**Romania’s answer to the questionnaire**

**on the intimate link between the right to life and the right to adequate housing**

1. Please provide any statistical indicators regarding the health, mortality and morbidity consequences of inadequate housing and homelessness in your country, disaggregated by sex, race, immigration status, age and disability or other grounds, if and where possible. Please also provide references to any documentation (written, visual or otherwise) of the lived experiences that lie behind these statistics.

According to statistical data collected by the Romanian Ministry of Labor, Family, Social Protection and Elderly about homeless people at national level, in 2015, there were 2,601 homeless people, out of which 585 were elderly, 246 were juveniles and 614 were Roma.

1. *Please refer to the provisions of your state’s constitution or human rights legislation which guarantee the right to life and explain whether these apply to circumstances where homelessness or inadequate housing place health, security of life at risk and whether positive obligations of governments have been recognized in this context. Please provide references to any relevant cases or other examples, if available.*

**1. The Romanian Constitution** regulates, among other fundamental rights and freedoms, the right to life, to physical and mental integrity (in Article 22)[[1]](#footnote-1) and the right to have a living standard(in Article 47)[[2]](#footnote-2).

**2. The purpose of the Law no. 116/2002** on preventing and combating social exclusion is to guarantee effective access, particularly to young people, to the elementary and fundamental rights, such as the right to employment, housing, healthcare, education, and the establishment of measures in order to prevent and combat social exclusion and mobilize all competent institutions in this field.

**3. The Law no. 292/2011** on Social Assistance regulates the general framework of organizing, functioning and financing of social assistance in Romania. Under that law, the homeless people are defined as a social group made up of single people or families who, for single or cumulative reasons of a social, medical, financial, economic, legal nature or due to force majeure, live on the streets or temporarily at friends or acquaintances, are unable to support a rented housing or are at risk of eviction or are in institutions or prisons from which they will be discharged or released within two months, and do not have a domicile or residence (Art. 6).

To prevent and tackle poverty and social exclusion risks, through the social assistance system there are offered social services for the homeless. These services aim to ensure the hosting period, associated with the providing of counseling and rehabilitation or social reintegration in accordance with the identified individual needs (Art. 57). The responsibility for the setting up, organization and administration of social services for the homeless is assumed by local government authorities who are required to establish within the county adequate social services and responsive to their needs (Art. 58). These services can be organized as: mobile intervention teams on the street as social ambulance services; homeless shelters; residential hosting centers on determined period. In order to prevent and tackle the risk that young people leaving the state child protection system become homeless, as well as for promoting their social integration, local authorities may establish multifunctional centers that provide adequate housing and management on a determined period (Art. 59).

**4. Law no.114/1996 on Dwellings**, republished and with further amendments and supplements, provides minimum standards of comfort which must be observed when building new dwellings (section I.) and regulates the construction of dwellings for people with limited material possibilities with the view of buying them (section II.a.) or renting them (section II.b.), as well as ensuring dwellings for homeless due to the natural disasters, accidents etc. (section II.c).

I. Authorizing the construction of new dwellings is granted only if the dwelling meets the minimum comfort requirements established by the law.

According to Article 2:

„The terms used in the text of the present law have the following meaning:

b) The ***suitable dwelling*** is that dwelling which, considering to what extent it satisfies the requirements of the user compared to the characteristics of the dwelling, at a given moment, covers the basic needs for rest, cooking food, education and hygiene, providing the minimum requirements presented in Annex No. 1 to the present law.”

According to Article 3:

„Authorizing the construction of new dwellings, irrespective of the type of property or location, is made on the basis of satisfying the minimum requirements, as stipulated in Annex No. 1 to the present law.”

II. Regulating the construction of new dwellings for persons with low incomes

a. In order to be sold at subsidized prices

According to Article 7:

„(1) The local councils may build, out of the specially set up deposits, dwellings having built areas as provided in Annex No. 1 to the present law, exercising the control over the selling price, with a view to facilitating the access to ownership of certain categories of persons, in the following order of priority:

a) the newlyweds who, on the date of contracting the dwelling, are, each, of up to 35 years of age;

b) the persons who benefit from facilities on buying or building a dwelling, according to the Law No. 42/1990, republished;

c) the trained persons in agriculture, education, health, public administration and religion, who take up residence in the rural area;

d) other categories of persons established by the local councils.

(2) The persons in the categories mentioned at letters a)—d) may benefit by a subsidy from the state budget, within the limits of the annual budgetary provisions, in relation with the income, of up to 30% of the value of the dwelling, on the date of contracting, as well as by the payment in monthly instalments, for a period of 20 years, of the difference compared to the final price of the dwelling, after deducing the subsidy and the minimum compulsory advance payment of 10% of the value of the dwelling on the date of contracting, paid by the contracting party.

(21) The interest on the amount advanced from the special deposit, to be repaid in instalments, is of 5% annually.”

b. In order to be rent with subsidized rent

According to Article 2:

„The terms used in the text of the present law have the following meaning:

c) The ***social dwelling*** is that dwelling with subsidized rent granted to persons or families whose economic position does not permit access to a private owned dwelling or the renting of a dwelling under market conditions.”

According to article 38 of the Housing Law, the construction of **social housing** can be carried out in any locality on sites provided in the town planning documentation and provided under the law. The local councils are responsible for controlling and for funding social houses situated on the territory of the respective territorial-administrative units. According to article 39 of the Housing Law, the social houses belong to the public domain of the territorial-administrative units.

