

Designing and implementing effective human rights-based housing strategies

How States can design and implement effective human rights-based housing strategies to realize the right to housing and to fulfil commitments made in the 2030 Agenda

How those who are homeless and other stakeholders have been included in the design and implementation of housing strategies?

Strategy for Combating Poverty and Social Exclusion 2014-2020 in the Republic of Croatia (available at <http://www.mspm.hr/vijesti-8/strategija-borbe-protiv-siromastva-i-socijalne-iskljucenosti-republike-hrvatske-2014-2020/1411>) recognizes the homeless as one of the most vulnerable members of society. Key strategic activities of the Strategy include establishment and support to programmes of shelters and necessary housing by implementing projects for the homeless, asylum grantees and foreigners under subsidiary protection, victims of trafficking in human beings and victims of family violence by putting in use housing units in the ownership of the Republic of Croatia.

However, in the context of Housing, Ombudswoman Office has repeated through annual reports the lack of social housing strategy.

How various needs and situations of different population groups, especially the most marginalized and excluded, are considered, consulted on and incorporated in the strategies?

The new National strategy aimed at fighting discrimination has not been adopted by the Government, although a version of this strategy has been drafted in 2015 and since revisited a few times. Draft document contains a chapter on Access to housing, which describes current situation stating that institutional and legal framework concerning social housing is inadequate. It also states that some groups are more in need of social housing than others, pointing out homeless people, Roma and persons with disabilities.

However, in spite of the announcement of the Government that the National strategy will be adopted first by the end of June, and then at the binning of September 2017, this has not happened yet.

HOMELESS

Strategy for Combating Poverty and Social Exclusion 2014-2020 and 2014-2016 Implementation Program have included the needs of marginalized and excluded groups, such as homeless. Prior to adoption of the Strategy by the Government, the Strategy went through public consultation process.

Based on the available data, one can monitor the level of implementation of individual measures. (Report on the implementation of the Programme for the year 2015 available at [/https://www.google.hr/search?q=Izvje%C5%A1%C4%87e+o+provedbi+mjera+za+2015+go+dinu+Programa+provedbe+Strategije+borbe+protiv+sirom%C5%A1tava&rlz=1C1GGRV_en](https://www.google.hr/search?q=Izvje%C5%A1%C4%87e+o+provedbi+mjera+za+2015+go+dinu+Programa+provedbe+Strategije+borbe+protiv+sirom%C5%A1tava&rlz=1C1GGRV_en)

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In relation to Housing the above mentioned Strategy introduced compensation for the vulnerable energy consumers through amendments of the Social Welfare Act – with the purpose of reducing poverty. However, compensation was introduced only for electricity consumption and only for the beneficiaries of the guaranteed minimum allowance and personal disability allowances and their household members. The compensation amounts to HRK 200.00 per month and is funded from the State Budget through a solidarity fee. This was realized through Strategy's measure of social protection of consumers, particularly of socially vulnerable consumers in line with sustainable and open energy markets.

However, as only 12% of the population at the risk of poverty, are users of guaranteed minimum allowance, and the right to personal disability is only recognized to people with severe disability or other severe permanent health changes, and given the much larger proportion of population being at risk of poverty, this right to compensation of vulnerable energy consumers has a very limited scope. Therefore, the Ombudswoman gave a recommendation to extend the criteria for obtaining the status of a vulnerable energy consumer at least to the recipients of assistance and care allowance, which would subsequently include persons with low income, who due to illness, age or helplessness depend on the help and care of other persons in order to meet their basic living needs. Ombudswoman also encourages the realization of the right to the user of the gas and heat energy as well, which is also in line with the Energy Law (the Law foresees such protection, although by-laws regulate it in a much narrower sense, as explained already).

TENANTS WITH PROTECTED LEASE

Housing in Croatia is to a large extent linked to former social housing fund privatization process. According to official state statistics, 89,38% of households in 2011 were in privately (co)owned apartments, 2,99% were paying open market rent, 4,22% were related to the apartment owner or tenant, 1,81% were tenants with protected lease, 0,95% were subtenants in apartment sections and 0,65% were using apartments under different legal grounds.

