Answer:**

As mentioned above, the Constitution allocates to *“the state”* the responsibility of defining rules governing the right of housing.

In particular, the Constitution establishes that the National Assembly has partially exclusive legislative attributions as to the definition of the rural and urban rental framework and has scrutiny functions regarding the compliance with the Constitution and laws and acts of the Government and Administration.

The national Government undertakes the definition of housing policies and municipalities, in light of the promotion and protection of its population’ interests, have equally been granted several responsibilities on housing matters.

The Portuguese legal system comprehends judicial and pre-judicial mechanisms in order to ensure the general effectiveness of the Constitution and all laws or rights. However, there are no special mechanisms in order to enforce laws on the housing sector upon the national, subnational and / or local authorities.

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**Question 3:** Is there a base law or legal framework for housing? If so, what does it foresee?

**Answer:**

Portuguese legislation for the housing sector does not yet comprehend a Base Law for Housing nor a general legal framework on such matter.

In addition to what is foreseen within the national constitution, there is legislation establishing rules for property acquisition, rental or disposal and there have been social programs approved for affordable housing support.

**Question 4:** What are the legal mechanisms in force in order to guarantee the fulfillment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.

**Answer:**

The right to housing is currently supported by rent reduction schemes such as the conditioned rent scheme, applicable to rentals of houses raised (or financed) by public entities or social institutions, and the supported rental scheme for housing leases, which determines the rules and conditions for the access by vulnerable population to houses owned by public entities.

**Question 5:** Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.

**Answer:**

In addition to the supported rental scheme for housing leases, mentioned above, which determines the rules and conditions for the access by vulnerable population to houses owned by public entities, national housing legislation also foresees additional programs supporting housing rentals for young population or population with severe housing needs.

## **C. Respostas**

### **ALBÂNIA**

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#### **Right to Housing**

**Question 1:**

**Is the right to housing recognized in the national constitution? Under which terms?**

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The Constitution of the Republic of Albania aims in the Chapter X, Social Objectives, Art.59,1b.: The Government intends meeting the needs of citizens to housing.

**Question 2:**

**How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfillment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?**

Considering the purpose laid down in the Constitution, the Government takes over the definition of social housing policy and as such is part of the Ministry of Urban Development which is working to improve housing policy, a fundamental right of every citizen.

When it comes to the management and coordination of the work, pursuant to this law, the National Committee for Housing is set up as an advisory body to the Minister which covers the housing field with 10 year programs. The implementation is performed by the municipalities, whose budget is approved by the Ministry, upon request.

**Question 3:**

**Is there a Base Law or legal framework for housing? If so, what does it foresee?**

Law No. 9232, dated 13.05.2004, "On social programs to accommodate urban residents and the regulations for its implementation". The purpose of this law is to establish the rules and administrative procedures on the ways to guarantee the insurance, distribution, management and planning of social programs for housing, in order to create opportunities for adequate and affordable housing based on the solvency of families in need of housing and state aid. Social housing programs serve to house families and individuals who are unable to afford socially and economically the cheap market offer for housing or even through mortgages.

**Question 4:**

**What are the legal mechanisms in force in order to guarantee the fulfillment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.**

The National Housing Committee in cooperation with local government bodies determine the plans and schemes for a 10 year period through rental system or concessional loans.

**Question 5:**

**Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.**

The priority categories in the rental subsidy or benefiting the housing bonus are listed below:

a) persons listed as orphans;

- 
- b) persons with disabilities, in accordance with the definitions made by the Council of Ministers for these categories;
  - c) families of police officers killed on duty;
  - d) returning migrants;
  - d) migrant workers;
  - f) Roma families;
  - e) State Police officers

## ALEMANHA

### The Right to Housing

#### Overview

#### Research Services

#### 1. Introduction

The basis of this overview is the question as to whether and how the right to housing and the right to accommodation for disadvantaged groups (e.g. the homeless, refugees, asylum seekers) are covered by legislation in Germany.

Different departments of the German Bundestag's Research Services are involved, and therefore Question 1 is answered by WD 3 Department, Question 2 by the German Bundesrat and Question 5 by WD 6 Department as a contribution to this overview.

#### 2. Is the right to housing expressly provided for under constitutional law?

Here it is necessary to distinguish between the constitutional guarantees of the Basic Law on the federal government level and the rights contained in the *Land* constitutions.

The **Basic Law** contains no explicit **right to housing**. The fundamental rights in Article 13 of the Basic Law<sup>1</sup> to the inviolability of the home and in Article 14 (1) of the Basic Law to the protection of property and the right of inheritance are subject to possession or ownership of a home, but they do not themselves contain a right to housing. But the significance of the **principle of the social welfare state** laid down in Article 20 (1) of the Basic Law should be noted. Admittedly, no right to housing can be derived from the principle of the social welfare state, since it is merely a provision of objective law which commits the state to the goal of social justice (as a fundamental aim of state policy). However, there is an exception with regard to the **safeguarding of a minimum standard of living** in case of neediness. According to the case law of the **Federal Constitutional Court** the principle of the social welfare state in conjunction with **human dignity** in Article 1 (1) of the Basic Law is the basis of the fundamental right to the guarantee of a humane minimum standard of living. This fundamental right to the guarantee of a humane minimum standard of living includes inter alia a claim to accommodation. However, parliament has a wide legislative discretion when putting this claim into concrete terms.

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1 Basic Law for the Federal Republic of Germany. An English translation is available online at [http://www.gesetze-im-internet.de/englisch\\_gg/englisch\\_gg.html#p0075](http://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html#p0075).

Some **Land Constitutions** create an explicit right to an appropriate home or housing, cf. Article 106 (1) of the Bavarian Constitution, Article 28 (1) of the Berlin Constitution, Article 14 (1) of the Bremen Constitution. However, despite being defined as subjective rights, these norms are not seen as having the quality of (enforceable) subjective rights. Instead, they are merely intended to give the state an objective duty in the sense of a fundamental aim of state policy. Therefore other *Land* constitutions expressly define the provision or subsidising of housing as fundamental aims of state policy, cf. Article 6a Lower Saxony Constitution, Article 47 (1) Brandenburg Constitution, Article 17 (2) Mecklenburg-Western Pomerania Constitution, Article 63 (1) Rhineland-Palatinate Constitution, Article 29 (2) North-Rhine Westphalia Constitution, Article 15 Thuringia Constitution and Article 40 (1) Saxony-Anhalt Constitution.

**3. How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfilment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?**

At the national level, the Federal Building Code (*Baugesetzbuch*) is the legal framework regarding all questions of which buildings are allowed to be constructed in what areas. As for example, in a purely residential area, it would not be allowed to construct non-living quarters, whereas in mixed zones the Building Code is a lot less restrictive.

In addition to these rules, each Land has adopted an additional Building/Construction Code (*Landesbauordnung*), which regulates all questions regarding how a building is to be constructed, that is: matters of fire protection, ensuring enough light and air for a building, and the like.

These two laws - the Federal Building Code and the respective Land's building Code - always have to be complied with when constructing or remodeling a building.

The municipalities further have the possibility to shape their municipalities by issuing development plans, designating certain areas within the municipalities to certain uses, e.g. industrial zones far from the city center. By means of development plans, the municipalities are enabled to fine-tune life within their municipality with regard to housing.

However, none of these laws includes any stipulation that would grant a citizen a right to a home. The right to housing as proclaimed in the ICESCR does not have a binding character in Germany.

**4. Is there a basic statute or a legal framework?**

There is no fundamental right in existence which gives a person the right to a home, in any form whatsoever. Article 13 of the Basic Law merely provides that housing which is already in existence (Article 13 of the Basic Law refers to a "home", but it is to be interpreted more broadly with regard to every form of accommodation) may not be violated by state executive bodies.

Nor is there a legal framework automatically giving a person a right to housing. The right to housing can be created only by a contract under private law, whether by purchase under section 433 of the

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Civil Code<sup>2</sup> or by leasing under section 535 of the Civil Code. As a result of the principle of freedom of contract, a person seeking housing must rely on the owner of the housing and that owner's willingness to enter into a contract.

<sup>2</sup> Civil Code. An English translation is available online at: [http://www.gesetze-im-internet.de/englisch\\_bgb/index.html](http://www.gesetze-im-internet.de/englisch_bgb/index.html).

### **5. Are there regulatory mechanisms with regard to the right to housing?**

There are no regulatory mechanisms for the right to housing. However, arrangements have been created, for example for the funding, organisation, provision and ownership of housing.

For example, sections 549 to 577a of the Civil Code are provisions relating solely to housing which govern the organisation of housing in a landlord and tenant relationship under sections 535 et seq. of the Civil Code. In particular, the cap on rent under sections 556d to 556g of the Civil Code should be noted: this was introduced on 01 June 2015 and is intended to ensure that in areas with a difficult housing market the rent cannot be increased in an uncontrolled way by re-letting. Thus, for example, when an apartment is let to a new tenant, the rent must be based on the former rent and may be increased only in particular circumstances.

The Residential Housing Promotion Act<sup>3</sup> is intended to provide help in finding homes for households which are dependent on support and which therefore do not have adequate access to housing on the market. In addition, assistance is given by the building of social housing.

<sup>3</sup> Wohnraumförderungsgesetz vom 13. September 2001 (BGBl. I S. 2376), zuletzt geändert durch Artikel 3 des Gesetzes vom 2. Oktober 2015 (BGBl. I S. 1610). In German available online at: <http://www.gesetze-im-internet.de/wofg/index.html>.

<sup>4</sup> Gesetz zur Regelung der Wohnungsvermittlung vom 4. November 1971 (BGBl. I S. 1745, 1747), zuletzt geändert durch Artikel 3 des Gesetzes vom 21. April 2015 (BGBl. I S. 610). In German available online at: <http://www.gesetze-im-internet.de/wovermrg/index.html>.

<sup>5</sup> Wohnungseigentumsgesetz in der im Bundesgesetzblatt Teil III, Gliederungsnummer 403-1, veröffentlichten bereinigten Fassung, zuletzt geändert durch Artikel 4 des Gesetzes vom 5. Dezember 2014 (BGBl. I S. 1962). In German available online at: <http://www.gesetze-im-internet.de/woeigg/index.html>.

The Residential Letting Agency Act<sup>4</sup> governs the costs charged for residential letting. As a result of the change in the year 2015, the costs of finding residential lets were as a general rule imposed on the owner who wished to let the apartment. Before this date, the costs were borne by the house hunters.

The Apartment Ownership Act<sup>5</sup> applies only to the acquisition of ownership of an apartment inside a building. In general, the owner of the land is automatically also the owner of a building on the land, since under section 94 (1) of the Civil Code buildings are deemed to be essential parts of the land. Section 1 (1) of the Apartment Ownership Act creates the possibility of ownership of an apartment in the form of individual ownership of the apartment together with part ownership of the collective property.

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## 6. Is there a right to housing for disadvantaged groups (the homeless, victims of domestic violence, migrants, refugees or others)?

German social welfare law provides for preventive measures which are intended to prevent housing hardship and social problems.

Basic provision for jobseekers as a social security benefit for persons entitled to benefits who are capable of gainful employment and state welfare assistance for persons entitled to benefits who are not capable of gainful employment are intended to ensure a humane minimum standard of living. Consequently, the responsible organisations bear not only the benefits for living expenses, but also the costs of accommodation and heating. The statutes provide that the debts of those in need should also be settled to the extent that this is justified in order to ensure their accommodation or to remove a comparable situation of hardship, or if they would otherwise be likely to become homeless.

As part of state welfare assistance, the persons affected may have a claim to "help to overcome particular social difficulties". This also includes measures to provide a home.

In the case where a person has been summarily evicted followed by an action for possession, the basic provision for jobseekers contains provisions to protect the accommodation. Homelessness is to be prevented by rent arrears being paid. Debt counselling (for example where there are rent arrears) is possible as a municipal reintegration benefit as part of integration into the labour market.

Where women are the victims of domestic violence, they may find protection in women's refuges. These are predominantly financed from funds of the *Länder* and local authorities and through daily payments. The daily payments are made by the women themselves. In cases of indigence, funds from the basic provision for jobseekers or from state welfare assistance may be used for this.

With regard to support for foreigners, German social welfare law does not generally distinguish by nationality, but by the type of residence right under which foreigners live in the Federal territory.

During their residence, asylum seekers receive benefits in kind to ensure their subsistence and a monthly money payment to cover their personal needs. The benefits are governed by the Asylum Seekers Benefits Act. In addition to basic benefits for food, these also include benefits for housing and heating and for durable and non-durable consumer goods in the household. Asylum seeker benefits are given not only in reception centres, but also in subsequent accommodation (collective living quarters, private home).

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## ANDORRA

### Request 3275

#### Questions:

#### Question 1:

Is the right to housing recognized in the national constitution? Under which terms?

The right to housing is expressly recognized in the Constitution of the Principality of Andorra in the following terms.

#### Article 33

The public authorities shall promote the necessary conditions to ensure the right of everyone to enjoy decent housing.

Finally, article 27 of the Andorran Constitution foresees the right to private property, stating that:

#### Article 27

1. Private property and the rights of inheritance are recognised without any limits other than those derived from the social function of property.
2. No one shall be deprived of his or her goods or rights, except upon justified consideration of the public interest, with just compensation by or pursuant to a law.

#### **Question 2:**

**How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfillment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?**

As mentioned above, the Constitution allocates to “public authorities” the responsibility of defining rules governing the right of housing.

The national Government undertakes the definition of housing policies and municipalities, in light of the promotion and protection of its population’ interests have equally been granted several responsibilities on housing matters.

The aim of the current regulation on allowances from social and welfare services, which has recently been modified, is to provide greater transversality and also simplify the management and adapt the assistance for rented accommodation to the current socioeconomic reality.

In this way, and in accordance with the restructuring of the Ministry, housing allowances are included in the social assistance programs, even if with a specific regulation.

In the framework of this redefining, it has been decided to review this regulation and improve the requirements to access this assistance while maintaining the threshold to qualify for this help.

What is new is that those benefiting from occasional economic assistance are entitled to assistance in rental housing, an item which was excluded until now. In this way, those who have properties valued at 10 times less than the personal annual LECS (threshold indicator for social and economic cohesion) are also entitled to this assistance.

With the modification of the regulation, women in disadvantageous situations living in unstructured homes and those victims of domestic and gender violence are included as a priority group in order to qualify for assistance for housing.

Finally, when the general guidelines applied to determine incomes is disadvantageous to the applicant, the criteria reducing the annual period required is allowed in all allowances.

**Question 3:**

**Is there a Base Law or legal framework for housing? If so, what does it foresee?**

Andorran legislation for the housing sector does not yet comprehend a Base Law for Housing or a general legal framework on such matter.

In addition to what is foreseen within the national constitution, there is legislation establishing rules for property acquisition, rental or disposal and there have been social programs approved for affordable housing support.

In municipalities assistance programs to access rented housing also exists for young and elderly people with a limited income.

**Question 4:**

**What are the legal mechanisms in force in order to guarantee the fulfillment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.**

The right to housing is currently supported by rent reduction schemes such as the conditioned rent scheme, applicable to rentals of houses raised (or financed) by public entities or social institutions, and the supported rental scheme for housing leases, which determines the rules and conditions for the access by vulnerable population to houses owned by public entities.

**Question 5:**

**Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.**

In addition to all the forementioned, the department for policies on equity, specifically, the care service for victims of domestic and gender violence provides safe houses to offer protection and assistance to the victims of gender violence and their children.

**Best Regards,**

**Meritxell Carbó Nogués**

**ECPRD Correspondent**

**Consell General (Parliament of Andorra)**

## ÁUSTRIA

### ECPRD Request 3275

#### Right to Housing

#### The situation in Austria

#### 1. Is the right to housing recognised in the national constitution? Under which terms?

In Austria, the right to housing is not recognized in the Federal Constitution.

#### 2. How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfilment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?

Although the Austrian Federal Constitution does not contain a constitutional right, access to housing is a central pillar of the Austrian welfare state. Housing policies are primarily a competence of the federal entities or Laender and the municipalities. At the federal level, housing matters are regulated in the context of tenancy and fiscal politics. At the Laender level and the municipal level there are policy schemes regarding access to affordable housing, subsidy schemes, tax exemptions etc. Also, it is common that the municipalities provide for housing by building and renting out themselves.

#### 3. Is there a Base Law or legal framework for housing? If so, what does it foresee?

N/A

#### 4. What are the legal mechanisms in force in order to guarantee the fulfilment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.

There are rental market regulation (which are, in fact, contested and there's general consensus that they have to be reformed), affordable housing financial incentives etc. However, it lies within the competence of each federal entity to define those policies and regulations.

#### 5. Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.

There is no legal protection as such, but social policy schemes foresee support in those matters.

## CANADÁ

### ECPRD #3275 "Right to Housing"

#### Response from the Library of Parliament – Canada

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Dear Colleagues,

On behalf of the Canadian ECPRD Correspondent, Joseph Jackson, please find below the Parliament of Canada's response to ECPRD Request #3275 regarding "Right to Housing."

