

Quick Response Request

Submitted by: Standing Conference of Towns and Municipalities of Serbia

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Subject: Information on the legal framework defining the tasks and responsibilities of the local governments in the field of social housing and housing policy.

1. Summary of Results

SCTM wanted to know what laws regulate this, what are these tasks and to collect excerpts (articles) of these laws regulating the respective tasks/competences. NALAS collected answers and experts/law from 7 members and provided it to the SCTM.

2. Analytical/Detailed Information

A) Republic of Srpska

Local governments, as far as **social housing and housing policy** are concerned , have the following responsibilities:

- Prescribe the rules for maintaining order in residential buildings
- Decide on the introduction of special benefits to owners under the conditions prescribed by a special law, and securement of funds for urgent intervention works in residential buildings
- Prescribe the conditions for supervision and maintenance of residential buildings,
- Sets the amount of rent for the managing apartments, and the amount of rent for State flats in its territory under the terms of a special law which determines their use.
- Decides on the organization of work for maintenance of residential buildings, the amount of compensation for maintenance as well as the criteria and ways to pay the costs of maintaining premises and housing in which business activity takes place, - Secures illegal eviction proceedings for persons in state owned apartments and common rooms in residential buildings and perform other law determined tasks in the area of social housing.

B) Republic of Moldova

The national legislation of the Republic of Moldova applied to offer the quick response:

1. Law on local public administration № 436/28.12.2006;
2. Law on administrative decentralization № 435/28.12.2006;
3. Law on local public finance № 397/16.10.2003
4. Draft of Education Code of the Republic of Moldova.

Description of current situation within Republic of Moldova

Art. 14 of Law on local public administration № 436/28.12.2006 stipulates that local council accomplishes the following competences:

“y) decides on registration of socially vulnerable people who need to improve housing conditions”.

Art. 43 of Law on local public administration № 436/28.12.2006 establishes the competences of rayon council

One of the competences is:

h) decides on registration of socially vulnerable people who need to improve housing conditions.

Art 4 of Law on administrative decentralization stipulates the specific domains of local public authorities. One of them is:

m) dwelling construction and granting of other facilities for socially vulnerable people, as well as for other categories of population;

Art. 8 item 5) of Law on local public finance stipulates that from the budget of Balti and Chisinau municipalities are covered the expenses on: “provision of social assistance to population, including protection of young families and of families with many children, of mother and rights of children, of old people and maintenance of social assistance institutions”.

Item 6) of art.8 of Law on local public finance stipulates that from the budget of Balti and Chisinau municipalities are covered the expenses on: dwelling construction for socially vulnerable people and for other categories of population, exploitation of municipal housing fund”.

On April 21, 2010 on website on Ministry of Education was placed, for public discussion, the Education code draft.

Congress of Local Authorities from Moldova subjected to analysis the above-mentioned draft under its compliance with local public administration system, LGA framework, and constitutional principles of local autonomy and decentralization.

This draft continues previous practice on establishing certain obligations for LGA without providing concrete sources of funding. This is contrary to constitutional principles of local self-government and to several legislative acts. Especially, art. 20 and 22 of Law on legislative acts request for draft laws to be economic and financially based and to evaluate financial expenditure for achievement of new regulations. Law on local public administration expressly stipulates in art. 10 that „Authorities of central public administration are not entitled to establish or to impose attributions for local public authorities without a preliminary evaluation of financial impact that these competences might generate, without a prior consultation of local authorities of appropriate level and without local communities to be secured with necessary funding.”

Art. 58 item (6) stipulates that „Graduates of higher education institutions that are hired according to their distribution in the education institutions from the rural and urban area shall receive during the first 3 years of activity:

a) dwelling free of charge provided by the relevant local public administration authority for the period of activity in the respective locality; should the local public administration authority be unable to provide all young professional with adequate dwelling, they will get their dwelling rent expenses covered”.

First of all we ascertain confusing character regarding local authorities being held responsible for realization of these financial and material obligations: LGA 1, LGA 2 or central authorities? One creates an impression that when elaborating the organic draft law one has not taken into account financial capacities of local public authorities, not to mention lack of provision of a financial covering mechanism for all attributions designated to local authorities in this field. All the more

that, as mentioned above, education is a delegated domain and all attributions imposed to local authorities are expressly to stipulate their funding source.

Housing policy and social housing is a confusing issue for the Republic of Moldova at this stage. CALM is still waiting for its input on Education code draft to be taken into consideration by the Ministry of Education when elaborating the final version of the Code.