Lease related rights and obligations were regulated under the 1996 Law on Apartment Lease, which regulated the position of the protected lease tenants, which term first and foremost is related to former holders of tenancy rights over private or confiscated apartments, which could not be purchased, as majority of such apartments, who under this Law became tenants with a particular set of rights: protected lease, special lease termination conditions, pre-emption right etc.

This Law was subject to much criticism and many constitutionality reviews in regard to the position of owners of private apartments and protected lease tenants residing in their apartments. There is a standstill in the ongoing execution of ECtHR judgment *Statileo v.*

Croatia from 2014, which indicated there are systemic flaws and it is necessary to amend this Law, as the private owners bear unproportioned burden, as they are obliged to cover most of social and financial costs related to protected lease tenants housing (extremely low lease amount, constricting lease termination conditions and possibility to inherit protected lease tenant status). According to available information, new legislation on this issue would gradually increase lease amount, expand lease termination constraints and set a time limit of lease for these tenants. It is estimated that up to 10% of protected lease tenants are in social deprivation, further 10% are war veterans, so resolution of their housing needs should be up to towns and municipalities and Ministry of War Veterans. More information available at: <http://www.mgipu.hr/default.aspx?id=39702>

Public review of possible solutions related to Law on Apartments Lease brought comments from many interested citizens, from apartment owners to protected lease tenants and civil society organizations, but their recommendations, comments and suggestions were only noted or dismissed

Ombudswoman proposed this Law to have a separate section on social housing, with basic eligibility criteria and housing proceedings for state and locally owned apartments, intended for persons of lower income, which would thus regulate social lease housing.

Rights emerging from the Law on Apartments Lease can be realized in front of courts, proceedings are urgent, however the practice shows that they are prolonged and complicated.

The Law prescribes the obligation to the Government and Councils of units of local self-government as well as the City of Zagreb to prescribe the conditions and criteria for leasing out apartments in their ownership. Hence, the State Property Ministry allows leasing of state apartments via public tender. In these cases, lease contract is signed with the most favourable bidder – it is evident that this model does not take into consideration social criteria. Similar procedure of public tenders is conducted by other units of local self-governments after which candidate lists are defined – however, they include social status, age, health condition, participation in Homeland war as criteria.

Today, as a rule, citizens are focused on a free real estate market. Still, part of them are trying to realize their housing needs via special programs of socially-assisted housing, by purchasing at more favourable terms, including instalment repayment and more affordable interest rates, in accordance with the Law on Social Assisted Housing (OG 109/01, 82/04, 76/07, 38/09, 86/12, 07/13). This type of programme includes a possibility of leasing as well, but there are only few cities like Zagreb, Split and Osijek, who provide it. The amount of lease is determined by the Agency for Transactions and Mediation in Immovable Properties on the basis of the calculation of the construction costs and the appropriate deadline for the return of invested public funds, for each location separately. If a local self-government unit is participating in the construction of apartments for leasing, conditions, criteria and procedure for determining of priority lists are prescribed by its body and with the consent of the Agency. Social and housing status, residence, disability and similar criteria are taken into account.

WAR VETERANS

War veterans' housing is regulated in details under the Law on Rights of Homeland War Veterans and their Families, as well as Regulation on Housing Family Members of Killed, Captured or Missing Homeland War Veterans, Croatian Wartime Military Homeland War Veterans and Volunteers with Disabilities. Right to housing, housing precedence and options to purchase apartments in instalments under conditions more favourable than open market conditions in terms of interest and payment periods are at disposal of persons determined by law, provided they have no housing of their own or their housing is inappropriate, or they have for over 10 years continuously resided in a house or apartment owned by state, town or municipality. Right to housing is realized through approval of housing loans to purchase a house or an apartment, to construct a house or an apartment, to finance needed inadequate square footage, additional construction, to continue and finalize family house construction, to improve living conditions through financial support for open market purchase or construction of first real estate (house or apartment), approving subsidies to interest rates on commercial banks loans up to the amount of commercial interests rates for first real estate purchase loans, as well as an option to purchase apartments in instalments, under conditions more favourable than market conditions in regards to interest rates and payment periods, and entitlement to 10 year public lease of state owned apartments, with lease period extension or purchase option, provided tenant meets legal criteria for housing.