**Question 1:**

**Is the right to housing recognized in the national constitution? Under which terms?**

In Canada, the powers granted to the federal government and the constitutionally protected rights are set out in the [Constitution Act, 1867](#) and the [Canadian Charter of Rights and Freedoms](#) (Charter), which is a schedule to the [Constitution Act, 1982](#). The Charter applies to the federal, provincial and territorial governments, as well as to municipal governments, public school boards, and other institutions that have been delegated statutory authority by a government.

Source: Julian Walker, [Government of Canada Responsibilities for Domestic and International Human Rights](#), Publication no. 2011-78-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, revised 1 December 2014, pp. 1–2.

While the Charter establishes, among other rights, the equality rights to which all Canadians are entitled, as well as their fundamental freedoms, it does not identify the right to housing. Hence, the right to housing is not expressly recognized in the Canadian national constitution.

The [Canadian Bill of Rights, 1960](#) is a precursor to the Charter. It is a federal statute, and so does not apply to provincial governments. Propositions to [amend that Bill to include the right to housing](#) have been presented in the House of Commons over the years, but these amendments never progressed beyond the [introduction and first reading stage](#). It should be mentioned that, unlike the Charter, the Canadian Bill of Rights "has tended to be narrowly interpreted and is seldom used by Canadian courts".

Source: Julian Walker, [Government of Canada Responsibilities for Domestic and International Human Rights](#), Publication no. 2011-78-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, revised 1 December 2014, p. 2.

A noteworthy legal case on the right to housing is that of *Tanudjaja v Attorney General of Canada and Attorney General of Ontario*, which claimed that the right to adequate housing should be protected by the Charter's section 7 and section 15. These sections of the Charter state:

7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

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Source: [Canadian Charter of Rights and Freedoms](#), s 7, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c11.

However, the case was never heard: both Attorney Generals brought motions to strike the application and these were allowed by the motion judge of the Ontario Superior Court. The [Ontario Court of Appeal upheld the motion judge's decision in 2014](#) on a divided ruling, and the [Supreme Court of Canada declined to hear the case in 2015](#) without providing a reason.

### Question 2:

**How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfilment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?**

The division of powers in Canada is primarily set in the [Constitution Act, 1867](#) under section 91 (federal) and section 92 (provincial). Both the federal and provincial governments have dealt with housing matters, as neither of the sections of the Constitution explicitly expressed housing. Over time, the federal government has decreased its participation in that area, while the provincial governments have increased theirs. Housing is typically considered to fall within the provincial jurisdiction given that the Constitution "assigns responsibility for civil and property rights and 'matters of a local nature' to the provinces".

Source: Laura Munn-Rivard, [Current Issues in Mental Health in Canada: Homelessness and Access to Housing](#), Publication no. 2014-11-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 14 February 2014, p. 3.

While there is no regulation establishing that the fulfilment of the right to housing is legally binding at any level, provincially, housing is often included in human rights legislations. Please see the response provided to Question 4 for more about housing policies in Canada and the response provided to Question 5 about how the right to housing is protected provincially.

### Question 3:

**Is there a Base Law or legal framework for housing? If so, what does it foresee?**

The federal legislation that relates to housing in Canada, and the regulations made under this Act, do not encompass the right to housing explicitly, but rather aim to support housing affordability and access, and contribute to the development of the housing sector and economy. The relevant Act and regulations are listed below:

[National Housing Act](#) (R.S.C., 1985, c. N-11)

[Housing Loan \(Insurance, Guarantee and Protection\) Regulations](#) (SOR/2012-232)

[Insurable Housing Loan Regulations](#) (SOR/2012-282)

[N.H.A. Designated Areas Order](#) (SOR/84-686)

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[N.H.A. Maximum Interest Rates Regulations](#) (C.R.C., c. 1107)

Canadian provinces, for their part, may have their own legal frameworks for housing that may more explicitly support the right to housing. For example, the province of Ontario just passed the [Promoting Affordable Housing Act, 2016](#), which is designed to increase the supply of affordable housing and modernize the social housing system.

**Question 4:**

**What are the legal mechanisms in force in order to guarantee the fulfilment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.**

In Canada, the term 'social housing' is used to describe housing that was developed by or is subsidized by government programs. Historically, the Canadian federal government's involvement in the delivery of social housing fluctuated, with the greatest involvement in the 1960's and 1970's. This was followed by a decrease in involvement that continued to the mid-1990's when the federal government announced in its [1996 Budget Plan](#) that it would phase out its social housing responsibilities, thereby leaving social housing fully in the hands of the provincial and municipal governments. The few areas of exceptions to the federal responsibilities for housing include on-reserve housing and military housing on selected military bases.

Source: Jean Dupuis, [Federal Housing Policy: An Historical Perspective](#), Publication no. PRB 02-55E, Parliamentary Research Branch, Library of Parliament, Ottawa, 8 January 2003.

Laura Munn-Rivard, [Current Issues in Mental Health in Canada: Homelessness and Access to Housing](#), Publication no. 2014-11-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 14 February 2014, p. 3.

While the federal government is phasing out its social housing responsibilities, support remains at this time for programs and initiatives related to housing. The [Canada Mortgage and Housing Corporation](#) is the Crown Corporation through which the federal government assists Canadians in regards to affordable and quality housing. Moreover, some of the federal programs include the [Affordable Housing Initiative](#), the Residential Rehabilitation Assistance Programs, and the [Homelessness Partnering Strategy](#).

Source: Government of Canada, [Government Response to the Final Report of the Standing Senate Committee on Social Affairs, Science and Technology's Subcommittee on Cities, Entitled In from the Margins: A Call to Action on Poverty, Housing and Homelessness](#), n.d., p. 15.

Additional information about federal and provincial programs and initiatives is available in ECPRD Request #3237, "Supported Housing," Response of the Library of Parliament – Canada.

**Question 5:**

**Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.**

At the Canadian federal level, there is no legal protection enhancing the right to housing for any groups, including vulnerable groups. Some protection does exist at the provincial levels, where the right to housing is often framed in the context of human rights. These legislations do not enhance the rights to housing for vulnerable groups directly, but rather add protections from income discrimination, thereby protecting access to housing for low-income groups. For example, as documented in a report from the Senate, the [Human Rights Code of the province of Manitoba](#) prohibits discrimination against social disadvantages (s.9(2)), which is expressly defined to include homelessness or inadequate housing (s.1). It also prohibits discrimination against source of income (s.9(2)), which protects individuals with precarious income, including income assistance, in their right to access housing. Similarly, the [Human Rights Code of the province of Ontario](#) also protects against discrimination based on receipt of public assistance with respect to housing (s.2(1)). The same Senate report also found that “other provinces provide similar protection against discrimination with respect to housing, based on prohibited grounds of discrimination, which generally include sex, race, physical disability, and place or origin”.

Source: Senate, Standing Senate Committee on Social Affairs, Science and Technology, [In from the Margins: A Call to Action on Poverty, Housing and Homelessness](#), Report of the Subcommittee on Cities, Ottawa, December 2009, p. 93.

## CHIPRE

Please send by email to: [ECPRD@europarl.europa.eu](mailto:ECPRD@europarl.europa.eu), [fernando.pereira@ar.parlamento.pt](mailto:fernando.pereira@ar.parlamento.pt), [Ines.Silva@ar.parlamento.pt](mailto:Ines.Silva@ar.parlamento.pt), [cristina.ferreira@ar.parlamento.pt](mailto:cristina.ferreira@ar.parlamento.pt); [lisete.gravito@ar.parlamento.pt](mailto:lisete.gravito@ar.parlamento.pt);

## ECPRD Request no.3275 on Right to Housing

Article 16 of the Constitution of the Republic of Cyprus stipulates that “every person’s dwelling house is inviolable”.

Housing matters are dealt with by competent government services at central level (Ministry of Interior). Local authorities may assist the state in the implementation of housing schemes in their capacity as town planning authorities but do not draft policy as to the categories/beneficiaries of the different housing schemes available. The different recipients/beneficiaries of housing schemes are stipulated by law. These include refugees, displaced persons, persons with a low income, newlyweds with little or no income, migrants etc. There are also two specialized semi-governmental organisations that deal specifically with land/housing allocation and preferential financial schemes for low income persons/families with clearly defined criteria as to application procedures and practices.

There is not one single legal framework for housing. Rather there are many different categories of individuals or families that may apply for a particular housing schemes.

Legal mechanisms in force are the ones specified in each particular law or scheme.

Certain vulnerable groups such as victims of domestic violence, single mothers, migrants and refugees having recently arrived in Cyprus from Syria and elsewhere are taken to special facilities/centres to cater for their needs. Additionally, welfare services may opt to pay the rent for certain families or individuals who are unable to do so due to exceptional circumstances.

/ΓΜ

## CROÁCIA

### ECPRD request 3275: Right to Housing

#### 1. Is the right to housing recognized in the national constitution? Under which terms?

No. The Constitution of the Republic of Croatia guarantees the right of ownership.

#### 2. How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfillment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?

There are housing programs, subsidies for housing savings, lending to young families, subsidized residential construction.

#### 3. Is there a Base Law or legal framework for housing? If so, what does it foresee?

Not to our knowledge. However, there is the Act on Subsidized Residential Construction, Article 1 and Article 21 (the construction of housing with a predetermined price and favourable loan conditions). Also there is the Lease of Flats Act.

#### 4. What are the legal mechanisms in force in order to guarantee the fulfillment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.

With the sale of socially owned flats, a large number of citizens of the Republic of Croatia have become owners of flats. Tax policy / subsidies stimulate the housing programs for various groups, the so-called middle class citizens.

#### 5. Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.

There are no national programs on housing for vulnerable groups in the Republic of Croatia.

**Finally:** In the Republic of Croatia the right to housing i.e. the housing policy is dealt with through a number of measures and sectors, it is a matter of social policy.

Reply provided by: Ivanka Jurjević-Streny, Secretary

Labour, Retirement System and Social Partnership Committee

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## DINAMARCA

ECPRD Request No. 3275

9. januar 2017

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**Question 1: Is the right to housing recognised in the national constitution? Under which terms?**

No, the closest connection to housing is the right to work and right to receive public assistance mentioned in the Danish constitution section 75:<sup>1</sup>

Section

75

Subsection 1. In order to advance the public interest, efforts shall be made to guarantee work for every able-bodied citizen on terms that will secure his existence.

Subsection 2. Any person unable to support himself or his family shall, when no other person is responsible for his or their maintenance, be entitled to receive public assistance, provided that he shall comply with the obligations imposed by statute in such respect.

**Question 2:**

**How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfillment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?**

The municipalities has the direct responsibility for housing for the citizens living within their municipal boundaries. On the national level there is made new legislation and established grants and funding to secure a healthy housing sector in Denmark.

In Denmark, there are also about half a million non-profit building society homes. Social housing is for everyone, but at the same time it contains a special obligation towards population groups with particular housing needs.

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<sup>1</sup> [http://www.thedanishparliament.dk/Publications/My\\_Constitutional\\_Act\\_with\\_explanations/Chapter%208.aspx](http://www.thedanishparliament.dk/Publications/My_Constitutional_Act_with_explanations/Chapter%208.aspx)

### Dwellings by region, time, ownership and type of resident

	Occupied dwellings	Unoccupied dwellings	Unoccupied cottages
<b>All Denmark</b>			
2016			
Individuals inclusive partnerships	1 576 336	80 525	208 899
Non-profit building society	545 953	20 347	334
Limited liability company, etc.	201 740	24 239	2 477
Housing societies	204 108	4 773	182
Public authorities	48 895	12 414	417
Other or unknown	69 212	9 478	3 257

There are wrong numbers about tenure in Svendborg Municipality in 2010 and about ownership in Vallensbæk and Hørsholm municipalities in 2011 and 2012. There is a general problem on the quality of ownership data in 2012 and 2013. This also has impact on the totals for these variables. Most of the problems in ownership data are solved in 2014. The problem with too many dwellings are registered as owned by non-profit building societies is corrected in 2015 for Frederiksberg.

5-1-2017 Danmarks Statistik , [www.statbank.dk/BOL101](http://www.statbank.dk/BOL101)

For example, young students, the elderly, the disabled, single parents, refugees, and residents in need of rehousing because of urban renewal. Homes in the social housing sector are appointed by seniority in relation to a waiting list system.

Social housing is not for profit and consists of housing for rent provided at cost prices by not for profit housing associations. However, the municipalities has the possibility to acquire some of the free apartments in the non-profit building societies within the municipality, so they can distribute the apartments to citizens who is obliged to receive help to housing in accordance to the law.

The municipalities has to offer housing in specific cases in according to Consolidation Act on Social Services, see part 20 (accommodation facilities): <http://english.sm.dk/media/14900/consolidation-act-on-social-services.pdf>

In the consolidation act there is also a section regarding homelessness:

Homelessness 80.–(1) The municipal council shall allocate temporary housing against payment if a single person or a family is homeless. Such payment shall not exceed the rental value of the accommodation allocated or the usual rent payable in the local area by a single person or a family of the size in question.<sup>2</sup>

The section is only used if a person or family acute losses their housing due to unexpected events and does not have the means to acquire new housing.

The municipalities may also be obliged to help in accordance to other parts of the legislation.

### **Question 3: Is there a Base Law or legal framework for housing? If so, what does it foresee?**

The housing legislation in Denmark are divided between several acts concerning social housing, rented housing, subsidized housing, owner-occupied housing, social services and so on.

<sup>2</sup> <http://english.sm.dk/media/14900/consolidation-act-on-social-services.pdf>

**Question 4: What are the legal mechanisms in force in order to guarantee the fulfillment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.**

Denmark does not have a guarantee to housing, but different social mechanisms to help vulnerable groups in order to secure housing.

**Question 5: Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.**

**Answer:** Yes, please see the answer to question number 2.

## ESLOVÉNIA

Ljubljana, 27 January 2016

ECPRD REQUEST 3275

### RIGHT TO HOUSING

**Is the right to housing recognised in the national constitution? Under which terms?**

Constitution of the Republic of Slovenia recognizes in Article 78 (Proper Housing) the following: »*The state shall create opportunities for citizens to obtain proper housing*«.

**How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfillment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?**

In accordance with Article 141 of the Housing Act the State:

determines the housing policy in the national development and spatial plan,

defines the national housing plan and provides the resources for its implementation,

fosters the development and research activity in relation to housing,

monitors the regional and national levels of rent by type of rented flat,

establishes the housing council and appoints its members,

keeps records and prepares statistical grounds for monitoring and implementing the housing policy, and

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establishes the national council for the protection of tenants' rights, which comprises the municipal councils for the protection of tenants' rights.<sup>3</sup>

The National Housing Programme is adopted by the National Assembly of the Republic of Slovenia (Housing Act, Article 142).

Local public entity (municipality) has the following powers and responsibilities regarding housing matters:

adopts and implements the municipal housing program;

provides funds for the construction of non-profit rentals dedicated to solving the housing needs of socially disadvantaged people;

promotes diverse forms of owned and rented dwellings;

provides subsidies for rent and for emergency assistance in the use of the dwelling;

provides conditions for the development of different forms of construction and renovation of dwellings with appropriate regulatory policy;

adopts guidelines for the design, construction and renovation of dwellings, resulting from its local peculiarities, including the external appearance of residential buildings;

keeps a register of dwellings (Housing Act, Article 154).

**Is there a Base Law or legal framework for housing? If so, what does it foresee?**

The Housing Act regulates the types of residential buildings, the conditions for the maintenance of residential buildings, the conditions for the planning of housing, property ownership and management in apartment buildings, residential tenancy relationship, building and selling of new housing, assistance in obtaining and using the dwelling, responsibilities and duties of the State regarding housing matters, the powers and duties of municipalities regarding housing matters, jurisdiction of the authorities and organizations operating in the housing sector, registers and supervision over the implementation of the provisions of this act (Housing Act, Article 1).

**What are the legal mechanisms in force in order to guarantee the fulfillment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.**

The Housing Fund of the Republic of Slovenia is a public financial and real estate fund which covers the territory of the whole state and in accordance with its business policy finances and implements the

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<sup>3</sup> A municipal council may establish a tenants' council (composed of representatives of tenants) which is competent for presenting motions to the municipal council to adopt the necessary housing-related measures, for discussing specific violations in tenancy relations, establishing the rights of tenants' in housing legislation, and dealing with other housing-related issues (Housing Act, Article 136).

national housing programme, promotes house building, renewal and maintenance of flats as well as residential buildings (Housing Act, Article 146). The Fund is established for an indefinite period and has legal personality endowed with rights, obligations and responsibilities stated in Public Funds Act, Housing Act and the Act on the establishment of the Housing Fund of the Republic of Slovenia (see The Housing Fund).

**Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.**

Concerning non-profit rentals, the conditions and criteria are defined in a such manner that priority is given to one or more categories of applicants, e.g. multi-children families, families with less employed members, young people and young families, the disabled and families with disabled members, citizens with more years of employment currently without housing or living in rented flats, and applicants who are important - based on their profession of occupation - for a specific local community, which is to be defined by the local community in a public tender. In the tender, the housing provider also defines which category of applicants will be given priority in the allocation of flats should one or more applicants obtain the same number of credits.