According to Article 43, all families or individuals with a net monthly income per person, achieved in the last 12 months, below the monthly net average income calculated on total economy, announced by the National Statistics Institute in the last statistical bulletin on the previous month in which the request is reviewed and on the previous month in which the social house is assigned, can access social housing.[[3]](#footnote-3)

According to Article 43:

„The social dwellings are distributed by the local councils on the basis of the annually established criteria, under the conditions of the provisions of the present chapter, and the following categories of persons may benefit therefrom, in the priority order established by the present law: individuals and families evacuated or to be evacuated from their dwellings returned to former owners in accordance with law in the field, the young under 35 years old, the young coming from social welfare institutions and who are 18 years old, invalids of 1st and 2nd degree, the disabled persons, the pensioners, the war veterans and war widows, the beneficiaries of the provisions of Law no.341/2004 on the gratitude for the hero - martyrs and fighters who contributed to the victory of the Revolution of December 1989, as well as to the persons sacrificed their lives or suffered after the anti-Communist revolt of workers in Brasov, in November 1987 with further amendments and supplements and of Degree – Law no.118/1990 on granting rights to persons persecuted for political reasons by the dictatorship with effect from 6 March 1945, as well as those deported abroad or imprisoned, republished, as amended and supplemented, other individuals or entitled families.”

According to Article 44:

„(2) The level of the rent shall not exceed 10% of the monthly net income, calculated for the last 12 months, per family. The difference up to the face value of the rent, calculated according to Article 31, shall be subsidized from the local budget of the territorial-administrative unit where the social dwelling is located.”

c. In order to be rent to the homeless due to the natural disasters, accidents etc.

According to Article 2:

„The terms used in the text of the present law have the following meaning:

f) The ***necessity dwelling*** is that dwelling meant for the temporary accommodation of the persons and families whose dwellings have become unusable following some natural catastrophes or accidents, or whose dwellings are subject to demolition with a view to setting up public utility works, as well as to rehabilitating works that cannot be carried out in buildings occupied by tenants.”

According to Article 55:

„The necessity dwelling is financed and built under the conditions established for the social dwelling.

The necessity dwelling is temporarily leased to the persons and families whose dwellings have become unusable according to the provisions of Article 2 letter f).

The lease contract is concluded by the mayor of the locality or by a person authorized by him, on the basis of a decision of the local council, until the removal of the effects that made the dwellings unusable.”

**5. The Civil Procedure Code** stipulates the prohibition on eviction of people occupying dwellings, during the winter season, if there is no other suitable housing.

In this context, the Article 896 regulates the “The deadline for execution”, as follows:

„(1) No evacuation of buildings for housing can be made from 1 December until 1 March of the following year, unless the creditor proves that the meaning of the dwellings law, he / she and his / her family do not have available adequate housing or that the debtor and his / her family have another suitable housing in which they can move soon.

(2) The provisions of para. (1) do not apply in case of evacuation of persons occupying, in abusive ways, with no title, a dwelling as well as in the case of those who have been evicted for threatening the cohabitation relationships or disturb seriously the public order.”

**6. By the Government Decision no. 383/2015**, the Romanian Government recently adopted the ‘**National Strategy on Social Inclusion and Poverty Reduction 2015-2020’**[[4]](#footnote-4) which sets out a plan that enables Romania to make substantial progress in reducing poverty and in promoting social inclusion for vulnerable individuals, families and groups, over the next seven years. The Strategy aims at coordinating and updating the set of strategic actions on poverty reduction that have been implemented in Romania so far, as well as correlating the specific aspects from various sectoral strategies (e.g. employment, education, housing, health sector) and from particular areas of the government’s social inclusion policy (such as tackling child poverty, reducing discrimination against Roma, integrating marginalized communities). Regarding the ‘Housing’ chapter, the Strategy emphasizes that housing deprivation and homelessness are extreme forms of poverty and social exclusion in today’s society. In Romania, guaranteeing the right to affordable accommodation still represents a significant challenge. Certain measures to be followed and implemented in the future are proposed, such as: (i) eradicate child homelessness by requiring child protection services to be more proactive in their outreach efforts and by encouraging local service providers and SPAS (Public Social Assistance Services) social workers to be more systematic in referring at-risk people to the specific services they need; (ii) assess the size of the homeless population in all major cities; (iii) increase the capacity of shelters; (iv) increase capacity for deploying emergency interventions in the street by ensuring that the basic need for food, water and medical assistance of those in need are met as well; (v) adopt regeneration programs to tackle the problem of illegal settlements; (vi) cease all illegal evictions; and (vii) adopt prevention policies to protect people at risk of ending up in the streets including people leaving prisons, childcare institutions, residential centers and hospitals, victims of domestic violence, drug addicts, as well as vulnerable, lonely and elderly people.

1. *Please explain whether and in what ways courts of human rights bodies in your state have recognized the disproportionate effect of homelessness and inadequate housing on particular groups (such as persons with disabilities, indigenous people, women experiencing violence, etc.) as an issue of discrimination. Please provide references to any relevant cases or other examples, if available.*

In 2015, The National Council for Combating Discrimination registered 7 complaints of discrimination related to housing, out of which one discrimination decision was pronounced. Other two complaints were made in 2014 and one in 2013.

During the previous years, the National Council for Combating Discrimination was notified in several cases of discriminatory practices related to housing. Details of such cases are presented in the annexed document.

1. In accordance with Article 22 para. 1: “(1) ***The right to life***, as well as the right to physical and mental integrity of person, are guaranteed”. [↑](#footnote-ref-1)
2. According to Article 47: „(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 pensions, paid maternity leave, medical care in public health centers, unemployment benefits, and other forms of public or private social securities, as stipulated by the law. Citizens have the right to social assistance, according to the law.” [↑](#footnote-ref-2)
3. Article no. 42 of the Housing Law no. 114/1996. [↑](#footnote-ref-3)
4. http://www.mmuncii.ro/j33/images/Documente/Familie/2016/StrategyVol1EN\_web.pdf [↑](#footnote-ref-4)