Housing of family members of killed, captured or missing homeland war veterans, Croatian wartime military homeland war veterans and volunteers with disabilities has been ongoing since the beginning of Homeland War till 1998 through the Ministry of Defence and Ministry of Interior Affairs. During this period 14.647 housing requests were granted – 6.975 by the Ministry of Defence and 7.672 by the Ministry of Interior. Since 1998 to date housing affairs were under the auspices of the construction and war veterans ministries, which from 1998 till 2015 granted total of 15.177 housing requests (6.468 apartments and 8.709 housing loans). Total of 493 homeland war veterans and volunteers of 1st category with 100 % disability were also housed.

RETURNEES AND POST-WAR REFUGESS

Post-war refugees still face obstacles in housing, and 2016 Ombudswoman Report brings a number of recommendations in order to address systematic obstacles (available at <http://ombudsman.hr/hr/component/jdownloads/send/76-izvjesca-2016/849-izvjesce-pucke-pravobraniteljice-za-2016-godinu>).

ROMA

Roma face difficult conditions of living in general. During 2016 Ombudswoman advisors have visited number of locations where Roma live. Each of these settlements has specific problems, but what they all have in common is that they are spatially isolated from cities/municipalities, lack basic infrastructure (roads are very bad, lack of access to water and electricity), very ruinous housing, with no sanitary block, too small for number of people accommodating.

How the roles of multiple levels of government and other authorities are coordinated or incorporated?

Croatian housing authorities are local state administration offices at county levels and Central State Office for Reconstruction and Housing, as central state administration body for housing, which is also in charge of administration and management of Republic of Croatia's property intended to serve as housing units, collective housing centres, as well as providing long-term solutions for persons residing in collective centres.

Besides those vertically aligned state administration bodies, there are additional bodies outside of state administration structure, which are not in charge of housing, but do contribute to improving the quality of housing in the areas of special state concern¹ (ASSC), such as municipalities and towns, which are in charge of development projects and activities, largely dedicated to communal infrastructure, financed from local budgets, with central State Office co-funding, which outlines the structure of state and local bodies' coordination in housing.

There is also a supra-national level coordination within a Regional Housing Programme² (RHP), which is a joint initiative by Bosnia and Herzegovina, Croatia, Montenegro and Serbia, the aim of which is to contribute to the resolution of the protracted displacement situation of the most vulnerable refugees and displaced persons following the 1991-1995 conflicts on the territory of former Yugoslavia, including internally displaced persons in Montenegro from 1999. Central State Office for Reconstruction and Housing, in cooperation with UNHCR, is in charge of the Programme, with the support of European Commission, USA Government, UNHCR and OSCE. There is a RHP Fund, founded and managed by the Council of Europe Development Bank, which allocates financial support to the Partner Countries. In 2016 Croatia has been allocated non-refundable 9.967.063, 40 EUR, in order to realize six housing projects for 328 post-war refugee families. However, in 2016 Central Office managed to provide housing for 88 families only, while most of the remaining ones are to be housed till end of 2017.

Also, in spite of the good practice described above, there are difficulties on multiple levels of government and other authorities' coordination and cooperation, thus the 2016 Ombudsman Report brings forward examples of difficulties first instance bodies face when applying rules and regulations which do not comply with laws, thus hindering access to housing, recommending these different levels of legislation to be coordinated.

Finally, National Strategy for Roma inclusion 2013-2020 foresees involvement of regional and local self-government units in implementing measures elaborated by this document in the area of housing, however coordination has been proven to be challenging.

¹ Areas of Special State Concern (ASSC) represent 15,3% of the total population in Croatia. Demographic and educational characteristics of these areas vary, but are overall of unsatisfactory standard.

² <http://regionalthousingprogramme.org/>

What goals and timelines have been set and whether these have been met?

