

Social housing and situation of Roma minority in Albania

PhD Lindita Xhillari

Deputy Commissioner/Ombudsman

LL.M. Juliana Cici

Deputy Commissioner/Ombudsman

Abstract

The right to social housing is sanctioned as a fundamental human right in a number of international instruments ratified by Albania, but currently this right does not find adequate protection in Albania's legislation.

The Committee on Economic, Social and Cultural Affairs of the United Nations, has set standards concerning the right to adequate housing. The right to social housing should not be equated with having a roof over head, but should be seen as the right to live somewhere safely and with dignity. The right to social housing should be provided to all people regardless of their income and implemented in a manner consistent with their resources.

Lack of an adequate legal framework of the right to housing, today has consequences on several issues as for examples the case of the eviction of Roma to the Lake area in Tirana, lack of adequate housing, families with low income, beneficiary families by the aid schemes, homeless women victims of domestic violence, or even the category of tenants housed in former state apartments.

Through this paper we will seek to cover many issues and present some recommendations for the improvement and creation of facilities for vulnerable groups such as the Roma minority, in order to meet and set objective standards regarding social housing.

Keywords: Social housing, Roma Minority, standard, legal framework, principal rights.

Introduction

The right to social housing is closely linked with the right to own a house, a right on a property, while other forms of housing such as rental housing or social housing where "ownership" is missing are not considered effective. In many countries housing policies are directed to a large extent by granting loans to buy a flat.

Thus, states have no obligation to ensure that everyone owning a home is in the quality of the owner and it is a bad policy that housing is seen as a market issue, and constitutes a serious violation of the right to housing.

UN special rapporteur of considering adequate housing as a component which must be in accordance with the appropriate standard of living has criticized the way countries rely only on loans, treating them as key components of programs housing. This is because home loans are subject and an increasingly growing global financial market.

Thus, reliance on loans can push further into debt. According to the Special Rapporteur of the UN: *"Having examined the impact of these policies or politics of national housing to promote ownership of the house through the granting of loans in different regions of the world, these policies have failed to prove the possibilities for accommodation to poor. Records*

show that housing policy based exclusively on facilitating loans for ownership of dwellings are incompatible with the full realization of the right to adequate housing to those living in poverty, having failed to provide adequate housing, affordable and well positioned as a solution to housing for the poor“(UN General Assembly doc. A / 67/286, August 2012)

Social housing standards in international and domestic law

The right to social housing is included in a large number of international instruments ranging from the Universal Declaration of Human Rights, followed by the reaffirmation by the International Covenant on Economic, Social and Cultural Rights (United Nations General Assembly, 1966)

Under the ICESCR the right to housing should not be based on having a roof over head, but should be seen as the right to live somewhere safely, in peace and with dignity. The right to housing should be provided to all people regardless of their income, and implemented in a manner consistent with their resources.

The same standards should be taken into consideration by the European Committee of Social Rights of the Council of Europe, a body tasked to oversee the implementation of the revised European Social Charter. The right to housing is guaranteed in Articles 16 and 31 of this card, while Albania has agreed to comply with these articles or to accede to the mechanism of collective complaints.

The Constitution of the Republic of Albania is a legal instrument that has left enough space to apply directly to the European Convention on Human Rights by limiting the application of the provisions of the constitutional norms that virtually collide with the principles embodied in it.

Despite that the right to social housing is not an obligation of the state under the constitutional norms, but simply a social objective (Article 59 of the Constitution), some aspects are related to the protection as in the case of protection against any form of discrimination or the right to a private and family life.

Housing is the power and responsibility of local government and belongs to municipalities, which through their structures is tasked with covering housing issues that should anticipate solving the housing problem.

Today, the lack of an adequate legal framework for the right to housing, has consequences on several issues as was the case of the expulsion of Roma to the Lake area in Tirana, lack of adequate housing, families with low income, family beneficiary of the aid schemes, homeless women victims of domestic violence, or even the category of tenants housed in the former state apartments.

Situation of social housing in Albania

Analyzing the legislation, most of the social programs provided require the beneficiary to have a certain income limit. The only programs where families without income can benefit are:

- Small grants given to improve the conditions of the existing house and not an apartment building;
- Immediate grants.

Statistics on the application of this law observe that the highest percentage of beneficiaries of social housing programs are young couples, indicating that the most poor and vulnerable groups of the society do not benefit from these program. Main obstacle to benefit from these programs is due to a large number of documents that must be fulfilled by families, which require money expenditures.