Prepared by:

Andrej Eror

Research Section

Sources:

Constitution of the Republic of Slovenia - Unofficial Consolidated Text: <https://www.dz-rs.si/wps/portal/en/Home/PolitichniSistem/UstavaRepublikeSlovenije>

The Housing Fund of the Republic of Slovenia: <http://ssrs.si/en>.

## ESPAÑA

### ECPRD REQUEST #3275: Right to Housing

**Date of request: 2016/12/15**

**Parliament requester: PORTUGAL – ASSEMBLEIA DA REPUBLICA**

**Question 1:**

**Is the right to housing recognised in the national constitution? Under which terms?**

Indeed, the right to housing is recognised in the 1978 Spanish Constitution currently in force, specifically in Articles 47, 50 and 148.1.3 thereof.

Article 47, included in Part 1, Chapter 3 under the title “Principles governing Economic and Social Policy”, provides that: “*All Spaniards have the right to enjoy decent and adequate housing. The public*

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*authorities shall promote the necessary conditions and establish appropriate standards in order to make this right effective, regulating land use in accordance with the general interest in order to prevent speculation. The community shall have a share in the benefits accruing from the town-planning policies of public bodies”.*

The Spanish Constitution compels the public authorities to promote the necessary conditions and to dictate the precise rules to make effective the right of all Spaniards to enjoy decent and adequate housing. Article 47 acts as a mandate to the public authorities insofar as they are obliged to define and execute the policies necessary to enforce that right, configured as a guiding principle or constitutional guideline that has to inform the performance of those powers (as set out by the Constitutional Court in its judgement STC 152/ 1988).

However, a number of further aspects ought to be evaluated when it comes to the right to housing. Firstly, we are faced with a social right in the strict sense, that is to say, it is a right that is not considered as subjective and which, consequently, does not confer on its addressees an action that can be exercised in order to directly obtain a "dignified and adequate" housing.

#### **Question 2:**

**How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfilment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?**

It should be noted that the legislation on housing has a special complexity that derives from the enormous number of regulations that comprise it, from the permanent changes to which these standards are subject and from the number of normative sources that have a special impact on the regulation of Urban planning law given the plurality of public bodies competent in the matter. The obligation that Article 47 imposes on public authorities is specified in Article 148.1.3 of the Spanish Constitution when establishing that the regional authorities (Self-governing Communities) may assume "*Town and country planning and housing*" as exclusive competence.

The assumption by the Self-governing Communities of the legislative powers on the matter at stake conferred by Article 148.1.3 of the Spanish Constitution raises the need to determine the attribution of powers of the legislative activity of the State. In principle, the Constitutional Court in its judgement STC 152/1988 (abovementioned) combines the distribution of competences between the two powers by means of which the objectives of Article 47 are to be fulfilled. The latter must materialise through and not in spite of the systems of division of powers articulated in the Constitution.

Therefore, together with the regional regulations, it will be necessary to consider the existence of State laws on the subject, as well as the municipal provisions that derive from the articulation of the urban management and execution competences that the local regime legislation, especially the 1985 Regulatory Law of the Basis of the Local Regime, attributes to the Town halls.

#### **Question 3:**

**Is there a Base Law or legal framework for housing? If so, what does it foresee?**

The legal framework for housing and urban planning in Spain is composed of an array of texts so wide that it is materially impossible to approach in the present context. Hence, here is a list of the most important regulations thereon:

Royal Decree 233/2013, of 5 April, constitutes the regulatory framework that regulates the State Plan for the promotion of housing rental, building restoration and urban regeneration and renovation for the period 2013-2016 (now extended). The objectives of the Plan are, in summary:

- To adapt the aid system to current social needs and the scarcity of available resources, concentrating them on two axes (promotion of rental and promotion of rehabilitation and urban regeneration and renovation).
- To contribute to the fact that mortgage debtors for the acquisition of protected housing are able to meet the obligations of their mortgage loans.
- To strengthen inter-administrative cooperation and coordination, as well as foster co-responsibility in financing and management.
- To improve the quality of building and construction and, in particular, its energy efficiency, its universal accessibility, its suitability for the collection of waste and its proper conservation. To guarantee also that the waste generated in the building renovation works and urban regeneration are adequately managed, in accordance with Royal Decree 105/2008, which regulates the management of construction and demolition waste.
- To contribute to the reactivation of the real estate sector.

Royal Legislative Decree 7/2015, of October 30, adopting the consolidated text of the Law on Land and Urban Regeneration.

Act 38/1999 of 5 November, on Building Management, whereby the Technical Building Code is issued, constitutes the fundamental pillar for the building process. The Act establishes the basic requirements of buildings, updates and completes the legal configuration of agents involved in the building process, establishes its obligations and establishes the responsibilities and the guarantees of protection to users.

**Question 4:**

**What are the legal mechanisms in force in order to guarantee the fulfilment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.**

The abovementioned State Plan for the promotion of housing rental, building restoration and urban regeneration and renovation is structured in the following programmes, establishing different legal mechanisms in the field of housing:

1. Subsidised loan subsidy programme.
2. Housing aid programme.

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3. Programme to promote public rental housing.
  4. Programme for the promotion of building rehabilitation.
  5. Programme for the promotion of urban renewal and regeneration.
  6. Programme to support the implementation of the evaluation report on buildings.
  7. Programme for the promotion of sustainable and competitive cities.
  8. Programme to support the implementation and management of the Plan.

**Question 5:**

**Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.**

Yes, the Spanish legal order provides for a series of mechanisms envisaged at the protection of different vulnerable groups.

Housing assistance programmes:

Subsidy of granted loans

Renting aid

Aid for building restoration and urban regeneration and renovation

Support for the implementation of the evaluation report on buildings

Social housing disqualification guide

Social housing mortgage cancellation guide

Concerning the elderly, Article 50 of the Constitution reads: *The public authorities shall guarantee, through adequate and periodically updated pensions, a sufficient income for citizens in old age. Likewise, and without prejudice to the obligations of the families, they shall promote their welfare through a system of social services that provides for their specific problems of health, housing, culture and leisure.*

Other groups subject to different protection programmes in terms of housing include:

Women victims of gender violence: in accordance with the provisions of Organic Act 1/2004, of 28 December, on Comprehensive Protection Measures against Gender Violence.

Large families: under the provisions of Act 40/2003, of 18 November, on the protection of large families and their development regulations, as well as families composed by the father or the mother, with two children, when the other parent has died.

Victims of terrorism: in virtue of the provisions of Act 29/2011, of 22 September, on the Recognition and Integral Protection of Victims of Terrorism.

Non-governmental organisations and other non-profit-making private entities, especially those active in vulnerable sectors deserving special protection.

Persons affected by evictions and subject to measures to make mortgage foreclosure more flexible: pursuant to Royal Decree-Law 6/2012, of 9 March, on urgent measures to protect unsecured mortgage debtors.

Furthermore, there exist Social housing schemes. These are classified as official housing or, more generally, as protected housing, by the competent body of the Self-governing Communities for citizens who fulfil the conditions established by law. Protected housing may be used for sale or lease and must constitute the habitual and permanent residence of its occupants, except in those cases that are expressly determined.

Finally, the different competent public authorities often foster works aimed at improving environmental efficiency in water, energy, materials use, waste management and protection of biodiversity.

## ESTÓNIA

### Right to Housing

ECPRD Request No 3275

#### 1) Is the right to housing recognised in the national constitution? Under which terms?

The right to housing is not recognized in Estonian Constitution. According to the Art 28 sec (2), every citizen of Estonia is entitled to government assistance in the case of old age, incapacity for work, loss of provider, or need<sup>4</sup>. That means, in the case of need, the constitution only requires the guaranteeing of the essential minimum of staying: a person would have the right to receive temporary shelter as assistance.

#### 2) How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfilment of the right to housing is legally binding at national, subnational and/or local levels? If so, what does it foresee?

According to Dwelling Act<sup>5</sup>:

#### **§ 7. Powers of Government of Republic in regulating housing relationships**

*(1) The following belong to the powers of the Government in regulating housing relationships:*

- 1) *[repealed - RT I, 23.03.2015, 3 - entry into force 01.07.2015]*
- 2) *determination of socially justified standards for dwellings and specifications for application thereof;*

<sup>4</sup> Available in English: <https://www.riigiteataja.ee/en/eli/521052015001/consolide>

<sup>5</sup> Available in English: <https://www.riigiteataja.ee/en/eli/501072015010/consolide>

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- 3) [repealed - RT I 2004, 85, 577 - entry into force 26.12.2004]
  - 4) [repealed - RT I 1998, 60, 953 - entry into force 16.07.1998]
  - 5) resolution of other matters assigned to the powers of the Government by law.

(2) The establishment of the procedure for possession, use and disposal of dwellings in state ownership belongs to the powers of the Government.

#### **§ 8. Powers of local government council in regulating housing relationships**

The following belong to the powers of a local government council in regulating housing relationships in the administrative territory of the local government council:

- 1) establishment of the procedure for keeping records of persons who have no dwelling or right to use a dwelling and persons who need assistance in improving their living conditions;
- 2) establishment of the procedure for possession, use and disposal of dwellings in municipal ownership, and maintenance and repair rules;
- 3) [repealed - RT I 2002, 53, 336 - entry into force 01.07.2002]
- 4) resolution of other matters assigned to the powers of the local government council by law.

Provision of dwelling in the case of need is specified by Social Welfare Act<sup>6</sup>. According to this Act, it is an obligation of the local government.

#### **Subdivision 9 Provision of Dwelling**

##### **§ 41. Objective and content of provision of dwelling**

(1) Provision of dwelling is a social service organised by a local authority the objective of which is to ensure the possibility to use a dwelling to a person who due to socio-economic situation is unable to provide a dwelling which corresponds to the needs of the person and his or her family.

(2) The Government of the Republic or, on the authorisation thereof, the minister responsible for the area may establish by a regulation detailed requirements for the objective and content of the provision of dwelling, including the activities necessary for the achievement of the objective of the service.

##### **§ 42. Provision of dwelling to disabled persons**

(1) Persons who have difficulties moving about, caring for themselves or communicating in a dwelling as a result of a disability within the meaning of subsection 2 (1) of the Social Benefits for Disabled Persons Act shall be assisted by a local authority in adapting their dwelling or in obtaining a more suitable dwelling.

(2) Ensuring the possibility to use a dwelling shall be based on the principle that the disabled person would be able to live at home for as long as possible.

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<sup>6</sup> Available in English: <https://www.riigiteataja.ee/en/eli/513072016001/consolide>.

### **§ 43. Requirements for provided dwellings**

(1) A dwelling granted in the use of a person shall comply with the following:

- 1) the requirements for dwellings established on the basis of subsection 11 (4) of the Building Code, except for socially justified standards for dwellings;
- 2) the justified needs of the person and his or her family, and the size of the family.

(2) A local authority may offer the possibility to use the same dwelling only to persons who wish to live in the same dwelling.

### **3) Is there a Base Law or legal framework for housing? If so, what does it foresee?**

There is no such legal framework in Estonia.

### **4) What are the legal mechanisms in force in order to guarantee the fulfilment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.**

Only a few governmental means or legal mechanisms can be mentioned. Rent level in the private-owner apartments is not controlled by legislation, rent level in municipal apartments is up to each municipality. The low-income households can receive subsistence benefits. The benefit covers also the housing (maintenance) and utilities expenses in the extent of the socially justified standard. These standards are set by the local governments. In accordance with Social Welfare Act Art 133:

(5) Taking into account the limits established on the basis of subsection (6) of this section and the socially justified standards for dwellings established on the basis of clause 7 (1) 2) of the Dwelling Act or the number of family members, the following housing expenses payable during the given month shall be taken into account upon calculation of a subsistence benefit:

- 1) rent;
- 2) the administration costs of the apartment building, including costs related to repairs;
- 3) repayment of loan taken for renovation of the apartment building;
- 4) the cost of services of supplying water and leading off waste water;
- 5) the cost of thermal energy or fuel consumed for supply of hot water;
- 6) the cost of thermal energy or fuel consumed for heating;
- 7) the costs related to consumption of electricity;
- 8) the cost of household gas;
- 9) the expenses made on land tax, which is calculated based on the size of land that equals three times the area under the dwelling;
- 10) the expenses made on building insurance;
- 11) the fee for the transport of municipal waste.

(6) In order to grant subsistence benefit, local authorities shall establish limits for the expenses specified in subsection (5) of this section, which ensure decent subsistence for persons and their family members. Local authorities shall review the established limits at least once a year and establish new limits, if necessary.

Access to home-ownership is somewhat facilitated by the tax policy; young people and families can receive housing loan from commercial banks on favourable conditions.

**5) Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.**

According to Social Welfare Act, following measures can be mentioned:

a) Shelter service for providing a temporary overnight stay;

**§ 30. Objective and content of shelter service**

*(1) Shelter service is a social service organised by a local authority the objective of which is to provide a place of temporary overnight stay to an adult who is unable to find a place of overnight stay. Beds, washing facilities and a safe environment shall be ensured at a place of temporary overnight stay.*

*(2) The Government of the Republic or, on the authorisation thereof, the minister responsible for the area may establish by a regulation detailed requirements for the objective and content of the shelter service, including the activities necessary for the achievement of the objective of the service.*

b) Safe house service for providing a safe environment and temporary housing;

**§ 33. Objective and content of safe house service**

*(1) Safe house service is a social service organised by a local authority the objective of which is to ensure temporary housing, a safe environment and basic assistance to the persons specified in subsection (2) of this section. Upon provision of basic assistance, the person shall be ensured crisis assistance, if necessary, which restores the person's mental balance and operational capacity in everyday life and informed of other possibilities to receive assistance. Based on the age and needs of the person, his or her care and development shall also be ensured.*

*(2) A local authority shall ensure the availability of the service to the following persons during the period of time when it is necessary for ensuring safety and organising their future life:*

- 1) a child who needs assistance due to deficiencies in his or her care which endanger his or her life, health or development;*
- 2) an adult who needs a safe environment.*

c) Provision of dwelling for a person who is due to socio-economic situation unable to provide it him- or herself;

**§ 41. Objective and content of provision of dwelling**

*(1) Provision of dwelling is a social service organised by a local authority the objective of which is to ensure the possibility to use a dwelling to a person who due to socio-economic situation is unable to provide a dwelling which corresponds to the needs of the person and his or her family.*

**§ 42. Provision of dwelling to disabled persons**

*(1) Persons who have difficulties moving about, caring for themselves or communicating in a dwelling as a result of a disability within the meaning of subsection 2 (1) of the Social Benefits for Disabled Persons Act shall be assisted by a local authority in adapting their dwelling or in obtaining a more suitable dwelling.*

*(2) Ensuring the possibility to use a dwelling shall be based on the principle that the disabled person would be able to live at home for as long as possible.*

Local government helps finding housing for refugees and other beneficiaries of international protection (Art 73 sec (4), Act on Granting International Protection to Aliens<sup>7</sup>). Covering of the costs is specified in the same act as follows:

*“(5) The following costs incurred by a local government or a legal person governed by private law shall be covered from the state budget:*

- 1) one-time expenses related to the entering into a rental contract of a dwelling granted for use to a beneficiary of international protection;*
- 2) costs of the Estonian language learning offered to the beneficiary of international protection during up to two years;*
- 3) cost of translation services offered to a beneficiary of international protection during up to two years.*

*(5<sup>1</sup>) The period of covering the expenses provided for in subsection (5) of this section may be extended on the basis of the reasoned request of the local government or the legal person governed by private law.*

*(6) [Repealed - RT I, 03.07.2013, 2 – entry into force 01.10.2013]*

*(7) A beneficiary of international protection who refuses to settle in the territory of the local government that has agreed to admit him or her shall himself or herself find a place of residence and bear the costs related thereto. The accommodation centre for applicants for international protection shall provide accommodation to a beneficiary of international protection for the period of two months as of the said refusal.”*

Best regards,

Katre Tubro

Legal Adviser

Research Department

Chancellery of the Riigikogu

**FINLÂNDIA**

**ECPRD request 3275 – Right to Housing**

<sup>7</sup> Available in English: <https://www.riigiteataja.ee/en/eli/529042016002/consolide>

**Question 1:****Is the right to housing recognised in the national constitution? Under which terms?**

The Constitution of Finland does not constitute a general duty of public authorities to provide housing to everybody. The right to housing is recognized in the Constitution of Finland (Section 19) in following terms:

*“The public authorities shall promote the right of everyone to housing and the opportunity to arrange their own housing.”*

In addition, the same article specifies that *“everyone shall be guaranteed by an Act the right to basic subsistence in the event of unemployment, illness, and disability and during old age as well as at the birth of a child or the loss of a provider.”*

This means that the Constitution does not constitute a general duty of public authorities to provide housing to everybody but obliges public authorities to provide social housing for the most vulnerable citizens.

**Question 2:****How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfillment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?**

The Government defines the principles of housing policies. The national Social Insurance Institution is responsible to provide housing allowances according to the legislation. Municipalities are responsible to provide housing for vulnerable groups and municipalities also own tenement buildings for social housing.

