

**ANSWERS by ROMANIA to the
QUESTIONNAIRE OF THE SPECIAL RAPPORTEUR ON THE RIGHT TO ADEQUATE
HOUSING**

Legal security of tenure, including protection from forced eviction:

1. Are there laws/regulations recognizing or ensuring legal security of tenure for all the population, and/or for specific individuals or groups?

According to art. 44 in the Constitution of Romania, "the right of property, as well as the debts incurring on the State are guaranteed". The content and limitations of these rights are established by law.

The Housing Law no. 114/1996, republished, including subsequent amendments and additions, regulates social houses which are given with subsidized rent to persons or families whose economical situation doesn't allow them to own a house or to rent one on the free market. It also regulates the conditions for having access to a social house.

The Civil Code, republished, adopted by Law no. 287 of July 17th, 2009 foresees in "Book III – About goods, Title I – Goods and real rights in general, Art. 551 – Real rights", the following real rights: 1. property right; 2. right of superficies; 3. usufruct right; 4. usage right; 5. right of occupation; 6. easement right; 7. management right; 8. concession right; 9. right of user; 10. real guarantee rights; 11. other rights recognized as such by the law.

- Does national legislation (or legislative proposals) spell out various forms of tenure that can ensure secure housing or land (such as tenancy, individual or collective ownership, limited rights to use)? Please list and explain those forms of tenure protected in law.

2. Are there laws or regulations offering protection from forced eviction or involuntary resettlement? Describe briefly the content of the laws/regulations.

The property right, as well as the tenants' rights and obligations are regulated in the Civil Code mentioned above. According to art. 1.831 of the Civil Code, "the tenants' eviction can be done only based on a judge's decision".

3. Which groups/individuals does the legislation mentioned in questions 1. and 2. protect? For instance:
- Tenants
 - Informal settlers
 - Those with mortgage defaults
 - Other groups mentioned in question 4

In order to ensure housing for the tenants living in the nationalized houses during the communist period that were retroceded to the initial owners, in 2007 it was initiated the Programme for the construction of social houses for the tenants evicted from the nationalized houses according to the EGO no.74/2007

Data on those with insecure tenure:

4. Is there any data or estimated figure for the number of those with insecurity of tenure? For instance:
- Households living in informal settlements
 - Minorities living in informal settlements (e.g. Roma)
 - Internally displaced persons
 - Undocumented migrants, refugees or asylum seekers
 - Households that were evicted or are under eviction orders due to mortgage default

In 2013 the Ministry of Regional Development and Public Administration (MRDPA) has initiated a study “Analysis on informal settlements in Romania – the assessment of the current situation in view of substantiating new regulations and intervention instruments”. The study, which is due at the end of 2014, aims to obtain a map and a register of informal settlements in Romania that will offer an image showing the demographic and territorial dimension of the informal settlements in Romania. The study will also present diachronically the framework and the historical, social, economical and juridical factors leading to the appearance and the development of informal settlements in Romania and will suggest typological classifications of these settlements.

Urban poor living in informal arrangements (in particular informal settlements):

5. What kind of tenure rights are foreseen or recognized in legal or administrative instruments for those informally occupying land or housing (e.g. temporary permits, right to possession, leasehold rights over a definite or indefinite period etc.)?

- Can informal settlers accrue rights to their land or housing over time (e.g. through adverse possession)? Please cite relevant regulations and instruments.
- Are there conflicting claims between formal (private and public) owners of the land and people having informally settled on that same land, or conflicts between informal settlers and environmental or planning laws/regulations? Please refer to regulations and administrative and judicial case law addressing those conflicts, if available.

The project „Analysis on informal settlements in Romania – the assessment of the current situation in view of substantiating new regulations and intervention instruments” will conduct an audit of the legislative framework in Romania with focus on informal settlements: property, urban planning, taxation, social assistance, environment etc.

The legislation in force for housing and urban planning doesn't have provisions regarding the rights and safety of tenure for those informally occupying lands or houses.

6. Are there any policy, project or programme in place or being developed to recognize, record, register or regularize tenure rights of urban poor living in informal tenure arrangements, including in informal settlements?

MRDPA has initiated two studies aiming to locate, quantify and identify solutions for informal settlements and urban insanitary areas: the study „Analysis on informal settlements in Romania – the assessment of the current situation in view of substantiating new regulations and intervention instruments” and the study “Analysis and intervention methodology on insanitary habitat”.

- Do these policies/projects/programmes include “slum upgrading” or other *in-situ* urbanization investments?
 - What have been the results of such policies/programmes? For instance, number of households who have been regularized/whose rights were registered; types of tenure rights acquired after regularization (e.g. individual ownership; long-term formal rental; collective ownership); etc.
 - Provide information on private/community initiatives aiming at regularizing tenure rights of informal settlers which are supported by the Government.
7. Is there any land reform programme or policy in place or being developed (for instance, land management systems, changing land regimes)? Does it include

specific provisions or processes to recognize and register the rights of urban poor, in particular those living in informal settlements?

The legislative framework on housing, urban planning and territorial planning doesn't have provisions on land management systems, respectively to recognize or register the rights of poor, in particular those living in informal settlements.

For those States with international development agencies/programmes:

8. Does the State development agency/programme finance and support the development and implementation of policies/projects/programmes that explicitly recognize, record, register or regularize the tenure rights of urban poor, in particular those living in informal settlements? Please refer to relevant initiatives and programmes.

Presently, the informal settlements are not formally recognized in the legislation framework, so there is no specific legislation dealing with the tenure rights of urban poor and in particular those living in informal settlements

Nevertheless, Ministry of Regional Development and Public Administration develops, either directly or through the National Agency for Houses, which is under the authority of the Ministry, different programs for house construction which address under-privileged social categories of individuals.

Among such programs, we can mention:

-National Program for housing construction for young people, aimed to be rented. The Program is under the provisions of Law 152/1998 with further modifications and of methodological norms approved through HG 962/2001 with further modifications;

-Program for social housing construction according to Law 114/1996, republished, with further modifications and of methodological norms approved through HG 1275/2000 with further modifications;

- Program for social housing construction aimed for tenants evicted from nationalized houses which have been reconveyed to the former owners. The Program is under the provisions of EGO 74/2007.

Urban planning and housing policies:

There is legislation related to this issue, such as: Law 15/2003 republished, regarding the aid given to young people in order to build a house- this brings

under regulation the allocation of land, based on request, for young people aged 18-35.

The above-mentioned programs for housing construction are programs which address the security of having a house (through renting contracts) as an alternative for full ownership.

9. Do urban planning laws/regulations, at national or local level, include pro-poor land use instruments, such as inclusionary zoning, quota for social housing in residential developments or other?

The national urban planning legislation doesn't have provisions on zoning or quota for social housing in residential developments or disadvantaged categories.

10. Please provide information on any housing policies or programmes aimed at promoting forms of tenure alternative to individual freehold, such as rental, communal or cooperative tenure.

In order to ensure suitable housing for vulnerable people that cannot buy a house from the free market, the Ministry of Regional Development and Public Administration has initiated and it coordinates numerous programmes for the construction of social and necessity houses. All these programmes, implemented by the National Agency for Housing or in collaboration with the local public authorities, are presented under the point nr.8