C) Croatia

Law on Spatial Planning and Construction in Croatia, 2007

The essential requirements for building

Article

14

(1) Any construction, depending on its purpose during its duration shall meet the essential requirements for building and other requirements prescribed by this Act, technical standards and regulations adopted pursuant to this Act, the conditions specified location under this Act, and other conditions stipulated by special regulations that have an impact on the essential requirements for building.

(2) Civil Engineering and technical requirements for construction and use of building products that are considered favorable for the environment and that is because the special law provides the possibility of reducing the State budget revenue from the traffic of goods and services, with the approval of the Ministry of Finance, the Minister shall prescribe regulations.

1. the essential requirements for the structure that is provided in the design and construction of the building are:

- * Mechanical resistance and stability so that the foreseeable effects during construction, and usage does not cause:

- * Demolition of a building or part of it,

- * Undue strain level,

- * Damage to the assembly building or equipment due to deformation of the bearing structure,

- * Disproportionate damage in relation to the cause of why they occurred.

- * Fire protection in case of fire:

- * Preserve the payload structure for a certain time determined by a special regulation,

- * Prevent the spread of fire and smoke inside the building,

- * Prevent the spread of fire to adjacent buildings,

- * Guarantee that people can leave the building unharmed, and to facilitate their rescue,

- * Enable the protection of rescuers.

- * Hygiene, health and environmental protection so that they are not particularly hazardous:

- * Release of hazardous gases, vapors and other pollutants (air pollution, etc.)

- * Dangerous radiation,

- * Water pollution and soil,

- * Improper disposal of waste and storm water, smoke, gases and liquid waste,

- * Improper handling of solid waste,

- * Collecting moisture in parts of buildings or areas inside buildings.

- * Safety in use so as to avoid the use of possible injury to users of the building that may arise due to Slips, falls, collisions, burns, electric shock and explosion,

- * Protection from noise to sound as it observes a person staying in the building or in its vicinity is at a level that does not endanger the health and provides peace of the night and sufficient conditions for rest and work,

- * Energy saving and thermal protection so that in relation to local climate conditions, energy consumption when used for heating, cooling and ventilation is equal to the prescribed level or lower than her, and that for persons who reside in the building are provided a satisfactory thermal conditions.

Article 24

Effectiveness of Spatial Planning

- * Determining the objectives, assumptions and policies of spatial development of the State in accordance with this Act,

- * The adoption of spatial planning documents state level,

- * Consideration of the report on the public space
- * Prescribing general rules and standards, setting out the conditions for land use and spatial distribution of buildings in the area in relation to the conservation and use of nature and the natural and cultural values and resources of state significance, environmental protection and the protection of natural and other disasters and the need of defence
- * Planning the operation in the area of public significance,
- * Establishment of an information system of spatial planning in accordance with this Act,
- * Implementation of measures for spatial planning documents on state level,
- * Implementation of active land policy,
- * Developing and fostering professional component of spatial planning,
- * Participation in international missions in the field of Spatial Planning.

The jurisdiction of local and regional governments

Article 26

(1) Planning in the jurisdiction of local (regional) government includes in particular:

- * Directing spatial development of local and regional (regional) governments with specific goals and guidelines for spatial planning in accordance with the starting points and directions in the physical planning documents state level,
- * The adoption of documents of spatial planning on regional and local levels,
- * Acceptance of reports in the area,
- * Prescribing detailed standards and conditions, which determine the allocation size and spatial distribution of buildings in the area in relation to the conservation and use of nature and the natural and cultural values and goods of local importance, environmental protection and the protection of natural and other disasters,
- * Planning the operation in the area of county and local importance,
- * Implementation of measures for the documents spatial planning on regional and local levels,
- * Implementation of active land policy and management of construction land,
- * Maintenance of the register data from the Information on spatial planning in accordance with this Act.

City of Zagreb (other cities have the similar act)

Official Gazette of the City of Zagreb 19/99, 19/01 20/01

The decision of the prescribed conditions, procedures and criteria for renting public housing owned by the City of Zagreb to tenants

Decision on the wage-rental public housing from 2009.

Article 8

The final rate is determined by the following criteria:

1. duration of stay in the City of Zagreb;
2. age of the applicant;
3. status of young scientists, PhD, MSc, culture and public employees;
4. residential status;
5. number of members of the family household;
6. single parent;
7. victim of domestic violence;
8. disability of the applicant or a member of the family household;
9. status out of Croatian Homeland War.

B.) Activities related to the construction of housing units of local governments to provide housing for rent

Act on Subsidized Housing Construction

Article

3

(1) public funds in accordance with the provisions of this law encourages organized housing, usually in residential buildings and buildings in the series, intended for sale with the possibility of instalment payment method, as follows: to

- Citizens of the Republic of Croatia to resolve their housing problems,
- Local governments and other entities based in Croatia, to provide housing to rent

Article

6

(1) In order to implement measures to meet the housing needs of citizens and improving the quality of housing, local governments determine housing needs and interest for the purchase of flats in their area, and in accordance with their needs and capabilities provide funds for promotion of housing under this Law .