There is no special control mechanism on the fulfillment of the right to housing.

**Question 3:****Is there a Base Law or legal framework for housing? If so, what does it foresee?**

Finnish legislation for the housing sector does not comprehend a Base Law for Housing nor a general legal framework on such matter. However, there is legislation establishing rules for supplying housing for special groups mentioned above as well as on housing allowances etc.

There is legislation which regulates the rights of landlords and tenants in the public and private sectors.

**Question 4:****What are the legal mechanisms in force in order to guarantee the fulfillment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)?**

**Please provide brief description of schemes or mechanisms in force.**

The right to housing is currently supported by General Housing Allowance intended for low-income households. You will find further information on the allowance [here](#).

The Housing Finance and Development Centre of Finland (ARA), a governmental agency operating under the supervision of the Ministry of the Environment, supports building and renovation of residential building. ARA provides special loans and grants for social housing.

Further information on housing is available on the webpages of the Ministry of the Environment.

#### **Question 5:**

**Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.**

#### **Answer:**

There is legislation establishing rules for supplying housing for special groups. In addition to the supported rental housing, mentioned above, there are special schemes for the housing of vulnerable groups (homeless, refugees etc.). There are additional programs supporting housing rentals for young persons and groups with severe housing needs.

## **FRANÇA**

### **Requête CERDP n° 3275**

#### **Demande du Portugal**

#### **Droit au logement**

#### **Question 1: Is the right to housing recognised in the national constitution? Under which terms?**

Le droit au logement n'est pas explicitement énoncé dans la Constitution française. Il est considéré comme découlant de la rédaction des 10<sup>e</sup> et 11<sup>e</sup> alinéas du [préambule de la Constitution du 27 octobre 1946](#), qui fait partie des textes à valeur constitutionnelle :

10. La Nation assure à l'individu et à la famille les conditions nécessaires à leur développement.

11. Elle garantit à tous, notamment à l'enfant, à la mère et aux vieux travailleurs, la protection de la santé, la sécurité matérielle, le repos et les loisirs. Tout être humain qui, en raison de son âge, de son état physique ou mental, de la situation économique, se trouve dans l'incapacité de travailler a le droit d'obtenir de la collectivité des moyens convenables d'existence.

**Question 2: How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfillment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?**

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La politique du logement fait l'objet d'une attention particulière de la part des pouvoirs publics qui, au gré d'une production législative et réglementaire très abondante, surtout depuis la fin de la seconde guerre mondiale, ont construit un édifice complexe qui fait intervenir à des degrés divers l'Etat, les départements et les communes. Les principales missions de chacun de ces acteurs sont (listes non exhaustives) :

#### L'Etat (niveau national)

Le Plan départemental d'action pour le logement des personnes défavorisées (PDALPD) est co-piloté par l'Etat. Issu de la loi du 31 mai 1990, il réunit, autour de représentants du ministère chargé du logement ainsi que du conseil départemental, les acteurs locaux impliqués dans les questions de logement (associations, bailleurs publics et privés, etc.). Le Fonds de solidarité logement (FSL), principal levier financier du plan, est placé sous la responsabilité du département.

L'Etat exerce la tutelle de l'Agence nationale de l'habitat (ANAH), qui œuvre dans le domaine de la rénovation de logements, ainsi que de l'Agence nationale pour la rénovation urbaine (ANRU) qui supervise la rénovation de quartiers urbains en déshérence.

L'Etat est le garant du droit au logement « opposable » (voir question 3).

L'Etat élabore et signe les conventions d'utilité sociale avec les organismes HLM (voir question 4).

Il revient également à l'Etat, entre autres, d'exercer la police des immeubles insalubres et d'établir le plan d'accueil, d'hébergement et d'insertion des personnes sans domicile.

#### Les départements (niveau subnational)

Les départements co-pilotent avec l'Etat le PDALPD et gèrent le Fonds de solidarité logement (voir ci-dessus).

Ils élaborent le plan départemental de l'habitat.

De plus ils assurent la tutelle des Offices publics de l'habitat (OPH) rattachés aux départements dans le domaine du logement social.

#### Les communes (niveau local)

Les communes urbaines concentrent la plupart des missions et responsabilités dans le secteur de l'habitat.

Elles définissent les priorités en matière de logement et participent à l'élaboration du plan départemental de l'habitat.

Elles participent aux commissions d'attribution des logements locatifs sociaux.

Elles exercent la police des immeubles menaçant ruine, des Etablissements recevant du public (ERP) à destination d'hébergement et des équipements communs des immeubles collectifs. Elles gèrent les procédures de carence des copropriétés.

Elles assurent la tutelle des Offices publics de l'habitat rattachés aux communes.

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**Question 3: Is there a Base Law or legal framework for housing? If so, what does it foresee?**

Le droit au logement a été réaffirmé à plusieurs reprises dans des textes de lois adoptées depuis les années 80 : loi [Quilliot](#) du [22 juin 1982](#), qui stipule que « Le droit à l'habitat est un droit fondamental », loi [Mermaz](#) du [6 juillet 1989](#) (énoncé quasiment dans les mêmes termes), puis la loi du [31 mai 1990](#), dite loi Besson, qui affirme que « garantir le droit au logement constitue un devoir de solidarité pour l'ensemble de la nation ». La [loi SRU](#) (Solidarité et renouvellement urbain) du [13 décembre 2000](#) précise quant à elle qu'il doit s'agir d'un logement « décent ».

Toutefois ces affirmations n'impliquaient, pour les pouvoirs publics intervenant dans le secteur de l'habitat, qu'une obligation de moyens à mettre en œuvre pour atteindre ces objectifs.

La loi n° 2007-290 du 5 mars 2007 est beaucoup plus ambitieuse, puisqu'elle institue le droit au logement « opposable ». Concrètement, cela signifie que l'Etat a au final une obligation de résultat. Ainsi, si le requérant a effectué une demande de logement social mais qu'aucun bien adapté à sa situation ne lui a été proposé, il peut saisir une commission de médiation. Et au cas où, en dépit d'une décision favorable de la commission, il ne reçoit toujours pas de proposition de logement dans les délais requis, il peut exercer un recours devant le tribunal administratif au titre du droit au logement opposable.

Dans les faits, compte tenu de la pénurie d'habitations à loyers accessibles, l'application de cette réforme est difficile. Les conditions de toutes sortes (ressources, composition des familles, âge des requérants,...) mises à l'accès aux instances de recours en limitent la saisine.

**Question 4: What are the legal mechanisms in force in order to guarantee the fulfillment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.**

Le logement social

Le logement social représente près de 20 % du parc immobilier français.

Afin que les loyers restent bas, les pouvoirs publics (le plus souvent des collectivités territoriales) fournissent une aide indirecte, versée non au locataire, mais au bailleur, sous forme de facilités de financement, de subventions, de déduction fiscale, etc. Cette aide est assortie de conditions sur la qualité du logement et le montant des loyers.

Il existe différents types de logement social :

Le logement (public ou privé) de type [HLM](#) (habitation à loyer modéré), logements construits et gérés par un organisme public ou privé.

Le logement [subventionné](#) ou conventionné, construit et parfois géré par des entreprises privées.

Les coopératives d'habitation dont la formation a été subventionnée par les pouvoirs publics.

L'[habitat](#) social peut être de tout type : « grands ensembles », « petit collectif », individuel dans une copropriété, pavillonnaire, etc.

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### Les mesures d'aide à l'acquisition de logements

Il existe plusieurs types de prêts à taux réduit parmi lesquels on peut citer :

Le prêt à taux zéro (PTZ) est un prêt sans intérêt, accordé sous condition de ressources pour compléter un prêt principal, et aider les ménages à acheter leur première résidence principale.

Les Plans d'épargne logement et les Comptes d'épargne logement permettent aux acquéreurs de se constituer un apport personnel et de bénéficier d'un prêt avantageux.

Le prêt locatif social (PLS) est un prêt à taux préférentiel accordé pour la construction, l'achat, la réhabilitation d'un logement destiné à être loué comme logement social. Il peut être accordé à une personne morale ou physique ayant passé une convention avec l'Etat.

D'autres formes d'aides sont également prévues pour accroître le parc de logements, dont le dispositif d'aide à l'investissement locatif qui permet de bénéficier d'une réduction d'impôt sur le revenu pour l'acquisition ou la construction d'un logement neuf, en contrepartie d'un engagement à le louer nu à usage d'habitation principale et à un prix inférieur à celui du marché, pendant six ans minimum.

**Question 5: Is there any legal protection enhancing the right to housing for vulnerable groups (homeless, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.**

Plusieurs dispositifs d'hébergement d'urgence ont été prévus en faveur des personnes en difficulté ou vulnérables.

### Les personnes sans domicile

Les sans-abri peuvent avoir accès à 30.000 places en Centres d'hébergement d'urgence (CHU), ainsi que plus de 40.000 places en Centres d'hébergement et de réinsertion sociale (CHRS) dans lesquels les services sociaux tentent de leur trouver une solution vers un logement durable et de faciliter leur insertion professionnelle et sociale.

Toutefois, la capacité de ces structures s'avère insuffisante, surtout durant la période hivernale, ce qui conduit l'Etat à mobiliser également plus de 35.000 nuitées hôtelières en moyenne chaque jour pour héberger les sans-abri.

Les sans-abri peuvent demander un hébergement dans ces structures en appelant spontanément le numéro de téléphone 115, qui donne accès à une plate-forme nationale d'accueil et d'orientation des demandeurs. Ce numéro est gratuit et accessible 24h/24.

### Les victimes de violences conjugales

La prise en charge et l'hébergement des femmes victimes de violences conjugales sont du ressort des Centres d'hébergement et de réinsertion sociale (CHRS) gérés pour la plupart par des associations et des organisations humanitaires, et financés par une dotation de l'Etat. Une participation financière est demandée aux personnes hébergées, en fonction du niveau de leurs ressources. De même que les personnes sans domicile fixe (voir plus haut), les femmes reçoivent dans le cadre de leur hébergement par les CHRS une aide des services sociaux, notamment dans les domaines juridique (reconnaissance

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du statut de victime, engagement de procédures de séparation et de poursuites judiciaires) et administratif (scolarisation des enfants le cas échéant, recherche d'un emploi, demande d'allocations financières, etc.).

### Les réfugiés

Les demandeurs d'asile peuvent bénéficier, dès l'enregistrement de leur demande, d'un hébergement dans un Centre d'accueil pour demandeurs d'asile (CADA) ou dans une autre structure similaire, en fonction des places disponibles. La loi du 29 juillet 2015 a instauré le principe d'un hébergement directif des demandeurs dans le réseau des CADA répartis sur l'ensemble du territoire afin d'éviter de trop fortes concentrations géographiques. La capacité totale des CADA est actuellement de 25.000 places.

L'acceptation par le demandeur de l'hébergement qui lui est proposé conditionne son accès au bénéfice d'un accompagnement social et administratif ainsi qu'à la perception de l'allocation pour demandeur d'asile (ADA).

Dans l'hypothèse où l'asile est accordé au demandeur, il doit quitter l'hébergement qui lui a été accordé en CADA dans un délai de trois mois, à l'issue duquel il peut se loger durant une période maximale d'un an dans l'une des quelque mille places disponibles dans un centre provisoire d'hébergement (CPH). Dans ces centres les réfugiés bénéficient d'un accompagnement social ainsi que de formations, y compris linguistiques.

En revanche si le statut de réfugié lui est finalement refusé, le demandeur ne dispose que d'un délai de un mois pour quitter les lieux.

### Les migrants

Les migrants en attente de régularisation peuvent [être](#) hébergés, avant même le dépôt d'un dossier en préfecture, dans l'un des Centres d'accueil et d'orientation (CAO) qui sont répartis sur l'ensemble du territoire. Ils peuvent y séjourner durant une période maximale de 10 jours, au cours de laquelle ils bénéficient d'un accompagnement social et d'une assistance pour entamer leurs démarches administratives.

La capacité des CAO étant toutefois insuffisante, de nombreux migrants arrivant sur le territoire sont logés dans des hébergements d'urgence, essentiellement des chambres d'hôtel.

Les mineurs isolés étrangers, de plus en plus nombreux, sont pris en charge par les foyers de l'enfance gérés par les départements, ou confiés à des structures du secteur associatif

## **GEORGIA**

### **Abstract**

#### **Question 1:**

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**Is the right to housing recognised in the national constitution? Under which terms?**

**Answer:**

NO

**Question 2:**

**How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfillment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?**

**Answer:**

THERE IS NO NATIONAL LEGISLATION RELATING TO THE RIGHT TO ADEQUATE HOUSING WHICH WOULD REGULATE THE ISSUES IN A SYSTEMIC MANNER. EXISTING NORMS AND INSTRUMENTS REGARDING THE RIGHT ARE GENERAL AND ARE TO BE FOUND IN THE LAW ON SOCIAL ASSISTANCE ADOPTED ON 29 DECEMBER 2006 (THE DOCUMENT PROVIDES NOT ONLY DEFINITION OF THE SUBJECT, BUT ALSO HIGHLIGHTS THE RESPONSIBILITIES OF BOTH CENTRAL AND LOCAL GOVERNMENTS. THE PERSONS LACKING BASIC NEEDS DO NOT HAVE THE ACCESS TO STATE CARE AND CAN ONLY BENEFIT FROM THE BENEVOLENT ASSISTANCE PROVIDED BY LOCAL GOVERNMENT UNITS) AND IN THE LAW ON INTERNALLY DISPLACED PERSONS ADOPTED IN 1996 (THE LAW PROVIDES FOR THE STATE OBLIGATION TO ENSURE IDPS WITH TEMPORARY HOUSING WITHIN GEORGIA'S BORDERS AND NECESSARY FIRST AID).

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**Question 3:**

**Is there a Base Law or legal framework for housing? If so, what does it foresee?**

**Answer:**

NO

**Question 4:**

**What are the legal mechanisms in force in order to guarantee the fulfillment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.**

**Answer:**

THE RESPONSIBILITIES OF THE LOCAL GOVERNMENT UNIT, AS WELL AS THEIR SCOPE, ARE CONCENTRATED IN THE ARTICLE 8 OF THE "LAW ON SOCIAL ALLOWANCES" OF GEORGIA. THE GIVEN NORM ENVISAGES: PROVIDING SHELTER; REGISTRATION OF THE INDIVIDUALS LIVING IN SHELTER; AVAILABILITY OF THE INFORMATION ABOUT THE HOMELESS PERSONS REGISTERED IN THE DATABASE TO THE SOCIAL SERVICE AGENCY AND AVAILABILITY OF THE INFORMATION REGARDING THE EXISTING SOCIAL PROGRAMS ON LOCAL LEVEL TO THE HOMELESS PERSONS. THE LOCAL GOVERNMENT UNITS BEAR THE MAJORITY OF RESPONSIBILITIES REGARDING THE HOMELESS PERSONS. THUS, IMPLEMENTATION OF THE RESPONSIBILITIES IMPOSED BY LAW ON THEIR BEHALF ESSENTIALLY STIPULATES THE QUALITY OF PROVIDING

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THE ADEQUATE HOUSING IN THE COUNTRY.

ACCORDING TO THE STATISTICAL DATA PROVIDED BY THE LOCAL GOVERNMENT UNITS, GIVEN THE ABSENCE OF HOUSING FUNDS, SOME REGIONS SOLVE THE HOUSING PROBLEM OF A SMALLER GROUP OF HOMELESS PERSONS BY PROVIDING THE COMPENSATION OF APARTMENT RENT USING THE AVAILABLE LOCAL RESOURCES.

**Question 5:**

**Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.**

THE STATE BUDGET PROVIDES ALLOWANCES FOR THE FOLLOWING CATEGORIES: REFUGEES (ASYLUM SEEKERS), INDIVIDUALS POSSESSING HUMANITARIAN STATUS, INTERNALLY DISPLACE PERSONS, ENVIRONMENTAL MIGRANTS, CHILDREN WITH SPECIAL NEEDS. AS FOR THE PROVISION OF APARTMENT RENT, THE BUDGET ENVISAGES SUCH ASSISTANCE ONLY FOR THE INTERNALLY DISPLACED PERSONS.

ON 30 APRIL 2014 THE PARLIAMENT OF GEORGIA PASSED A RESOLUTION ON APPROVING THE NATIONAL HUMAN RIGHTS STRATEGY (FOR 2014 – 2020). ONE OF THE GOALS OF THE STRATEGY IS TO IMPLEMENT THE STATE RESPONSIBILITY IN REGARDS WITH THE RIGHT TO ADEQUATE HOUSING AND RESPONDING TO PROBLEMS RELATED TO HOMELESSNESS: CONSOLIDATE

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RESOURCES AVAILABLE TO THE STATE TO MAXIMIZE THE PROVISION OF ADEQUATE HOUSING AND SHELTER; ENSURE THE RIGHT TO ADEQUATE HOUSING WITHOUT DISCRIMINATION; IMPLEMENT EFFECTIVE MEASURES TO ENSURE ACCESS TO ADEQUATE HOUSING AND SHELTER FOR VULNERABLE GROUPS; INTRODUCE NEW STATE HOUSING LEGISLATION, COMPLIANT WITH INTERNATIONAL STANDARDS AND ACCOMMODATING OF THE INTERESTS OF ALL RELEVANT PARTIES; CREATE A DATABASE FOR THE REGISTRATION OF ALL HOMELESS PERSONS; GUARANTEE MINIMUM CONDITIONS AND STANDARDS OF HOUSING.