2014-2016 Implementation Program for the 2014-2020 Strategy on Combating Poverty and Social Exclusion in Croatia³ indicates post-war refugees housing is to be continued, with particular emphasis on permanent housing solutions for former tenancy rights holders⁴, as well as continuous efforts to support housing in ASSC, in particular for beneficiaries who do not own other housing units. Central State Office for Reconstruction and Housing is the principal for implementation of these measures, which are to be continued until all post-war refugees have been provided housing. The main goal of the programme is to ensure return of post-war refugees in and outside ASSC, as well as creating conditions for current population in ASSC to remain residing there.

Central State Office for Reconstruction and Housing Strategic Plan for 2018-2020 foresees finalizing return of post-war refugees to war affected areas, current residents remaining in ASSC and new residents arriving, which is to be achieved through providing better housing conditions, investments in communal and social infrastructure, aimed to increase living standards.

However, available data indicate current dynamics of issuing administrative decisions granting housing shall not reach the set housing goals in any foreseeable future, as in 2016 Ombudsman continued to receive numerous complaints on administrative delays in housing proceedings.

Also, good planning practice is reflected in the proposed, but not yet adopted Action Plan for Integration of Persons Granted International Protection in Croatia, which sets improvement of coordination between housing authorities, with the view to timely ensure housing units for persons granted international protection, as one of the Action plan Goals. Unfortunately, Action Plan application timeframe to date is not set.

What independent accountability mechanisms have been put in place?

Aside from the vertical state administration bodies described above, there are no other independent accountability mechanisms that we are aware of, related to housing.

What roles have been assigned to independent authorities such as National Human Rights Institutions or Ombudspersons?

Ombudswoman regularly participates in public debates and legislative procedures, cooperates with civil society organizations and acts in individual cases.

³<http://europski-fondovi.eu/sites/default/files/dokumenti/Program%20provedbe%20Strategije%20borbe%20protiv%20siroma%C5%A1tva%20i%20socijalne%20isklju%C4%8Denosti%202014-2016.pdf>

⁴ Type of social housing in former SFRY, different from ownership, providing right to permanently reside in state owned housing

The Ombudswoman can issue suggestions, opinions, recommendations or warnings based on individual complaints, and the most powerful tool - Annual Report – provides recommendations to the Croatian Parliament for the elimination of systemic deficiencies and irregularities in relation to human rights protection. It also includes an assessment of the extent (according to available information) to which competent authorities have already acknowledged and implemented previous recommendations, in order to prevent violations of constitutional and legal rights of citizens.

Just to illustrate our work, we will give an example of the work done in relation to the rights of the homeless.

The Ombudswoman, in her 2016 Annual Report, pointed out that housing is a human right, which implies a right to a dignified standard of living, including adequate and sanitary acceptable space.

The definition of a homeless person covers only those who are „without the roof over their head“, hence the Ombudswoman recommended extension of the definition to align it with the ETHOS classification, *ie* the European typology of homelessness, which implies several different categories of homelessness - persons without roof over head, person without a house / apartment, insecure housing and inadequate housing.

Although a progress has been made in the area of homelessness in the last five years, shelters or accommodation are not opened in all major cities and towns of county headquarters as prescribed by the Social Welfare Act (total of 14). Also, there are no programs for the homeless in these areas and there are no activities for their further empowerment and social inclusion. Coordinators in charged for developing the care policy targeting the homeless have been appointed in counties and major cities or county headquarters, but generally there is a lack of data on their work results, joint cooperation of all stakeholders in the area as well as on the number of homeless integrated in the local community. The final indicator of the success in addressing the homelessness should include the number of homeless people employed during the year, placed in social housing or their involvement in a local community – however, a systematic approach is needed. It is, therefore, necessary to adopt the National Strategy on Homelessness and the Homeless Persons Support Protocol to define the responsibilities of the competent authorities and other stakeholders, as well as the forms, ways and tasks/content of their cooperation.

Also, other regulations are not always in line with Social Welfare Act, so homeless people still have problems with accessing health care. They have to apply for a residency / temporary residency, but in spite of the regulated procedure they sometimes fail in obtaining it.