(2) Local government, the housing provides adequate building land, planning utilities infrastructure and connections to infrastructure and the costs related to infrastructure and ports.

Article

8

(1) Local government can be provided by the sale of flats under the Sale of Apartments with Tenancy Rights, the purposes prescribed by this Act, be used for acquisition of construction land, cover the costs of municipal infrastructure, ports and other costs related to construction, as for purchase of flats under the provisions of this Act.

Article 17

(2) offer under paragraph 1 this article contains:

- Excerpt from the Land Registry or other appropriate proof of ownership of property,
- Excerpt from the cadastral plan and the physical plan, with information on the conditions of construction on the site
- Information on existing and planned municipal infrastructure,
- Information on existing and planned capabilities of connecting to the infrastructure,
- Total cost for the proposed building land and other resources, and that prices per m2 usable area of the building which would be built on that land,
- Assessment of the bidder in connection with the sale of options or property,
- Other data that may be relevant for the assessment of suitability of location.

D) Federation of Bosnia and Herzegovina

There are no constitutional competencies for either housing or social issues at the state level.

There are ministries of physical planning and construction, as well as ministries for social affairs but these too have neither competencies nor capacity to deal comprehensively with the housing and social sectors and develop intersectoral policy programs.

In the Federation of Bosnia and Herzegovina

- housing in general falls under the competencies and responsibilities of the Cantons (good example is CANTON OF SARAJEVO).

E) Montenegro

In the Law on Local Self-Government ("Official Gazette of the Republic of Montenegro", no. 42/03, 28/04, 75/05, 13/06, "Official Gazette of Montenegro", no. 88/09 od 31.12.2009) there are two paragraphs in Article 32 that are dealing with this issue:

The Municipality, in accordance with the law, shall regulate and provide:

- Relations in the field of housing, creation of conditions for the maintenance and protection of blocks of flats,
- In accordance with its possibilities regulates and resolves housing issues for persons with social needs status and special needs status, and supports work of humanitarian organizations and NGOS active in this field.

Attached is an example of a Municipal Ordinance.

Član 32

Opština, u skladu sa zakonom i drugim propisom:

11) uređuje odnose u oblasti stanovanja i stara se o obezbjeđenju uslova za održavanje stambenih zgrada;

17) u skladu sa mogućnostima, uređuje i obezbjeđuje rješavanje stambenih potreba lica u stanju socijalne potrebe i lica sa posebnim potrebama i pomaže rad humanitarnih i nevladinih organizacija iz ovih oblasti;

F) Slovenia

Housing act

11. Article

The President of the republic administrative body responsible for housing matters, orders:

- typology of apartments, houses and their surface functional norms and standards
- technical, hygiene and environmental standards of housing
- maintenance standards of housing, housing and functional area
- categorization of housing
- Regulations on the criteria for determining the value of apartments and houses

- methodology for the creation of rents in social housing
- housing register management methodology
- norms, standards and procedure for exercising the right to social housing, concerning the conditions laid down by this Act

55. Article

A municipality may terminate the contract if the renter loses the status of social claimant and social beneficiary if the municipality in its territory or in the city provides adequate rental housing.

If social housing renter loses the status of a social beneficiary until the termination of the rent contract, he pays a non-profit rent for this apartment.

63. Article

Rents for social and non-profit housing are developed in accordance with the prescribed methodology from the 11th of this Act. If the municipality prescribes social housing rent, which is lower than the methodology provided in the preceding paragraph, the municipality has to pay the owner of the apartment to the difference.

77. Article

National Housing Plan identifies elements of a comprehensive development in the housing sector.

The National Housing Program is accepted by the Assembly of the Republic of Slovenia.

National Housing Program provides in particular:

- The public interest in the design of residential construction, renovation and Slovenian settlement area
- The extent and pace of housing construction and residential houses;
- A way of ensuring diversity of housing supply
- The criteria for the share or the relationship between profit and nonprofit housing sector, own homes and social housing corrections
- The criteria for determining the extent of housing with various forms of incentives and assistance to the various groups of beneficiaries of funds
 - Platform Performance and quality of housing and construction, as a basis for rationalizing of building
- The conditions of the promotion and acquisition of housing for demographically threatened areas
 - Housing policies of settlement area in accordance with regional development and environmental protection
- **The amount of funds for housing for young people, families with more children, young families and disabled the non-profit housing sector and the criteria for allocating these funds to municipalities;**

87. Article

(Social housing rental)

The housing allocation process starts in the hiring of a public tender.