## GRÉCIA

### ECPRD Request 3275 – Right to Housing

#### Question 1:

**Is the right to housing recognized in the national constitution? Under which terms?**

#### Answer:

The right to housing is expressly recognized in the Constitution of Greece in the following terms:

#### *Article 21*

- 1. The family, being the cornerstone of the preservation and the advancement of the Nation, as well as marriage, motherhood and childhood, shall be under the protection of the State.*
- 2. Families with many children, disabled war and peace-time veterans, war victims, widows and orphans, as well as persons suffering from incurable bodily or mental ailments are entitled to the special care of the State.*
- 3. The State shall care for the health of citizens and shall adopt special measures for the protection of youth, old age, disability and for the relief of the needy.*

**4. The acquisition of a home by the homeless or those inadequately sheltered shall constitute an object of special State care.**

*\*\* 5. Planning and implementing a demographic policy, as well as taking of all necessary measures, is an obligation of the State.*

*\*\* 6. People with disabilities have the right to benefit from measures ensuring their self-sufficiency, professional integration and participation in the social, economic and political life of the Country.*

Additionally, article 17 provides that: **"1. Property is under the protection of the State; rights deriving there from, however, may not be exercised contrary to the public interest.**

*\*\* 2. No one shall be deprived of his property except for public benefit which must be duly proven, when and as specified by statute and always following full compensation corresponding to the value of the expropriated property at the time of the court hearing on the provisional determination of compensation. In cases in which a request for the final determination of compensation is made, the value at the time of the court hearing of the request shall be considered. [...]"*

**Question 2:**

**How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfillment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?**

**Answer:**

The Organization for Social Housing (OEK) was for many decades the main social housing operator in Greece. It was the main public entity exercising social housing policy and at the same time the biggest constructor for residence, since the organized building settlements that planned and was building throughout the Greek territory accounted for about 96% of the total annual of the building activity in the public sector. As a Public Entity, it was supervised by the Ministry of Labour and Social Security (former Ministry of Labour). Basic housing projects were a) the finished house program, b) the subsidized interest rate program c) the special housing, d) the rent subsidy etc. In 2012, the social housing competence was transferred to the Manpower Employment Organization (OAED).

In 2013, the Municipality of Athens launched the "Network For Social Housing" a new housing program, specifically designed to provide housing services, food, psychosocial support and reintegration to residents of Athens who lack the resources or the means to meet these needs. The aim of the program is to provide suitable apartments for families with children, elderly, pregnant women and, in general, for people who are homeless or at immediate risk of homelessness.

As abovementioned (under question 1), the Greek Constitution of 1975 recognizes the right to housing as **"an object of special State care"** and this provision was already implemented since 1931 when the greek state had to face the refugee crisis at the beginning of the previous century. Therefore, there was no need for a specific regulation establishing that the fulfillment of the right to housing is legally binding at national, subnational and / or local levels.

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As in Portugal, the national Government undertakes the definition of housing policies and municipalities, in light of the promotion and protection of its population' interests, have equally been granted several responsibilities on housing matters.

Additionally, the Greek legal system also comprehends judicial and pre-judicial mechanisms in order to ensure the general effectiveness of the Constitution and all laws or rights. However, there are no special mechanisms in order to enforce the adoption of laws on the housing sector upon the national, subnational and / or local authorities.

**Question 3:**

**Is there a Base Law or legal framework for housing? If so, what does it foresee?**

**Answer:**

No, Greek legislation for the housing sector does not yet comprehend a Base Law for Housing nor a general legal framework on such matter.

As in Portugal, in addition to what is foreseen within the national constitution, there is legislation establishing rules for property acquisition, rental or disposal and there have been social programs approved for affordable housing support.

**Question 4:**

**What are the legal mechanisms in force in order to guarantee the fulfillment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.**

**Answer:**

Apart from the programs mentioned under question 2, the right to housing is currently supported by tax and loan incentives for property acquisition. At the beginning of the economic crisis, a special law provided protection from confiscation of residence due to inability to pay the loan instalments. This protection is to be suspended.

**Question 5:**

**Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.**

**Answer:**

Apart from the programs mentioned under question 2, there is currently a program of the Municipality of Athens and the UNHCR for the housing of refugees.

## **HUNGRIA**

## Right to Housing

### *Dear Colleagues,*

In response to your request, I am pleased to send you the following answers from the Hungarian National Assembly.

#### **Question 1:**

##### **Is the right to housing recognised in the national constitution? Under which terms?**

No, the right is not recognised. The [Fundamental Law of Hungary](#) (constitution) does not declare concrete eligibilities concerning housing. It declares that the state intends to provide and to create dignified housing conditions for everyone.

Since it defines state responsibility as “intentions” (to provide dignified housing circumstances), they are difficult to enforce. Indeed, the Fundamental Law makes it possible for local authorities to declare habitual residence of public space an illegal act.

“Article XXII

*(1) Hungary shall strive to ensure decent housing conditions and access to public services for everyone.*

*(2) The State and local governments shall also contribute to creating decent housing conditions by striving to ensure accommodation for all persons without a dwelling.*

*(3) In order to protect public order, public security, public health and cultural values, an Act or a local government decree may, with respect to a specific part of public space, provide that staying in public space as a habitual dwelling shall be illegal.”*

#### **Question 2:**

**How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfilment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?**

There is no regulation that would establish the legal binding of the fulfilment of the right to housing.

Several areas of housing are under-regulated and there are many uncertainties and abuses in the application processes of the relevant laws.

There is no complex national housing policy in Hungary.

In order to provide financial support for housing there are some **social subsidies**. Earlier housing supports used to be normative subsidies and paid from the central state budget. In 2015 the system of housing benefits was changed. Now housing benefits are based on social criteria and may be paid by municipalities.

Now there are several types of housing subsidies which *may* be offered by local governments, but they are not normative any more and must be based on local decrees. They are:

financial support in order to be able to pay the regular costs of housing;

complex (financial plus advisory) support to households to be able to pay back debts (public utility arrears or real estate loans)

support provided to vulnerable groups of people related to housing (e.g. homeless people)

special housing support for group of people with disabilities or addicts.

### **Question 3:**

**Is there a Base Law or legal framework for housing? If so, what does it foresee?**

There is ***no base law*** for housing in general, but legal issues of rent and sell of flats and other rooms are regulated in separate act (***Act No LXXVIII of 1993*** on Certain rules on the lease of apartments and rooms and the alienation thereof) The act rules the rent of flats, apartments and other rooms owned by the state or local municipalities.

The act regulates among others:

the establishment of rent of apartments,

the right and duties of the parties,

the continuity of the right of lease,

the measure of the rent,

special rules of rent of other rooms,

rules of selling of apartments, other rooms in state property or owned by local governments

rules concerning the value receiving from selling;

real estate agency activity of the

Other issues of the rent contracts are regulated by the relevant parts of the [Civil Code](#).

### **Question 4:**

**What are the legal mechanisms in force in order to guarantee the fulfilment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.**

Followings are not legal mechanism but ***financial incentives and public policy measurements*** which aims to encourage to buy/built new houses or flats or enlarge someone's own dwelling.

The Family Home Allowance was introduced from 2015 and supports buying of new and second-hand housing and also the expansion of homes. The housing construction subsidy is a non-repayable state-subsidy which helps housing construction and the purchasing of residential housing. The Family Home Allowance is open for families with children and for couples without children under 40, if they commit to having at least two children in the following 8 years and that the first born is within the next 4 years.

State subsidies to housing saving banks

Tax refund in case of building own flat or house in a maximum sum of HUF 5 million (EUR 16 200)

The legal and administrative procedure of housing construction has been simplified.

The VAT of newly constructed flats has been decreased by 22% (from 27% to 5%).

Introduction of National Housing Building Society system (2016) – Building societies of at least 120 members are created to have flats built in order to provide housing for member and also to boost housing industry. Member payments to the societies are supported from the state budget. Societies are in operation for a maximum period of 10-15 years and all the members have to get a new dwelling at the end of the period.

There are critics that these measures, of which some of them have been recently introduced, are said to be in favour of wealthier groups of society. Expenditures supporting private property (such as financial support of loans and saving banks with a housing purpose) are in the majority, and so by maintaining the small share of rental sector, they are helping to sustain the distortions of the housing system.

Only one third of all housing benefits provided have been based on social status criteria.

Regarding *the housing stock* in Hungary there is no quantitative housing shortage since the number of dwellings, which can be utilized for housing purposes, is sufficient, but an important part of the public and private housing stock is vacant or it is in a rather degraded condition.

90 % of the Hungarian households live in their own flats/houses/dwellings, only 8 % of the households in rented dwellings. The municipality owned housing stock is about 113 thousand dwelling. Slightly more than 50% of the municipality-owned dwellings – therefore **1.5% of the total housing stock – are rented with a social pricing**. The main problem is that the availability of affordable housing possibilities is very low, and mainly cheap rental possibilities are missing.<sup>8</sup>

As it is in the 2014 [report](#) on housing poverty of *Habitat for Humanity*, Hungary, “the rental sector is under-regulated and the existing regulation has problematic points. The weaknesses are, for example, that the minimum period of notice of rental contracts is only 30 days. Municipalities, in the case of residents without a legal title (which means that rental contract expired or terminated e.g. because of rental arrears), can raise the tenure fee (what have to be paid instead of rent in case of the lack of

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<sup>8</sup> Number of flats in the country: 4,1 million pieces; rental flats (owned by municipality: 110-120 000 pcs; flats of NET about 28 000 pcs; number of social rental flats: about 60-70 000pcs. (2016)

contract), after two months at any degree. Juridical anomalies, like lack of contracts or fair contractual conditions, informal buying and selling of tenure rights (e.g. sub-rented social rental units), or the lack of transmission of rental rights are common in the rental sector. Such deficiencies pose a risk not only to tenants, but to property owners too.”

“The availability of public housing stock has been constantly deteriorating in the last few years. In 2013, the number of municipality owned housing stock decreased by 1700 dwellings to 126 500.<sup>22</sup> The number of rented dwellings is even lower (115 thousand) since many of the municipality owned dwellings are in such an atrocious condition that they are not habitable, and others are vacant even if the conditions are acceptable. The most important reason of the decline in the public housing stock is still privatization.”

#### Question 5:

**Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.**

No, there is no definite legal protection. Since habitual residence in public space is illegal, official measures against **homeless people** became more intensive.

Municipalities are entitled to pass local decrees in which it can introduce sanctions against “behaviour violating basic rules of co-habitation in a community”.

The number of homeless persons is estimated about 10-30 000 people but there are some sources which mentioned 50 000 people. (Hungary has a population of 9,8 million persons.) State provides places, mostly accommodation for night only for a smaller part of them.<sup>9</sup>

There is no official complex state policy regarding homelessness. There are some local programs co-financed by the state and EU sources but they are not incorporated into a complex supply system whose target group would be homeless people. Homeless institutions are in the focus of the programs and a long-term-strategy is still missing.<sup>10</sup>

The system providing temporary care for **asylum-seekers** and refugees had already showed signs of congestion in 2014. Refugees receiving legal status and staying in Hungary are also facing serious housing difficulties.

One-third **of children in temporary care** (among them those who are living in temporary homes of families) are forced to live in institutions due to their housing conditions (14% due to danger of becoming homeless, 18% due to inadequate housing conditions). Children of the poorest families are

<sup>9</sup> According to the [report](#) of Habitat for Humanity (2014) the state provided only 11 000 places for homeless people.

<sup>10</sup> Habitat for Humanity report, 2015

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stricken by the practice that takes children away from families and forces them to live in institutional care just because of housing difficulties. According to data provided by the child-care institutions in Budapest between 2008 and 2013, the most frequent reason for taking a child into institutional care was the “housing problems” of parents.

In 2015 the government accepted a **public policy strategy** for the period of 2014-2020 which aims to handle **the segregated housing settlements**. The general target is either to eliminate or to rehabilitate segregations or when it is possible to integrate them.<sup>11</sup>

The institution of **personal bankruptcy** was introduced some years ago, it could help only a few hundred of families to solve their housing problems due to their indebtedness.

**Home Protection Action Plan** – a special action plan in order to provide solution for families who cannot pay their loan payments any more. The state buys the accommodation, the previous owner doesn't have to leave the dwelling and he/she can rent it from the state (National Asset Management Company (NET)). This stock of flats is only accessible to insolvent borrowers of foreign currency loans. One condition – among others – of accessibility is that the creditor agrees that the NET purchases the mortgaged property. “This can be considered as the largest expansion of the rental housing stock since the system change in 1990, but the role of the NET in social housing is currently limited. Firstly, it provides help only for a restricted group of borrowers of foreign currency loans. Secondly, a significant number of the dwellings are situated in disadvantaged regions and so NET cannot become the driver of labour force- and social mobility.”<sup>12</sup>

According to experts housing poverty should be solved by elaboration of a new nationwide rental housing system which could provide cheap and affordable dwellings for lower class people and families.

Should you require additional information on this subject, please do not hesitate to contact us.

Best regards,

Krisztina Kardos

Researcher

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## ISRAEL

### The Knesset

### Research and Information Center

Jerusalem, maio 2, 2017

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<sup>11</sup> This strategy is part of the Hungarian national Closing Up Strategy II. 2011-2020

<sup>12</sup> Habitat for Humanity report, 2014, report 2015 is available only [in Hungarian](#).

## Right to Housing

### Question 1:

**Is the right to housing recognised in the national constitution? Under which terms?**

Israel does not have a constitution but The Basic law: human dignity and Liberty, 1992 incorporates the right to housing as part of human dignity.

### Question 2:

**How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfillment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?**

Housing matters are the responsibilities of national entities, the government and the related ministries.

### Question 3:

**Is there a Base Law or legal framework for housing? If so, what does it foresee?**

A few laws regulate housing legal framework, each law in its specific area such as Public Housing Law 1998, Tenant Protection Law 1972, Planning and Construction Law 1965.

### Question 4:

**What are the legal mechanisms in force in order to guarantee the fulfillment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.**

A special governmental mortgage benefit with a fix rate is available upon criteria's. [http://www.moch.gov.il/English/housing\\_assistance/mortgages/Pages/mortgage.aspx](http://www.moch.gov.il/English/housing_assistance/mortgages/Pages/mortgage.aspx)

### Question 5:

**Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.**

A few mechanisms exist for vulnerable groups of people: Groups entitled to receive rental payment assistance, public housing according to criteria's, subsidies and governmental loans for housing. Please find more details in English at the [Ministry of Constructing and Housing](#).

## LITUÂNIA

16 January 2017

**Reply to the ECPRD Request 3275**

**Right to Housing**

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With regard to Lithuania, the answers to the following questions are as follows:

**1. Is the right to housing recognised in the national constitution? Under which terms?**

Lithuania has ratified European Social Charter (Revised), where Parties undertake to take measures for ensuring the effective exercise of the right to housing.

The Constitution of the Republic of Lithuania provides that the state guarantees its citizens the right to receive social assistance in certain events including cases provided for by law.

The Law on Assistance for the Acquisition or Rent of Housing<sup>13</sup> provides for a legal framework for assistance to individuals and families for dwelling purchase, rent or lease. It sets principles of assistance, the financing sources, measures of housing assistance, the rights and duties of beneficiaries as well as conditions and procedures for rent of social housing dwellings and municipal rental dwellings and for the social housing sale.

**2. How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfilment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?**

According to the Law on Assistance for the Acquisition or Rent of Housing the competent authorities with certain responsibilities regarding housing matters are:

- the Government,
- the Ministry of Social Security and Labour,
- the Ministry of Finance,
- municipal authorities.

The Government adopts legal acts on housing assistance policy and targeted programs as well as makes decisions on adoption of the assistance procedures, compensation levels and methodology to assess the size of the compensation.

The Ministry of Social Security and Labour is responsible for developing the assistance policy and delivering of legislative proposals. It organizes, coordinates and controls implementation of housing assistance measures.

The Ministry of Finance ensures adequate funding of assistance for housing purchase, rent or lease.

Municipal councils determine procedures for payment of rental dwelling rent compensations or leasing compensations, adopt a social housing stock development program, set procedure for renting municipal and social dwelling, keep record of social dwelling stock, decides on rent level and its changes.

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<sup>13</sup> The Lithuanian text of the law is available at: <https://www.e-tar.lt/portal/lt/legalAct/e944ee00600111e4bad5c03f56793630/XkGnarlWly>

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Municipal agencies decide whether individuals and families are eligible for housing assistance, rent or lease municipal or social housing dwellings, prepare and provide information about housing assistance, organize and implement sales of municipal dwellings.