Referring to official data published by the “Strategy of Social Housing in Albania” by the Ministry of Urban Development, in almost all the Albanian municipalities, the total number of individuals who enjoy the status of “homeless” is larger compared with those who take advantage of such service. This is mostly observed in the small municipalities that have smaller budgets. The total number of persons with the status of “homeless” families is 35.000 from which only few have received treatment with one of the social programs. In most cases, homeless individuals have benefited low housing costs.

There are a significant number of municipalities which over the years have not received any funds for the construction of social housing or the provision of other social programs. It would be more necessary and urgent to review the social objectives after the administrative-territorial reform in terms of providing services to citizens, especially social housing as a basic right for the individual, not only through the provision of social housing programs, but also in terms of providing alternative shelter for all vulnerable groups.

Roma Minority in Albania

Roma history is presented by researchers mainly non-Roma. Due to the socio-economic discrimination, they were forced to make a life of wandering for a longer time in comparison to other ethnicities, not having the opportunity to create a state administration, which could care about the documentation of the history of the Roma people. Despite numerous movements observed in Roma settlements, cities with greater Roma concentration are Tirana, Lezha, Levan, Pogradec, Elbasan etc. Empirical data show that unemployment, low income and poverty are the main pillars of the migration process. Nearly, half of Roma are unemployed and it is a long-term unemployment. In recent years, due to the economic crisis, many Roma families have chosen migration instead of finding a way to find employment. This internal migration of Roma people makes it difficult to access public and social services, because many Roma families are excluded from basic services where the most vulnerable groups are children and the elderly.

Regarding the issue of considering the needs for housing and existence as a vulnerable group in the position of the Roma communities in Albania, we emphasize that today, these communities are vulnerable and at risk. Our social system, consisting of housing, civil registration, economic assistance, education, employment, vocational training, health care and all the benefits that this system provides to its citizens accept formally individual members of these communities, but effectively excludes them.

Serious problem remains the issue that deals with changes and improvements of Law No.9232/ 2004 “On social housing programs for residents in urban areas”, as amended, in particularly addressing the issue of housing.

A proper treatment for Roma and Egyptian communities, would be the application of combining the current popular models of the EU, for housing, respectively “generalist” model who is a key factor in this target group and “residual” model, which leads to exclusion, but that should find application.

In the context of measures, in improving the living conditions of Roma communities in the country, housing requires real solutions, stable, long-term and in accordance with international principles and standards that address this area.

This situation is mixed with an appropriate legal framework to accommodate this part of society.

In the Albanian legislation does not exist a legal status for Roma settlements and therefore does not recognize the concept of temporary accommodation such as huts, tents etc. Also, Albanian legislation lacks legal provisions that prohibit forced eviction not only illegal, but also for legal reasons. Solutions provided so far in the case of forced removal of this community for legitimate reasons have been sporadic and moreover they did not consider the manner and sources of livelihood and economic impossibility of this community.

Only in recent years there have been several mass deportations, such as the expulsion of Roma families from train stations in 2012, the expulsion in the living area of Selita in Tirana, or dry lake in 2015.

Conclusions and Recommendations

The right to housing is not entitled to judicial protection, since under Article 59 of the Constitution it is a social objective. Social housing programs are limited and exclude the benefit of families without income and those with unstable incomes, not knowing specific restrictions largely indefensible groups associated with no right to adequate housing.

Families without income or unstable income can only be included in the program for social rented housing and small grants, which are funded only to improve housing conditions and not housing of the Roma families.

Also, local authorities are responsible for setting the scoring according to their priorities and vulnerable groups, though it is recognized the need for positive action in favor of Roma, they are not identified specifically between social groups with priority and as a result they do not receive extra points in practice despite their status as vulnerable category.

The foregoing is necessary to make constitutional changes and legal changes specifically in law no. 9232/2004 “On social housing programs”, focusing in the unstable income beneficiaries.

References

- Special Report “Situation of Social Housing in Albania www.avokatipopullit.gov.al/.
Ministry of Urban Development/ Social Housing Strategy 2015-2020.
www.ohchr.org/documents/issues/housing/A-67-286.pdf.
www.ohchr.org/english/law/cescr.htm.
www.coe.int/t/dgh/monitoringsocialcharter/CountryFactsheets/Albania_en.pdf.