**Mandate of the special Report on the right to adequate housing**

**Questionnaire for National Human Rights Institutions, UN agencies and civil society organisations in general**

1. **Please explain how your organisation or institution define homelessness in various contexts, for example, when measuring the extent of homelessness or conducting research about it, or preparing proposals and advocacy projects. Please explain why the definition was chosen. Do these definitions differ from those used by government? Please provide any available data on the extent of homelessness in general and among particular groups in your country and identify any limitations to this data.**

According to Article 59, point 1.b of the Constitution of the Republic of Albania: “*The State, within its constitutional powers and the means at its disposal, and to supplement private initiative and responsibility, aimed at meeting the housing needs of its citizens*”

In the framework of social objectives enshrined by the Constitution of the Republic of Albania, the Ombudsman institution has attached special focus to the social objectives for housing, in terms of which it has prepared a special report “On situation of housing issues in Republic of Albania”, submitted to the Parliament in October 2014. Furthermore, the Ombudsman Institution has submitted opinions and recommendations for the new strategy of social housing that has been prepared by the Ministry of Urban Development during the last months.

Currently although there are a number of legal and sublegal acts regulating this social objective, real facts show that housing remain one of the most sensitive social issues in Albania, as a result of law enforcement and benefits from that right directly impacts the possibilities for access to special benefits, as well as issues relating to financial capacities available to the local government units for the implementation of similar programs.

topics and issues relates to adequate housing comprise the main objects of complains addressed to our office. For the period 2013-2015 in the Ombudsman institution has been addressed around 400 (four hundred) complaints.

Regarding to the statistics provided by the 42 (forty two) local governments units[[1]](#footnote-1), there are about **17.424 families with** “homeless status”, from which only **2490 families** have benefited from one of the social programme.

In the view of our institution and based on the issues encountered while addressing complains and monitoring steps undertaken with the local government unit, we deem that vulnerable groups could not profit from the housing program.

In our opinion it is very necessary to establish a working group for creation a database to identify the exact number of families that have the homeless status and to identify the number of nomadic people in order to include them in social housing schemes or finding alternative housing programmes for this category.

1. **What population groups are most affected by homeless in your country/in your organization’s area of work? Please provide any information you have about the extent or experiences of homelessness among particular groups such as children and youth, women, indigenous people, persons with disabilities and others. If relevant studies exist please indicate or share a link, a refere or a copy.**

According to the law no.9232/2004 “*On social programs to accommodate the residents from urban areas*”, as amended by law no.9719/2007, there are some criteria for selection of beneficiaries.

Priority is given to individuals and families that are classified as beneficiaries from social programs, approved by the Municipality council decision and have these specifications:

1. Families that prove that they have not benefited from law no. 7652/1992 “On privatization of state housing”.
2. Families where the head is widow or divorced.
3. Single parent families with dependent children.
4. Older people who have reached retirement age and are not selected to be housed in social care public institutions.
5. Individuals with disabilities, who enjoy the status of the first blind group, the paraplegic and quadriplegic, work disabled and the national liberation war disabled.
6. Families with many children.
7. New couples with a combined age of 55 years.
8. Families that have changed domicile for the purpose of employment.
9. Individual with orphan status from the moment of exiting from orphanages or form social care institutions.

In reality, however, most of these categories of families mentioned under homeless status still do not benefit from social programs due to their failure to meet the criteria provided by law.

In opinion of the Ombudsman Institution is very necessary to establish various housing schemes which are directly related to financial criteria, because the families that are in the scheme of economic aid, elderly persons, orphans, etc. cannot benefit from social housing programs offered, due to non-fulfillment of the economic criteria.

Additionally, persons with disabilities, have difficulties in benefiting from social housing programmes, because the benefiting disability payments from the state are not considered as a source of revenue at the time of application for social credit in bank.

Furthermore, concerning the category of Roma, often because they work for the collection of recyclable material in very few cases, or in every case, fail to meet the economic criteria established and quoted above.

1. **In your organization’s view, what are the primary systemic and structural causes of homelessness? How is your organization addressing these and how should these be addressed by Governments?**

The central government bodies are responsible and work for improving housing policies as a fundamental right of each citizen that may be provided effectively at high quality and affordable for everyone.

Facilitated loan programs, establishment of partnership between the public and private sector, delivery of grants to improve living conditions for Roma and Egyptian community, for the national minorities for disabled persons and in general for the vulnerable population, fall within the scope of work of the central institutions, which in cooperation with the local government units, should draft strategies to prepare the ground for the housing of categories in need.

Local government bodies, through their structures anticipate resolving the housing problem through three social programs provided by law, based on applications submitted by citizens who require the treatment of the issue of housing, pursuant to the legislation mentioned above. Local government provides three social programs, as following:

Programs of social rental housing, which include:

1. Apartments, constructed or purchased in the free market by municipalities or other non-profit organizations, which are rented;
2. Existing dwellings, owned by natural or legal entities, which are classified by the local government, or nonprofit organizations as social housing, and can be rented to families that receive housing bonus
3. Facilities out of operation, as a result of the closure of an activity, which have passed into the ownership of municipalities and have been approved for transfer to social rented housing, in accordance with the urban regulatory plan.