**3. Is there a Base Law or legal framework for housing? If so, what does it foresee?**

See the answers to Questions 1 and 2.

**4. What are the legal mechanisms in force in order to guarantee the fulfilment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.**

The Law on Assistance for the Acquisition or Rent of Housing provides for certain measures of housing support:

- state subsidy to reimburse part of housing loan,
- provision of social rental housing,
- subsidy to compensate part of rent or lease.

According to the Law eligible for assistance are individuals and families who satisfy certain requirements provided by the Law. Eligibility for assistance depends on income and property of individuals and families. Income and property ceilings are set in the law.

**5. Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.**

In accordance with the Law on Assistance for the Acquisition or Rent of Housing certain vulnerable groups (e.g. individuals and families who have lost a home due to fire, floods, strong winds or other circumstances beyond human control, individuals with reduced (less than 25 percent) work capacity, families with five or more children, families bringing up triplet or more together born children, disabled individuals bringing up a child or children, etc.) may be granted priority for housing assistance under municipal council order.

According to the Law, certain vulnerable groups (e.g. individuals that have been left without parental care before they reached the age of 35 years or their families as well as families with three or more children, disabled persons or families caring for the disabled person) are entitled to get their housing loan partially reimbursed from the state budget.

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## LUXEMBURGO

Dear colleagues,

The answers of the Luxembourg parliament to questionnaire 3275 – Right to Housing - are the following:

**Is the right to housing recognised in the national constitution? Under which terms?**

There is no explicit recognition to housing in the Grand Duchy of Luxembourg's national constitution.

**How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfillment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?**

In the Grand Duchy of Luxembourg, the Government's potential for active housing policy is intimately dependent on policies, especially local, for urban planning and community planning.

The legislation in force in fact reserves a legal obligation in the area of housing policy to municipalities.

**Is there a Base Law or legal framework for housing? If so, what does it foresee?**

Bill 5696 on the "Housing Pact" was adopted on June 11, 2008 in first reading in the Chamber of Deputies.

In the government statement presented to the Chamber of Deputies on May 2, 2006, the Prime Minister announced the measures envisaged by the Government to cope together with the municipalities the problems currently facing the housing market.

"The housing pact" is part of the recommended measures. By signing this pact, the State and the municipality are committed to joining forces to increase the supply of housing and to reduce the cost of land and housing through the implementation of various measures more fully specified Below.

The State and the municipalities have a shared responsibility for the realization of the right to adequate housing for citizens. The State and municipalities must therefore work together to increase the supply of housing.

The main objective of the national housing action program is to increase the supply of housing in order to achieve price control. This action is carried out with the collaboration of the various municipal administrations of the country.

For more information, please consult this link :

[http://pacte-logement.lu/IMG/pdf/pacte\\_logement.pdf](http://pacte-logement.lu/IMG/pdf/pacte_logement.pdf)

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**What are the legal mechanisms in force in order to guarantee the fulfillment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.**

For more information about this, please consult the following brochure:  
[http://www.ml.public.lu/pictures/fichiers/constructions\\_subventionnes.pdf](http://www.ml.public.lu/pictures/fichiers/constructions_subventionnes.pdf)

**Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.**

In Luxembourg, two public promoters of the social housing market are specialized in the construction of affordable or subsidized housing. Housing, which is then sold or rented on the basis of social criteria. In addition, the Grand Duchy has a Social Property Agency.

Best regards

Service Gestion des Connaissances

## **MACEDÓNIA**

### **ASSEMBLY OF THE REPUBLIC OF MACEDONIA**

#### **PARLIAMENTARY INSTITUTE**

#### **ECPRD request 3275 - Right to Housing (new deadline)**

##### **Question 1:**

**Is the right to housing recognised in the national constitution? Under which terms?**

No.

##### **Question 2:**

**How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfillment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?**

Competent authorities for establishing and implementing the housing policy in the Republic of Macedonia, according to the Law on Housing are the: Government of Republic of Macedonia, the joint stock company for the construction and management of housing and business area of importance for the Republic, the Commission on Housing Affairs in the Government of Republic of Macedonia and municipalities.

Responsibilities and tasks in the area of housing of the Government of the Republic of Macedonia (according art.99 of the Law on Housing):

- Establishing and implementing housing policy development;
- Adopting the National Strategy and Annual programme for construction, sale and maintenance of housing space owned by the State, and provides resources for realization of the Strategy and the programme;
- Looking after the development of research activities in this area;
- Monitoring the establishment of the tenant relations according to the types of housing on regional and national level by keeping a register,
- Providing measures and instruments to stimulate housing construction;
- Stimulating the citizens by providing loans with favorable interest rates and fiscal measures, for housing development (construction and building) and renovation of residential buildings and apartments and
- Implementing other activities in accordance with the Constitution and other relevant laws.

The municipalities in accordance with the Law on Housing and the National Strategy for Housing, are following and planing the needs for housing in their area, adopting annual programme and taking measures and activities for its realization in accordance with the Annual programme for construction, sale and maintenance of housing space owned by the Republic of Macedonia. Other responsibility is to prescribe the general rules for using the flats, houses, apartments and housing objects, ways of renovation and improvement of the outward appearance of the objects. Every municipality keep an register of housing facilities and register for housemasters who are responsible for this facilities.

Inspection for implementation of the Law on Housing and other regulations based on this law is under competence of authorized inspectors for housing in the municipalities. If there is not appointed inspector in the municipality, then the inspection is performed by inspectors from the State Communal inspectorate.

### **Question 3:**

**Is there a Base Law or legal framework for housing? If so, what does it foresee?**

The most important regulation in the field of housing in the Republic of Macedonia is the Law on housing (Official Gazette of Republic of Macedonia”, no. 99/2009; 57/2010; 36/2011; 54/2011; 13/2012; 55/2013 and 163/2013).

This law regulates the types of facilities, housing objects, management of residential buildings, the relations between the owners of separate parts and others, the community of the owners, register of apartments, tenant relations, the way of managing and maintaining the facilities, rights and obligations of the State, the municipalities, municipalities in the city of Skopje and Skopje in housing, inspection and supervision and other related issues.

### **Question 4:**

**What are the legal mechanisms in force in order to guarantee the fulfillment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.**

There are legal mechanisms for guaranting the fulfillment of the right to housing in the Republic of Macedonia. For example in the Law on value added tax, article 23 provides that the trade in residential buildings and apartments, in the part used for housing purposes, with the exception of the first sale which is to be conducted within a time period of five years following the construction; and the rental of residential facilities and apartments, if they are used for residential purposes - shall **be exempted from paying the value added tax**. There is also article 30 in the same Law which provides that **preferential tax rate of 5%** shall apply to the supply and import of trade in residential buildings and apartments, regarding the part used for housing purposes and effectuated within a period of five years after construction.

**Project "Buy a House, Buy a Flat"** - In order to help those who have not yet acquired their own home or residence, the Government of the Republic of Macedonia, via the Ministry of Finance, initiated the implementation of two projects. These are the so-called Fifty – Fifty shared installment for the first five years and 50% participation for the purchase of an apartment or the construction of a house. The first project will subsidize half of the monthly installment for a period of five years, for a loan of maximum 50.000 Euros intended for the construction of a house or purchase of an apartment. When purchasing an apartment, the sales price (VAT included) must not exceed 900 Euros per square meter. The annual interest rate in the first three years must not be higher than 4, 99 per cent. The subsidies for installments will be considered as non refundable, meaning that after the expiry of the period during which the state covers half of the installment, the beneficiary will not be obliged to reimburse. The funds can both be used for the purchase of a new apartment / house and the purchase or construction of a bigger apartment / house through sales of an existing apartment / house.

With the second project, the Law on subsidizing housing loans enables the state to cover 50% of the participation for housing loans. The remaining 50% should be provided by the buyer. The participation amount must not exceed 50.000 Euros. If the loan is higher than 50.000 Euros, the subsidy will not cover the exceeding amount. If the loan is intended for the purchase of an apartment, the sales price (VAT included) must not exceed 900 Euros per square meter. The deadline for reimbursement cannot be less than 20 years, and the interest rate should be lower than EUROLIBOR + 4,5 %.

These projects will be implemented in cooperation with banks, and the contracts concluded will foresee a ban on leasing the real estate, a ban on using the real estate as collateral and an obligation for submitting the new address of residence within 15 months as of the day of conclusion of the sales / purchase agreement.

Beneficiaries will start reimbursing the funds allocated from the budget of the Republic of Macedonia after 20 years, no interest rate, in five equal annual installments.

#### **Question 5:**

**Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.**

Project F/P 1674 (2009) for construction of apartments for people with social risk and vulnerable groups of people is partly funded by The Council of Europe Development Bank (CEB). With this project it is considered to built 32 objects with 1754 apartments for vulnerable groups of people with a total area

of 72,643.70 m<sup>2</sup>, commercial space of 2.160,94 m<sup>2</sup>, garage area of 353.97 m<sup>2</sup> and 1710 basements with total area of 10,520.04 m<sup>2</sup>. This objects should be built by the end of 2018.

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## PAÍSES BAIXOS

### ECPRD REQUEST FROM PORTUGAL

#### Right to Housing

##### Question 1:

##### **Is the right to housing recognised in the national constitution? Under which terms?**

Answer: In the Constitution of the Kingdom of the Netherlands is very little stated about the right to housing. The only relevant article is 22, second paragraph. This paragraph reads: *“It shall be the concern of the authorities to provide sufficient living accommodation.”*

Article 21 reads *“It shall be the concern of the authorities to keep the country habitable and to protect and improve the environment.”*

##### Question 2:

##### **How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfillment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?**

Answer: As mentioned above, the responsibility for housing is ‘concern of the authorities’.

In the Netherlands so-called “Housing corporations” exist. These are organizations that focus on building, managing and renting quality housing at an affordable rent for people on a tight budget (social housing). The characteristic of this type of housing is that the rental income from these properties are not profitable compared to the building costs. Because the Dutch government left the building of houses to these organizations, and often limited itself to the role of financier, legislator and regulator, the housing corporation in the Netherlands developed a central role in the housing sector. The tasks of the housing corporations are restricted since 2015 and recorded in a revised “Woningwet” (Housing Act).

Municipalities can influence in the allocation of housing by housing corporations. There are strict rules laid down in the “Huisvestingswet 2014” (Housing Act 2014, not the same as the Housing Act mentioned above!).

The corporation is deemed reasonable to contribute to the implementation of the municipal housing policy. However, the municipality is not obliged to draw up a policy. If that fails, performance agreements are not required and (in case of a conflict) the relevant municipality cannot appeal to the Minister.

If the municipality does have a vision on the policy of housing (Woonvisie), the corporations are obliged to make performance agreements. Tenants Organizations are a full-fledged party to the consultation on this.

The new Housing Act also established an integral Authority Housing Associations (Autoriteit Woningcorporaties). This new authority is an organizational unit of the Environment and Transport Inspectorate (ILT), which in turn is part of the Ministry of Infrastructure and Environment. The Authority is responsible for both the financial monitoring of housing associations as to the legality, governance and integrity. The tasks also includes the implementation of the new Housing Act, risk-based supervision and to contribute to the professionalization of the sector.

**Question 3:**

**Is there a Base Law or legal framework for housing? If so, what does it foresee?**

Answer: Yes there is. Ever since 1901 there is a Housing Act in the Netherlands.

On July 1st, 2015 a complete new Housing Act (Woningwet) came into force. The law creates clarity in the housing market by clear rules for social rent. The core task for housing associations continues to be to ensure that people with low incomes can live well and affordable. The Act guarantees the quality of social housing, limited financial risks and controls an appropriate allocation of social housing to the target group. Tenants, municipalities, housing corporations and the government all contribute to this target, each from their own role.

Housing associations, local authorities and tenants together performance agreements on local residential problem. Annually, a report will published in which the Minister reports on the performance of the social housing system.

In addition to the Housing Act 2015 (Woningwet 2015) (Housing meaning 'Houses') there is a Housing Act 2014 (Huisvestingswet 2014). This Housing Act (Housing meaning 'the assignment of houses to tenants') provides the possibility for municipalities to influence in the allocation of houses by the housing corporations and the composition of the housing stock.

General idea of the Housing Act 2014 is the freedom of a home. Tenants should be able to choose where they want to live. Only weighty reasons should a municipality limit this fundamental right of free establishment with allocation rules. The Housing Act (Huisvestingswet) states: allocation rules are only for "as necessary and appropriate to combat unbalanced and unjust effects of scarcity (in housing)."

If municipalities want to apply allocation rules, they must adopt a 'housing regulation' (Huisvestingsverordening) which stipulates in which cases a housing permit is required. Municipalities can no longer take out voluntary agreements with corporations. The municipality is obliged to involve all relevant parties, including housing associations, in the making of the regulation.

**Question 4:**

**What are the legal mechanisms in force in order to guarantee the fulfillment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.**

Answer:

In the Netherlands are two 'types' of rental housing: social housing and private housing. In what kind of property someone lives depends on the height of the amount of the rent of the first month when someone has moved into a house.

Rents for social housing are bound by a legal maximum in the Netherlands. The price is determined by a point system for homes. This determines the quality of the home. Tenants can also compute the maximum rent on the basis of the points system. If that is too high, they can propose the landlord a rent reduction. If there are problems in that they can submit their dispute to a rent assessment committee which makes a binding decision.

Annually legally established what should be the maximum rent increase for social housing. In 2016 this was between 2.1% and 4.6%. The amount of the rent increase in the Netherlands also depends on the income of the tenant. The higher the income, the higher the rent increase.

In 2016 was the maximum basic rent was € 710,68.

For rental housing in the private sector is no maximum rent increase and also set any maximum rents.

For tenants exists in the Netherlands to request the possibility of housing rent adjustment. How high the adjustment is depends on the rent, the income of the tenant and the residence of the tenant. This rent adjustment must be submitted to the tax authorities. For homes that are hired in the private sector no rent adjustment may be asked.

#### **Question 5:**

**Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.**

**Answer:**

Social housing should be leased in principle to the target group of corporations: households with an income below € 34.911 (price per July 1, 2015).

There are some exceptions:

The 80/10 / 10th line:

for 5 years 10 percent of the social houses may be rented to households with incomes between 34.911 and 38.950 euro, and:

10 percent free space. These houses should be used with priority for households that need housing because of mental or physical disabilities. If there is a municipal housing regulation, corporations must keep this in this 10 percent.

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As mentioned before the Housing Act 2014 (Huisvestingswet 2014) provides that municipalities may set rules for the housing allocation of social housing in the municipality. Those rules they define in a housing regulation, which remains valid for up to four years.

In this regulation the municipality may include an emergency regime, specifying which groups get priority for housing. The following groups should be in accordance with the Housing Act in any case be appointed to the urgent house-if there is an emergency regulation in housing regulation:

- Caregivers and receivers;
- People staying in shelters on-refuges;
- Refugees (licensed or status holders). The Dutch Parliament decided in September 2016 to scrap the primacy of refugees admitted from the Housing. The House of Representatives wants to avoid crowding on the housing market for regular tenants and believes that refugees with a license should be housed outside the regular housing. The Senate voted on December 13, 2016 with the bill.

Municipalities can also designate other groups themselves, such as homeless people or people with young children who need a quick house because of a divorce, people who must leave their homes due to demolition or have a serious medical condition. Municipalities can also designate certain groups of houses that go to home seekers who are economically or socially tied to the municipality or region. An urgency to apply in their own municipality.

For dependents with a care is no income test.

## NORUEGA

The Norwegian Parliamentary Research Service Date: 24 January 2017

Researcher: Mrs.Turid Urke

ECPRD request no: 3275

Parliament requester: Portugal – Assembleia da Republica

Our reference no: 2016511

### RIGHT TO HOUSING

#### 1. ANSWER:

No. In Norway, the right to housing is not recognized in the national constitution.

#### 2. ANSWER:

Norway generally has a high housing standard, and eight of ten people own their home. Housing and support services are by definition directed towards groups who are disadvantaged on the housing market. Groups that are over-represented among the disadvantaged in the housing market, are people and families with low income, young people without education and jobs, refugees, former inmates, people with substance abuse issues and/or mental illness, and people with reduced functional ability, including people with disabilities.

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The municipalities have the responsibility for providing housing for the disadvantaged groups. Some municipalities choose to handle this task partly by cooperating with non-governmental organisations. The organisations contribute both by obtaining accommodations and/or by different support services. Also, user and special interest organisations contribute in this area.

### 3. ANSWER:

Norway does not have a Base Law for housing. The legal framework for housing consist of legislation/provisions which are spread in different acts, such as:

The Act on Housing allowances. Housing allowance is a government-financed support scheme for partial coverage of housing expenses for households with low income and high housing expenses. The Norwegian State Housing Bank and the municipalities work together to provide housing allowances. The housing allowance office in the municipality is responsible for handling applications and general enquiries about the scheme. Generally it is at the NAV<sup>14</sup> office, at the municipal service centre or at the social services office.

The Norwegian Health and Care Services Act states that the municipalities shall contribute toward obtaining housing for people who are unable to safeguard their interests in the housing market, including specially adapted housing and aid and social measures for those in need of such services due to age, disability or other causes (Section 3-7).