Large towns and cities in county headquarters have a legal obligation to provide social housing to permanent social assistance beneficiaries (guaranteed minimum allowance recognized by social welfare centres), but not all do, most often because they do not have available housing units or have not secured funds for this purpose. Some of their general acts regulating social housing include criteria that a single person or a household is a user of this

social service, which does not guarantee that they will be assigned with housing. Therefore, we continuously remind through our Annual Reports about the need for the adoption of the Social Housing Strategy, regardless of the Strategy for Combating Poverty and Social Exclusion in the Republic of Croatia (2014-2020) and the Program for the Implementation of this Strategy 2014-2016. that the area of social housing needs to be systematically and normatively regulated, and should take into account international and European housing policy documents, such as the European Housing Charter 2006, the UN Geneva Convention on Sustainable Living 2015, UN HABITAT and the loan programs of the Development Bank of VE-CEB and EU funds.

Furthermore, large cities (over 35 000 inhabitants) and cities in the county headquarters (25 in total), in line with their financial possibilities, are obliged to provide social housing for persons receiving guaranteed minimum allowance (Article 122 of the Social Welfare Act from 2013). As the implementation of this article is not monitored at the national or regional level, we have no official data showing the level of implementation. The Ombudswoman has highlighted this problem in her 2016 Annual Report, but also in the reports from previous years. With regard to individual citizen complaints, when the Ombudswoman conducts an investigation, cities or municipalities mostly reply that they do not have available housing units for this purpose, or that their their general acts, such as the Decisions on Apartments Lease, includes this as one of the criteria for the allocation of apartments for a fixed term.

Co-operation between state institutions for the management of state property and local self-government units is not successful, as stated in the Strategy Implementation Report for 2015. For example, in spite of the 2013 proposal of the City of Osijek, the state property management authorities have not allowed the usage of state-owned apartments for socially vulnerable groups, even though these were recommendations of the Ombudswoman and a former Deputy Prime Minister of the Government of the Republic of Croatia. Only in 2017 the intention to try to solve these problems is more visible.

Ombudswoman stated that housing allowances (rent, communal fees, electricity, gas, heating, water, drainage) amounting to half of the guaranteed minimum allowance are not provided in most of local self-government units, as they do not provide financial means for this purpose. Therefore, there is a need to strengthen control over their work.

More about these issues can be found at https://www.google.hr/search?q=https%3A%2F%2Fwww.godi%C5%A1nje+izvje%C5%A1%C4%87e+pu%C4%8Dke+pravobraniteljice+za+2016&rlz=1C1GGRV_enHR751HR759&oq=https%3A%2F%2Fwww.godi%C5%A1nje+izvje%C5%A1%C4%87e+pu%C4%8Dke+pravobraniteljice+za+2016&aqs=chrome..69i57.34583j0j4&sourceid=chrome&ie=UTF-8

How has access to justice for claimants of the right to housing been ensured in legislation or otherwise?

Central State Office for Reconstruction and Housing Strategic Plan sets out efficient administrative and court proceedings as one of Office goals, in order to implement individual

rights and protect state interests. Current annual number of appeals is 500, thus specific short term goal is to reduce appeal resolution period to 60 days. Trend of most complaints submitted to the Ombudsman being related to administrative delays in housing continued in 2016, and some of these proceedings have been ongoing for over 10 years. Since court proceedings also tend to be pending for years while applicants for housing are in most cases legally uneducated and have limited financial means, it is to be concluded that, although in principle access to justice is ensured, it is limited by time and financial constraints.

One example of good practice in ensuring more efficient access to justice is that since 2012 administrative court proceedings are in jurisdiction of four administrative courts of first instance, while appeals are heard by High Administrative Court, which, compared to previous one administrative dispute level, is allowing better access to (administrative) justice. Also, administrative disputes today are disputes of full jurisdiction, reviewing the merits of the case, which provides better legal certainty to dispute parties, who can present new facts and evidence, based on which administrative courts may overturn administrative decisions of first instance.