Today there are a number of laws and other acts that regulate this social objective, but these still can’t solve the problem of housing in our country, so often repeatedly through recommendations addressed to the main stakeholders, we have strongly recommended for amendments in law or improving the existing provisions.

Local Government Units, especially the small ones, have no adequate budget to offer as housing option the rented buildings or allocation of social dwellings. Most of the Local Government Units are not prepared to provide housing facilities or establishments for the groups in urgent need, such as nomads or homeless, notwithstanding the recommendation of the Ombudsman Institution.

In the view of the Ombudsman Institution and based on issues encountered while addressing complaints and monitoring steps undertaken with the Local Government Unit, we have recommended:

* Revision of policies for funding allocated to the local government units at national level, making it part of the Territorial Administrative Reform.
* Revision of mechanisms and policies of social programs, basically aiming to prevent criteria and restrictive policies to the prejudice of interests of the beneficiaries, especially of vulnerable categories.
* According to the first paragraph of Article 81 of the Constitution of the Republic of Albania, to exert the legislative initiative for the amendment and improvement of legal basis that will enable housing treatment within the shortest time possible, of individuals or tenant families domiciled in the dwellings that are former property of the expropriated subjects.
* Measures should be adopted to reuse or properly operate the temporary housing facilities as a housing option for the categories in need.
1. **Please provide any information available about discrimination and stigmatization of people who are homeless, including laws or policies that may be used to remove homeless persons from public spaces or to prohibit activities in public spaces such as sleeping, camping, eating, sitting or asking for money. Please explain whether such discrimination is prohibited by law at national and/or local levels and describe any initiatives being taken or proposed to address this problem.**

During October 2015, the Ombudsman Institution has taken by its own initiative the case of fifty Roma families, settled at the artificial lake zone in Tirana five years ago.

The Ombudsman Institution has found lack of transparency from the Municipality of Tirana relates to the urban planning for this area’s rehabilitation, housing issues and conditions of living for these Roma families.

Taking into account this situation, the Ombudsman addressed a recommendation[[2]](#footnote-2) to the Municipality of Tirana, Prime Minister office, Ministry of Interior Affairs, Ministry of Urban Development and Ministry of Social Welfare.

On October 26th 2015, the Ombudsman Institution received a reply form the General Directorate of Planning and Management Services in the Municipality of Tirana, were informed in the general information that the municipality of Tirana has taken measures as regards 48 Roma families coming from the municipalities of Elbasan, Bera, Bilisht, Pogradec who had settled in the area of ​​artificial lake, through a process that has enabled and will enable :

* Social assessment of children and families for every family,
* Drafting of individual plans for every family,
* Implementation of individual plans of intervention, referral and tracking,
* Transfer of existing settlements families from the country of origin, or alternative housing in the Town Hall.

According to the note, it is envisioned the establishing of collaborative relationships with municipalities where some of the families are registered, while for the remaining families is reportedly formally requested the opportunity to accommodate them in Centre of Transit Emergency and accommodation in private apartments supported by the housing programs of the Municipality of Tirana, respectively Housing bonus, of the rent will be subsidized from the budget of the Municipality of Tirana itself.

The Ombudsman institution is continuously following up and monitoring this case.

Another important case recognize as a violation of human are cases of Roma families evicted from their properies, as a result of implemention of the construction project of a section of the Great Ring (Unaza e Madhe).

From the verification of documents and problematics of this case we found a lack of legal proceedings, lack of public information and legal acts approved for this project.

Also, for this case we found that these families had no real opportunity to follow the legal procedures, not being informed or financial inability to initiate legal proceedings and settle financial obligations in the future.

The Ombudsman Institution on this case has addressed a recommendation to the relevant institutions for:

* Establish an ad hoc committee to take measures for these Roma families to get the homeless status with an accelerated procedure.
* Harmonization and coordination of activities of institutions involved in this process in order to guarantee and respect of human rights of Roma community in accordance with international standards, identifying families and their housing needs and other social programs such as employment.
* Providing real opportunities of social housing for Roma families affected by the implementation of the project of the Grand Ring Selita as soon as possible.
* Facilitating the procedures and criteria for dealing with social housing programs to Roma community.

Actually the local government units have not provided any concrete solutions; however from the central government institutions have issued a decision in compliance with the Decision of the Council of Ministers, no.230 date 13.03.2015 “For payment of rent for all families affected by the great project of the Ring"; this decision enables the payment of rent for all families affected by the project and who do not benefit from expropriation, for a period of two years, calculated according to the definition of family members with a minimum of 15,000 lek/per month for one member.

1. **Please indicate if you know whether homelessness has been recognized as a human rights violation by courts, by national human rights institutions in your country/ in the area of your expertise, and if so, on the basis of which human rights (for example: right to adequate housing, right to life etc). Provide information on any initiatives being taken by your organization or others to address homelessness using an explicit human rights framework.**

According to information that the Ombudsman Institution avails, no case has been treated as a case involving Human Rights violation by the domestic courts.