The Social Services Act<sup>15</sup> – Section 27 regulates temporary accommodation (emergency) (see answer 5).

Act on The Norwegian State Housing bank. Grants and lending schemes from the State Housing bank is elaborated below (see answer 4).

The Tenancy Act regulates tenancy agreements and the rights and responsibilities of landlords and tenants. Prohibition against discrimination is determined in Section 1-8 of the act. For more information, see: [Information on the Tenancy Act](#)

### 4. ANSWER:

As mentioned above (answer 2), the municipalities have the primary responsibility for providing housing for disadvantaged groups. Housing and support services are funded through municipal revenues (mostly tax income and a general bloc grant from the central government), according to local needs and priorities.

In addition, there are a large number of grants and lending schemes from the central government. The most specific responsibilities lies within [the Norwegian State Housing Bank](#) , but other governmental institutions have responsibilities for important measures in the broader sense, specially the Norwegian Labour and Welfare Administration ([NAV](#)) and the [Norwegian Directorate of Health](#).

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<sup>14</sup> NAV= shortname for the Norwegian Labour and Welfare Administration

<sup>15</sup> Full name of the act: The Act relating to Social Services in the Norwegian Labour and Welfare Administration (NAV).

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## State grants and lending schemes

Some of the state grants and lending schemes are distributed through the municipalities. “*The National strategy for housing and support services (2014-2020)*, [Housing for welfare](#)”, gives an overview of relevant funding sources from the central government. The list is quite broad, including both specific housing measures and more long term measures to enable the disadvantaged to manage their living situation. We will here only mention the grant schemes from the Norwegian State Housing Bank. For a complete overview of all grants, see the “Strategy - [Housing for welfare](#)”.

## Overview of central government grants and lending schemes

Source: *The National strategy for housing and support services (2014-2020)*, [Housing for welfare](#)

**The Norwegian State Housing Bank Housing allowances** shall ensure that people with low income and high housing costs, have a suitable home. Housing allowances help the disadvantaged obtain and keep a home, see: [What is housing allowance?](#)

**Social housing expertise grants** shall contribute to increasing expertise on housing and support services and social housing policies.

**Basic loans** shall promote universal design and environment in new and existing homes, fund homes for the disadvantaged and others who are obtaining their first home, and ensure the necessary supply of homes in rural areas. See: [Basic loans](#)

**Investment grants for assisted living and nursing home spaces** shall stimulate municipalities to renew and expand their housing for people who need 24/7 health and care services, regardless of age, diagnosis or disability. The grant is awarded for the construction, purchase, re-purposing, improvement, rent or other forms of obtaining 24/7 nursing and care under the Health and Care Services Act.

**Start-up loans** is a means-tested lending scheme for people with long-term housing and financing issues. The municipalities award the start-up loan with funds from the Norwegian State Housing Bank, see [Start-up-loan](#)

**Grants for housing, urban and area development** shall improve the physical surroundings, stimulate increased participation in the local community and counteract negative development in an area. The Norwegian State Housing Bank manages the scheme, and grants are awarded to efforts in Oslo, Bergen and Trondheim.

**First-home grants** shall contribute to the disadvantaged being able to purchase and keep their own home. The grant is often a top-up loan when financing a home.

**Grants for rental apartments** shall contribute to more suitable rental apartments being available for the disadvantaged in the housing market. The grant is awarded for the purchase, improvement and construction of housing.

**Grants for re-purposing homes** shall contribute toward securing suitable homes for people with disabilities. The grant is financially means-tested.

**Grants for lifts** are awarded to owners of existing residential properties with at least three levels. Grants may be awarded for consulting services for engineering of lifts and cost estimates for installation of lifts, as well as installation of lifts.

**Grants for condition assessment** shall contribute to improved living environments and living conditions by conducting a thorough condition assessment in connection with housing and environmental gentrification.

For more information, see the Norwegian State Housing bank's web site [Housing grant](#)

## 5. ANSWER:

In emergency cases, the Norwegian Labour and Welfare Administration, NAV, can provide [Temporary accomodation](#). This is pursuant to Section 27 of the Social Services Act. Anyone who does not have a place to stay and sleep for the next 24 hours, is entitled to temporary housing from the municipality, according to the act. Temporary housing is intended to alleviate acute homelessness, and a duration exceeding three months should only happen in exceptional cases. NAV will take steps to secure more permanent accommodation.

The National strategy for housing and support services (2014-2020), Housing for welfare, points to different challenges and measures for improvement on this area. For more information, see the Strategy - [Housing for welfare](#).

## REP CHECA

### Abstract

**Question 1: Is the right to housing recognised in the national constitution? Under which terms?**

No.

**Question 2: How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfillment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?**

Act no. 128/2000 Coll., on municipalities, provides generally that municipalities have independent

competence for issues including fulfilment of the housing needs of their citizens. However, there is no "right to housing" in current laws, the Ministry of Labour and Social Affairs is currently drafting a new law on social housing, but it has not yet been tabled in our parliament.

**Question 3: Is there a Base Law or legal framework for housing? If so, what does it foresee?**

Not yet. The draft law has not yet been finalised and has not yet been tabled in parliament. The preliminary text foresees 3 types of "social" housing, 1) crisis-housing for up to a maximum of 6 months for those who are at immediate risk of homelessness, 2) social housing - which would be offered only if the applicant agrees to fulfil certain conditions (such as regularly communicating with social workers and actively seeking work etc.) and 3) long-term housing with regulated rent. However, the budgetary and organisational details for implementation of this law are still not yet finalised.

**Question 4: What are the legal mechanisms in force in order to guarantee the fulfillment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.**

Rental market regulation is no longer in force, in-line with the ECHR ruling in the case of Hutten-Czapska v. Poland.

**Question 5: Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under**

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**which terms? Please provide brief description of schemes or mechanisms in force.**

Only by way of social benefits (housing allowances) and short-term housing which may be provided for asylum-seekers.

Best regards,

Martin Kavena

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## ROMÉNIA

### Reply to ECPRD Request No.3275 – Right to housing

#### Question 1:

**Is the right to housing recognised in the national constitution? Under which terms?**

Romanian Constitution provides in Art.47 – Living standards: (1) The State shall be bound to take measures of economic development and social protection, of a nature to ensure a decent living standard for its citizens. (2) (...) Citizens have the right to social assistance, according to the law.

#### Question 2:

**How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfillment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?**

#### Question 3:

**Is there a Base Law or legal framework for housing? If so, what does it foresee?**

#### Question 4:

**What are the legal mechanisms in force in order to guarantee the fulfillment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.**

*Law no.114/1996 on housing, as modified, provides that free and unhindered access to housing is a right of every citizen. Making housing is a major objective of national interest in the long term, of the central and local public administration.*

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Art.7 - (1) Local councils can achieve, from special constituted deposits, housing with built areas provided in Annex no.1 to this law, assuming the control of the sale price in order to enable access to the property for some categories of persons in the following order of priority:

- a) newlyweds who at the time of contracting housing, each have aged up to 35 years;
- b) persons receiving facilities at buying or building a home, according to Law no.42/1990 for honoring the martyr-heroes and granting rights to their successors, the wounded and the fighters for the Revolution of December 1989, republished;
- c) persons qualified in agriculture, education, health, public administration and cults, coming to live in rural areas;
- d) other categories of persons defined by local councils.

(2) Persons in the categories listed at a) - d) are entitled to a subsidy from the state budget, within the annual budgetary provisions, in relation to the average net monthly income per family member, of up to 30% of the house value, calculated from final value of it, and to the payment in monthly installments, for a period of 20 years, of the difference to the final price of the home, after decreasing the subsidy and the mandatory advance of 10%, paid by the contractor, from the value of housing contracting date.

#### **Question 5:**

**Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.**

Law no.114/1996 on housing, Chapter V – Social housing

Art.38 - Construction of social housing can be made in any locality accordingly to town planning documentation and provisions of this law. Creating a fund of social housing is made by making new construction and rehabilitation of existing buildings. Local councils are responsible for and control the fund for social housing in the administrative-territorial units.

Art.42 - Shall have access to social housing, for renting, families or individuals with a net monthly income per person, made in the last 12 months, below the average monthly net salary per total economy, announced by the National Statistics (...).

Art.43 - Social housing is allocated by local government authorities that manage them based on annually established criteria, under the provisions of this Chapter, and they can get in order of priority established by law, the following categories: people and families evacuated or to be evacuated from their homes returned to the former owners, young people who have aged up to 35 years, young people from social protection institutions and who have reached the age of 18, disabled and second degree, people disabled, pensioners, war veterans and war widows, beneficiaries of Law no.42/1990 as mentioned, and of the Decree-Law no. 118/1990 on granting rights to persons persecuted for political

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reasons by the dictatorship with effect from 6 March 1945, and those deported abroad or imprisoned, republished, as amended and supplemented, and other individuals or families entitled.

Art. 44 – The lease is concluded by the mayor, or by a person authorized by him, with beneficiaries established by the local council, for a period of 5 years, with possibility of extension on the statement of income and attesting documents required under the law.

The rent does not exceed 10% of monthly net income, calculated for the last 12 months per family. The difference from the nominal amount of rent (...) will be subsidized from the local budget of the administrative territorial unit where the social housing is located.

Art. 48 - Shall not benefit from social housing under this law if individuals or families:

- a) owns a dwelling;
- b) having alienate a home after January 1, 1990;
- c) have benefited from state support in credits and executing to achieve a home.

Art. 50 – Social housing financing is ensured by local budgets approved annually within the budgetary provisions, by local councils; to this end shall be established a separate subdivision spending in those budgets.

State supports social housing by transfers from the state budget set annually for this purpose in the budget of the Ministry of Public Works and Planning, through the state budget law.

Individuals and economic entities may contribute to social housing through donations or contributions.

## SÉRVIA

Belgrade

January 4th, 2017

**SUBJECT: ECPRD Request No. 3275**

**- Right to Housing –**

Dear Colleagues,

I am pleased to inform you about the situation in the Republic of Serbia regarding to ECPRD Request No. 3275.

**Questions/Answers:**

**1. Is the right to housing recognised in the national constitution? Under which terms?**

No it is not.

**2. How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfillment of**

**the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?**

According to the Law on Housing and Maintenance of Buildings “in order to achieve public interest of the Republic of Serbia, autonomous provinces and local governments make strategic documents for the implementation of housing policy and provide funds in their budgets to fulfill the obligations stipulated by this law and strategic documents.”

**3. Is there a Base Law or legal framework for housing? If so, what does it foresee?**

Legal framework for housing is regulated with:

o **Law on Housing and Maintenance of Buildings** - regulates the sustainable development of housing, building management and maintenance of the building, the process of eviction and resettlement, housing support, registers and records and other issues of importance for housing policy,

o **Law on Social Housing** - regulates conditions for the sustainable development of social housing and the manner of providing and using funds for social housing development, as well as other issues of importance for social housing,

o **National Social Housing Strategy and the Action Plan** for its implementation shall be adopted in order to provide conditions for the sustainable development of social housing in the Republic of Serbia, and with the aim of implementing the defined national housing policy, which also determines the measures for its implementation.

**4. What are the legal mechanisms in force in order to guarantee the fulfillment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.**

Please, see answers above.

**5. Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.**

Yes, there is Law on Social Housing. Pursuant to Law on Social Housing, persons who are without housing, or persons who are without housing of an adequate standard, and who cannot obtain housing under market conditions with their income shall have the right to solve their housing needs. The basic standards for determining the order of priority for solving the housing needs of persons shall be:

- 1) housing status,
- 2) level of income,
- 3) health,
- 4) disability,

5) number of household members,

6) assets.

When determining the order of priority according to the basic standards, precedence shall be given to persons belonging to vulnerable social groups: young people, children without parental care, single parents, families with many children, single-person households, persons over the age of 65, persons with disabilities, disabled veterans and survival beneficiaries, civilians disabled in war, refugees and internally displaced persons, Roma and members of other socially vulnerable groups. The Government shall specify the conditions and standards within each individual social housing programme.

The local self-government unit shall specify the conditions and standards for solving the housing needs of the households within each individual social housing programme, in accordance with conditions and standards from the relevant Government document.

With my very best regards,

Milana Stekovic / Милана Штековић

ECPRD Deputy Correspondent

## ESLOVÁQUIA

**ECPRD request no. 3275**

**Right to Housing**

**22 December 2016**

Country	<b>Slovak Republic</b>
Parliament	<b>National Council of the Slovak Republic</b>
ECPRD Correspondent	Natalia SVECOVA
E-mail address	<a href="mailto:natalia.svecova@nrsl.sk">natalia.svecova@nrsl.sk</a>

Elaborated by	Martina Hogenova
Job title	State advisor (Research analyst) at the Parliamentary Institute
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**Is the right to housing recognised in the national constitution? Under which terms?**

In the Slovak Republic, the right to housing is not recognized in the Constitution.

**How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfillment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?**

Our legal system does not contain a constitutional right to housing.

**Is there a Base Law or legal framework for housing? If so, what does it foresee?**

N/A

**What are the legal mechanisms in force in order to guarantee the fulfillment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.**

In the Slovak Republic is only regulation for renting specific category of flats in the decree of Ministry of Finance on the regulation of flat rental prices. It is the group of flats that were returned as part of post-communist restitution there was a group that received their properties still occupied by tenants.

The system of regulated rent in Slovakia has a basis in related laws and accepted the Slovak government's argument that rent control has a legitimate aim, and is thus in line with the public interest. It also accepted the measures through which the state gradually increased the regulated rent with the aim of eventually ending it. This principle has been in use for more than 20 years and that the governments have repeatedly postponed the final step of deregulation.

**Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.**

Slovak legal system does not regulate legal protection of housing.

**SUÉCIA**

16 January 2017 Our ref. 2016:2159

[ECPRD] NEW REQUEST #3275 "RIGHT TO HOUSING."

*The Parliament of Portugal has asked question about the situation when it comes to the Right to Housing in other European countries. This is the reply from the Swedish Parliament.*

1. *Is the right to housing recognised in the national constitution? Under which terms?*

2. *How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfilment of the right to housing is legally binding at national, subnational and/or local levels? If so, what does it foresee?*

3. *Is there a Base Law or legal framework for housing? If so, what does it foresee?*

4. *What are the legal mechanisms in force in order to guarantee the fulfilment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.*

5. *Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.*

This is the reply from the Research Service at the Swedish Parliament.

### **1. Right to housing in the Constitution?**

The Right to Housing is guaranteed in both the Swedish Constitution and by law. The Constitution ensures that it shall be incumbent upon the public administration to secure the right to housing.

Chapter 1 Article 2 in the Instrument of Government (*Regeringsformen*)<sup>16</sup> – which is a part of the Swedish Constitution - provides that the public administration should secure the right to work, housing and education, protect private and family life, and promote social assistance, safety and good conditions for health. In the same time, no legal mechanisms are provided to enable homeless individuals to enforce these rights.<sup>17</sup>

Sweden also ratified the Revised European Social Charter on 29/05/1998, accepting 83 of the Revised Charter's 98 paragraphs, including the Article 31 on the right to housing.<sup>18</sup>

### **2. Housing responsibilities on national, subnational and local level?**

Regarding housing policy in Sweden, the responsibilities are shared between national level, regional level and local level.<sup>19</sup>

To a large extent, the housing policy of today was established in the post-World War II period. The responsibility of the government was foremost to make sure the regulations regarding housing were in place and to provide financial solution to the production of new homes.<sup>20</sup>

<sup>16</sup> <http://www.riksdagen.se/en/SysSiteAssets/07.-dokument--lagar/the-instrument-of-government-2015.pdf/>

<sup>17</sup> <http://www.housingrightswatch.org/page/state-housing-rights-19>

<sup>18</sup> Ibid.

<sup>19</sup> <http://www.boverket.se/globalassets/publikationer/dokument/2007/bostadspolitiken.pdf>

<sup>20</sup> Ibid.

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On the subnational level the regional administration, a special board (*länsbostadsnämnd*) has the task to administer the subsidized loans. The planning monopoly, which is a strong instrument when designing where new houses are built, belongs to the local government (*kommunerna*).<sup>21</sup>

During the time 1950-2000, local government owned public construction companies, played an important role building many rental homes in Sweden, side by side with private builders. But during the last decades, there has been a shift towards building privately owned condominiums instead of rental homes, and private construction companies have been more active than the public companies.<sup>22</sup>

The municipalities have the responsibility for providing housing and to establish various form of housing based on assessment of needs.<sup>23</sup>

This does not prevent private actors from running various types of housing, which is quite common for example in the case of special types of housing (care and social service housing).