The case mention above when these Roma families were evicted from the living place, in our opinion and relates to article 8 of the Convention of Human Rights is a violation of both rights, right to adequate housing and right to life.

Furthermore, in connection to these problems, we have accepted even at least 20 individual complaints of Roma families after they were evicted form the origin place of living and located in other campus around Tirana City.

The People’s Advocate Institution is guided by standards provided by the international legal framework and the Albanian legislation in place, a standard for which it has received a number of initiatives considering that no provision of an adequate housing and displacement of marginalized constitutes a violation of the convention’s rights and Albanian Constitution.

In view of the above, the Ombudsman Institution, in its recommendation to the Law no. 9232/2014 "*On social programs for housing residents in urban areas*", as amended, has noted that that the Roma community comprises a vulnerable and a risk group and that provided support should not be informed solely from formal equality stipulated by law, but also ensure substantial equality in the treatment housing issues.

During the period 2014-2015 we have adressed 20 individual recommandation for citizens’ complaints..

1. **Please provide information on how your organization has used or intends to use administrative procedures to challenge homelessness as a violation of human rights?**
2. By providing recommendations for public administration institutions.
3. By drafting special reports in specific issues.
4. By realization of intermediary meetings for different stakeholders from one side the public administration institutions, citizens and experts of ombudsman institution. Media in this case has an important role.

The Ombudsman Institution has received eight individuals complaints, in which the citizen complaint against the National Entity of Housing, after compromising their exit from the apartment because of the economic inability to pay monthly social housing obligations.

Relating to this case for providing the social housing as a human rights guaranteed by the Constitution of Republic of Albania, as well as National and International Acts, the Ombudsman Institution held a meeting as an intermediary with the Head Deputy of Municipality of Korça, and with the Director of Regional Entity of Housing in Korça.

The main aim of this meeting was to find an alternative solution for all these families where despite legal obligations stipulated in the contract, or the decision made by the District Court of Korca; our institutional position was that these institutions find a solution to this issue, that an extension be made with regard to payment of monthly dues, as well as carrying out negotiations with relevant authorities to ensure a job opportunity for all these families.

At the end of this case, we agree with the authorities for some topics:

1. To review the terms of the contract of credit to those families who are in lack of payment of monthly installments due to the reduction of their income for several reasons;

2. The extension of the contract of credit overall since these social houses were built with budgetary funds;

3. For the apportionment of the delay interests in several installments in order to be affordable by households.

1. **Please provide information about any proposed or existing strategies or legislation that your organization or institution might be familiar with aimed to reducting or eliminating homelessness. Explain any goals or timelines that have been adopted for this purpose, describe how progress has been monitored, describe how those affected by homelessness have been involved and provide information on results to date. Does your institution/organization have any suggestion for how existing or proposed strategies could be improved?**

In July 2015, the Ombudsman Institution address to the Ministry of Urban Development some comments relates to the new draft-strategy provided by this ministry for social housing issues in Albania[[3]](#footnote-3).

Our main comments on this draft-strategy were focused on:

**1.** Recommendations for the local government units that their yearly social housing programs ear-marks not less that 5% of the total applicants nation-wide for support from the program, to be met by families who claim to belong to the Roma minority. Determination of the 5% quota made by local governments based on the number of families who claim to belong to the Roma minority, who have filed an application and achieve all the criteria to benefit from social housing programs.

**2.** Also families that are Roma minorities should be considered as priority category for social housing programs, for all criteria of the law, as well as advantages, or grades set by the local government units in the implementation of this law,

**3.** Another important recommandation for this draft-strategy was even for families former tenant properties to former owners that have emerged from the relevant housing on the basis of the provisions of Act No. 3/2012 normative act of Council of Ministers.

Today there are about 4.300 families that are homelessness[[4]](#footnote-4) and all solutions proposed by the Ombudsman Institution constitute a concrete base on finding the best option and appropriate treatment on housing, homeless families, former tenants in the houses of the former owners, who have deal with this problem for a long period and practically they are in “streets”. These category of citizens should be part and included in strategy as a group in vulnerable positions.

**4.** Another important issue that the Ombudsman Institution identified for the category of nomadic persons living in roads. For these categories we have recommended involvement in social housing schemes, and finding housing options. For example an alternate solution should be adjustment of some facilities for alternative dwelling-place for this social category.

1. These statistics are included on the special report “On social Housing issues in Republic of Albania”, provided by the Ombudsman Institution in October 2014, and submitted to the Parliament. [↑](#footnote-ref-1)
2. Recommendation with no. K1/118-4 prot; date 12.10.2015; no.doc.201501869/4 [↑](#footnote-ref-2)
3. <http://www.avokatipopullit.gov.al/sq/content/03082015-mendime-mbi-strategjin>e-strehimit-social [↑](#footnote-ref-3)
4. The statistic is in our recommandation with no.201401774/2; date 12.12.2014, addressed to the Ministry of Urban Development [↑](#footnote-ref-4)