The municipalities have the financial responsibility and activities of this kind are funded through the municipal budget, in which general government support is included. This support varies depending on the financial situation and population conditions of the municipality in question. In addition, the state has recently established special investment support for the construction of special forms of housing for the elderly. Note that this support is intended for the construction, not for the running, of the housing.<sup>24</sup>

Residents in special elderly housing pay regular rent for their homes and a charge for care and social service, food, etc. The charge is limited by the fact that the home is subsidised up to a certain amount. In the case of low income, it is possible to receive a housing supplement to help pay for the rent.<sup>25</sup>

There is no special sector for state-subsidised housing for households with low incomes (corresponding to social housing or affordable housing). Low-income households are referred to the regular housing market. It is easier for families with children and young adults (under 30) to be granted housing allowance. Pensioners with a low pension can receive a housing supplement to their pension.<sup>26</sup>

### **3. Base Law for housing?**

Not applicable to the Swedish situation.

### **4. Legal mechanisms in force?**

Rents for residential apartments in Sweden are normally determined through negotiations between landlords and tenant representatives. There is no role in these proceedings for public stakeholders,

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<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> <http://www.boverket.se/globalassets/publikationer/dokument/2007/bostadspolitiken.pdf>

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

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such as the central government and the municipalities. The negotiation system is supplemented by national consumer protection for private tenants.<sup>27</sup>

There is a tradition in Sweden of resolving differences and conflicts of interest through negotiation and compromise between the various stakeholders, preferably without state intervention. This is an established approach in many areas of Swedish society, not least within the labour market.<sup>28</sup>

There is a utility value system that exists alongside the negotiation system. This system is managed by Regional Rent Tribunals. These tribunals are central government administrative authorities managed by a district rental tribunal officer and whose members represent the parties in the housing market.<sup>29</sup>

The rules and regulations for the utility value system form part of the Tenancy Act and should ultimately be viewed as a form of national protection for private tenants. The aim of the utility value system is not to govern the setting of rent but to protect the tenants' security of tenure.<sup>30</sup>

According to law, each tenant that has a direct tenancy agreement (head lease) is entitled to continue to rent the apartment for as long as the rent is paid and neighbours are not disturbed, etc. This is known as 'security of tenure'. However, such security of tenure would hardly be worth much if the landlord was able to increase the rent by such a large amount that the tenant is unable or does not want to pay and is therefore compelled to move. There must consequently be a ceiling for the amount of rent that landlords can charge. This is expressed in the Tenancy Act as the landlord not being allowed to impose a rent that is more than would represent a reasonable amount.<sup>31</sup>

In Sweden the term "social housing" is not used. The corresponding sector is called "*allmännyttig*", which literally means "public utility" or "for the benefit of everybody". In an international context the concept "public housing" is appropriate. This sector consists of rental dwellings, owned by municipal housing companies that are organized as joint-stock companies (limited companies). In most cases the local authorities hold all the shares. These housing companies have a general interest objective to promote the provision of housing in their municipality but operate on business-like principles.<sup>32</sup>

Municipal housing companies must work for the purpose of promoting public benefit and they must have a general interest objective by promoting the supply of housing in the municipality not only housing for the most vulnerable but for all kinds of people.<sup>33</sup>

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<sup>27</sup> [http://www.sabo.se/om\\_sabo/english/Documents/Rent%20setting%20in%20Sweden.pdf](http://www.sabo.se/om_sabo/english/Documents/Rent%20setting%20in%20Sweden.pdf)

<sup>28</sup> Ibid

<sup>29</sup> Ibid.

<sup>30</sup> [http://www.sabo.se/om\\_sabo/english/Documents/Rent%20setting%20in%20Sweden.pdf](http://www.sabo.se/om_sabo/english/Documents/Rent%20setting%20in%20Sweden.pdf)

<sup>31</sup> Ibid.

<sup>32</sup> <http://www.housingeurope.eu/resource-125/social-housing-in-europe>

<sup>33</sup> Ibid.

There are no general housing subsidies anymore. Investments in public housing must be financed by the income coming from the rents. Public housing companies have no special benefits or advantages compared to the private rental sector.<sup>34</sup>

To avoid stigmatisation of public housing estates or residential areas the sector is open to anybody. There are no income limits or other similar ones. The purpose is to provide housing for all, also for the less advantaged. However, in practise it is typically not rich people who live in the public housing sector. In comparison to other sectors and tenure forms, the residents in public housing are on average less well off. They have a lower income, show higher unemployment rates and receive more social benefits. They are also to a greater extent single persons or single parents and more often immigrants.<sup>35</sup>

### 5. Legal protection - right to housing for vulnerable groups

Under Chapter 4, Article 1 (paragraph 1) of the Social Services Act (*Socialtjänstlagen*) (2001:453)<sup>36</sup>, any individual who is unable to provide for his needs or to obtain provision from them in any other way, is entitled to assistance from the social welfare committee (which is part of the municipal administration) towards his livelihood and for his living in general. Furthermore, according to Chapter 4, Article 1 of the same act, individuals who have objections to a decision made by the social services concerning the Article, can appeal the decision to the administrative courts.<sup>37</sup>

In Sweden, those with severe disabilities have an enforceable right to permanent accommodation: but what is offered is a group home rather than 'regular' housing. There is also an entitlement to housing for the elderly.<sup>38</sup>

## TURQUIA

### 1. Is the right to housing recognized in the national constitution? Under which terms?

Article 21, 23 and 57 of the Constitution of the Republic of Turkey establishes the following:

"Article 21: The domicile of an individual shall not be violated. Unless there exists a decision duly given by a judge on one or several of the grounds of national security, public order, prevention of crime, protection of public health and public morals, or protection of the rights and freedoms of others, or unless there exists a written order of an agency authorized by law in cases where delay is prejudicial, again on these grounds, no domicile may be entered or searched or the property seized therein. The decision of the competent authority shall be submitted for the approval of the judge having jurisdiction

<sup>34</sup> Ibid.

<sup>35</sup> <http://www.housingeurope.eu/resource-125/social-housing-in-europe>

<sup>36</sup> An unofficial translation of the Social Services Act can be found here:  
<https://www.ideals.illinois.edu/bitstream/handle/2142/46114/Swedish%20Social%20Services%20Act.pdf?sequence=2>

<sup>37</sup> Ibid.

<sup>38</sup> [http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-1993387-om-stod-och-service-till-vissa\\_sfs-1993-387](http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-1993387-om-stod-och-service-till-vissa_sfs-1993-387)

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within twenty-four hours. The judge shall announce his decision within forty-eight hours from the time of seizure; otherwise, seizure shall be automatically lifted.

Article 23: Everyone has the freedom of residence and movement. Freedom of residence may be restricted by law for the purpose of preventing crimes, promoting social and economic development, achieving sound and orderly urbanization, and protecting public property. Freedom of movement may be restricted by law for the purpose of investigation and prosecution of an offence, and prevention of crimes.

Article 57: The State shall take measures to meet the need for housing within the framework of a plan that takes into account the characteristics of cities and environmental conditions, and also support community housing projects.”

**2. How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfillment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?**

In general, powers and responsibilities regarding housing matters are allocated between the Ministry of Environment and Urbanization, Housing Development Administration (TOKİ) and municipalities. The Ministry of Environment and Urbanization has limited powers to make and amend land development plans for the large-scale investments of the central government; and the Housing Development Administration for urban regeneration projects. Municipalities have the full authority to make and implement land development plans.

TOKİ, which is the leader official institution of Turkey in terms of dealing with housing and settlement issues, has acquired essential knowledge and experience on developing different finance models regarding housing production throughout its 30 year-activity period. For its mass housing projects produced on its own lands, TOKİ has the target group of low and middle-income families, who are not able to own a housing unit within the existing market conditions in Turkey.

Municipalities have also mandatory functions with regard to housing. It is the most important function of municipalities to make land development plans and supervise buildings in the cities.

Land development plans made by municipalities should conform to regional plans and higher scale environmental plans if any made by the central government. The Regulation on Making and Amending Land Development Plans was amended in 2013, and the Ministry of Environment and Urbanization has since then been monitoring land development plans and amendments thereto.

**3. Is there a Base Law or legal framework for housing? If so, what does it foresee?**

The Mass Housing Law (Law No. 2985, on 'public housing') is a framework law defining the fundamental principles, which give direction to the solution of the housing problem in Turkey. The Law also determines the tasks of the Housing Development Administration (TOKİ). In order to solve the housing problem and to increase housing production at national level, the Mass Housing Law (Housing Development Law) (No: 2487) was passed in 1981. The aim of Law is to meet the need for housing, to establish the methods and principles to be conformed to by mass housing constructors, to develop

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industrialised building techniques and to create and use a Mass Housing Fund to provide State Subsidies.

**4. What are the legal mechanisms in force in order to guarantee the fulfillment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.**

Social housing program of TOKİ targets the low and middle-income people who cannot own a housing unit under the existing market conditions. (Considering the distribution of the housing projects realized by TOKİ, 15% of the same consists of “Fund Raising by method of Revenue Sharing” and 85% of “Social Housing” projects.)

The beneficiaries of the social housing projects of TOKİ (constructed on lands pertaining to TOKİ) make their down payments on the start of the constructions after the tender or at a certain stage (determined by the Administration) (no down-payment is collected in projects toward the poor), and continue monthly payments according to a single-indexed reimbursement plan. For most of these projects the index is the public sector wage index (semiannual index calculated by the Ministry of Finance of Republic of Turkey).

For the projects targeting the low income group citizens, monthly installments are increased (twice in a year) depending on the rate of increase for public sector wage index or Producer Price Index or Consumer Price Index (inflation indices announced by TurkStat), whichever is smaller (namely; variable single-indexed credit system). The maturities of the loan repayments of TOKİ are set as 8-25 years in average depending on the financial capabilities of the target groups.

40,55% of the social housing projects realized consists of those for the narrow- and middle-income groups. As to the 23,01% portion of the projects (the lowest 20%-40% income tranche), they consist of projects toward the low-income group. The urban transformation projects, which have recently become increasingly significant, have a ratio of 15,08 %.

Implementations of the poor group houses are executed under the coordination of TOKİ and the Ministry of Family and Social Policies-General Directorate of Social Benefits (SYGM), and TOKİ only undertakes construction of the houses in those projects. Applications and all following procedures are realized by the concerned social solidarity foundations. These projects seek the condition that the applicant him/herself, his/her spouse and the children under his/her custody have no real estate registered in his/her name with the land registry office. It is necessary that the applicants are not subject to the Social Security Organization. In housing sales toward the poor and low-income groups, there is a condition of residence for the purchaser or his/her family until pay-off of the debt for the contracted house.

The applications, sales, repayment terms (debiting) and identifying beneficiaries related to these houses are determined by General Directorate. These houses are delivered to poor citizens by the concerned of General Directorate.

With regard to the applications for low-income group houses, it is also expected that the net monthly household income is 3.200 TL. at most. Income limit for İstanbul has been determined as 3.700TL.

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The Administration realizes projects using method of collecting preliminary demands in order to prevent idleness of investments to be made in projects toward settlements with a population below 40.000. The preliminary demand collection method is organized by the Governorships, District Governorships or Municipalities. The project is put into effect in case of adequate application to the project (at least 100 houses).

The existing demand for TOKİ properties far exceeds supply. Every citizen who does not own a house has a right to apply for social housing. However, in general workers and civil servants benefit most from these houses. Due to the very high demand, houses are sold to applicants through a lottery supervised by a public notary.

Since the property right is owned by TOKİ until the debt is over, the repayments of the projects are under guarantee. That is, TOKİ is acting as a 'guarantor' for the repayments of the project. TOKİ finalizes the construction of housing units within 24 months.

The fact that the title deeds are not issued until full repayment of the debts minimizes the default of payment of installments. Indeed, the rate of non-payment is near to zero in the sales practices realized by the Administration. The rate of termination of the sales contracts/rate of taking back of the houses are also low. (approximately 1/ 2.000 houses).

TOKİ accounts are with public banks in accordance with the General Communiqué of Public Treasury. The reimbursements for the sales realized and loans made available by TOKİ are pursued and collected over public banks in the name of TOKİ. The collections accumulating in Banks are transferred to the accounts of the Administration within the framework of the protocols with the banks.

Housing units in TOKİ projects are offered for sale in the beginning of the construction stage after the tender or at a certain stage.

Sales prices of the units are set by TOKİ, by taking into consideration the cost of construction, social facilities, cost of infrastructure, cost of consultancy services and cost of land. Sales prices are determined without a profit purpose, in view of the saving patterns and monthly affordability of the target groups.

Construction cost is the sum of building, mechanical, electrical, substructure, and land-landscape and ground improvement etc. costs.

The sales prices of the housing units produced for the poor citizens (one of the category of TOKİ's social type housing program) do not include the cost of land.

Because the problem of slums and shanty settlements cannot be solved through the efforts of the local governments only, since 2003 TOKİ has been following a comprehensive policy toward supporting modern urbanization in cooperation with local administrations, with the support of the central government.

Within the scope of the Law No.5162 that underlines "the prevention of shanty settlements in our cities in cooperation with local authorities and the transformation of the existing shanty settlements" in the Emergency Action Plan of the program of the 58th Turkish Government and the regulations adapted

in 12.05.2004, TOKİ has been assigned to be in service in the urban renewal projects and has been carrying out its projects in this sense.

TOKİ's practices constitute a model for local governments and other actors of the housing sector. TOKİ not only transforms slums, extremely intensive shanty settlements, areas with a high risk of natural disasters (earthquake, flood, landslide etc.) and historical urban areas as well as urban areas whose economic lifetime is over but also tries to prevent formation of new slum areas with the houses it produced for narrow-income groups.

Renewal projects and not only produce renovated housing areas; but also provide major recreation areas, city parks, city quarters, trade centers for the city.

The tender works for 104.896 houses have been started in 229 different projects as a part of the slum transformation project of 276.162 houses in total divided into 336 projects formed within the scope of urban transformation as of 05 January 2015, and 95.534 houses have been produced in 212 projects whose tenders are complete, and 56.354 houses being completed in 128 regions, were delivered to beneficiaries.

In these projects, it is the main target to rehabilitate the slum, shanty settlement and bedraggled regions of the city by way of most efficient use of the public resources while simultaneously trying to keep the satisfaction of the proprietor citizens and other city dwellers at a maximum.

**5. Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.**

One of the loan implementations of TOKİ is the one for Martyr Families and terror casualties.

The first implementation of the Interest-Free Housing Loan for Martyr Families, Terror Casualties and Widows and Orphans from the Housing Development Fund has been initiated in 1985 by adding an article to the Law on Duties and Liabilities of Police, extending 5.000.000TL. interest-free loan from the Housing Development Fund to the families of martyred policemen as of 1.1.1971. The scope of the loan was expanded by addition of an article to the Housing Development Law in 1991, and it has been ensured that all martyr families and terror casualties and widows and orphans of them with salary from the Pension Fund and acquiring a Beneficiary Certificate for Interest-Free Loan also benefit from the same.

The "Regulation on Interest-Free Housing Loans to be made available from the Housing Development Fund to the Martyr Families, Disabled Veterans and Widows and Orphans" regulating those matters has taken effect upon publication on the Official Gazette dated 21 September 1991 and numbered 20998. Due to the expansion of the scope of beneficiaries to be use interest-free housing loans; this Regulation has been abolished with the "Regulation on Interest-Free Housing Loan to be Made Available to Martyr Families, War and Duty Casualties by the Housing Development Administration" dated 13 February 2014 and numbered 28912.

Within the scope of this regulation, 388.577.018,16 TL of loan was made available by TOKİ to 16.582 martyr relatives as of end of 2014.

In addition to this, construction experience of the Administration has been actively employed in many social practices such as health, education, security, lodging, sports facilities, care centers for homeless children and dormitories where needed, especially in the recent years within the protocols signed with various ministries, state institutions and organizations.

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## REINO UNIDO

### Question 1:

#### **Is the right to housing recognised in the national constitution? Under which terms?**

There is no right to housing in the UK although there are duties to provide housing assistance for certain homeless people – these duties are different in England, Scotland and Wales.

### Question 2:

#### **How are powers and responsibilities regarding housing matters allocated between national, subnational and local public entities? Is there any regulation establishing that the fulfillment of the right to housing is legally binding at national, subnational and / or local levels? If so, what does it foresee?**

Not applicable – there is no right to housing.

### Question 3:

#### **Is there a Base Law or legal framework for housing? If so, what does it foresee?**

There is a great deal of landlord and tenant law which regulates the rights of landlords and tenants in the public and private sectors. There is also legislation governing local authorities' duties to people who are homeless.

### Question 4:

#### **What are the legal mechanisms in force in order to guarantee the fulfillment of the right to housing (for instance rental market regulation or rental policies, affordable housing financial incentives, etc.)? Please provide brief description of schemes or mechanisms in force.**

There is no right to housing. The Government does fund an Affordable Homes Programme in England (there are equivalents in Scotland and Wales) to promote the building of low cost rented housing and low cost homes for sale. Financial assistance in the form of Housing Benefit is available to help people with a low income pay their rent.

### Question 5:

#### **Is there any legal protection enhancing the right to housing for vulnerable groups (homelessness, victims of domestic violence, migrants, refugees or others)? Under which terms? Please provide brief description of schemes or mechanisms in force.**

There is different legislation in Scotland, England and Wales which provides homeless people with access to help with housing. See: [Comparison of homelessness duties in England, Wales, Scotland and Northern Ireland](#) for more information.