Municipality, state, public housing fund or non-profit housing organization in each tender for non profit rental housing identifies those beneficiaries, who are depending on the ratio of income of the applicant and his immediate family members to the average gross salary in the country, entitled to stand on a tender. A municipality or public housing funds have to provide a balanced, so that non-profit housing can be reached from all categories of their social status.

88. Article

(Allocation of housing units)

When grants for temporary housing units address the housing needs of social deprived persons is given by the municipalities, public housing fund or non-profit housing organization, is such a non-profit rental given on behalf of the list of beneficiaries of the allocation of housing. When the residential unit is provided, a re-verification of eligibility for the grant is to be made and given first to the most difficult social problems, if the housing surface is appropriate considering the number of family members. The rental is given for a limited time. The process can be initiated at the request of the party or ex officio.

Municipal Housing Program

97. Article

A municipality has in the housing sector in particular, the following powers and functions:

- To adopt and exercise the municipal housing program**
- Provides grants for construction and acquisition of social housing and opposed to contract out the rent and other expenses under this Act;**
- Monitors the amount of the average rent in the municipalities by categories, types and location of housing**
- Providing conditions for the development of various forms of construction and renovation of land and proper regulatory policy**
- Adoption of guidelines for design, construction and refurbishment, resulting from its local specialties, including the external appearance of dwelling houses**
- Keep a register of housing and care for its maintenance.**

98. Article

Municipal Housing Program is to be accepted by municipal assembly. Based on the principles of the national housing program, it gives concrete expression to municipalities and housing policy covering in particular:

- The extent, location and dynamics of the building and rental housing
- Measures of municipalities to encourage housing construction and renovation and occupancy of existing housing more appropriate in the municipality
- Special housing programs in the municipality, taking into account architectural and other features in the provision of housing for the handicapped
- A way providing aid for the acquisition and use of housing, - a means of providing appropriate forms of assistance for the creation and operation of non-profit housing organizations.

99. Article

Municipality may, by order, establish a housing fund. In cases where the fund already is established, are for its operation the rules relating to the Housing Fund of the Republic used. Two or more municipalities may establish a joint housing found.

104. Article

In the circumstance, which show the long-term inability to pay the rent and other charges payable in addition to rent, the municipality can move the renter to another appropriate non-profit housing in relation to changes in circumstances or in other non-profit housing, which surface may also be less than adequate homes or in residential buildings, for temporary housing needs addressing socially disadvantaged persons.

G) Romania

Housing Law 114/11.10.1996

Social housing = House rental granted to individuals or families whose economic situation does not allow access to an owned home or to a rented one under the market conditions.

Local and county Councils may authorize house building in stages.

Art. 38. – Social housing can be made in any municipality, according to urbanism plans. It consists of new buildings and rehabilitated old ones. Local councils are responsible for the social housing capacity in their territorial area.

Art. 39. – Social houses are the property of public domain of the respective administrative-territorial units.

Art. 42. – Families with a medium net monthly income in the past 12 months under the level for which social aid is being offered.

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Art. 43. – Local councils receive social houses on pre-established criteria (by themselves) for the following categories of persons:

- newly weds up to 35 years old
- young people coming from social care institutions and who have attained the age of 18
- 1st and 2nd degree disabled persons, disabled people, pensioners, veterans and war

widows,

- other entitled persons and families

Art. 44. – rental contract is signed between the mayor or an appointed person and the beneficiaries determined by the local council, for a period of five years, with the possibility of extension according to the statement of income and evidence required by law.

Rent level will not exceed 10% of net monthly income, calculated for the last 12 months, per family. The difference from the nominal value of the rent will be supported by the local budget of the administrative-territorial unit where social housing is located.

Art. 47. – Social housing developed in accordance with this law may not be sold.

Art. 48. – The following categories can not receive social housing:

- those owning a home

- those alienating a home after January 1, 1990

- those who received support from state for their loans and execution in order to generate a home

- those who as tenant have another house.

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Art. 50. - Financing the social housing is provided from local budgets within approved budgetary annually provisions

H) Bulgaria

Housing policy in Bulgaria is carried out according the National Housing Strategy and the National Programme for Renovation of Residential Buildings. The two documents define two main priorities- renovation of existing housings and construction and management of social housing.

The housing policy in Bulgaria is managed by the state. On local level according the National Programme for Renovation of Residential Buildings, the municipalities:

1. With the decision of the Municipal council establish Municipal association for methodological and technical assistance of organization and implementation of investment projects for the renovation of housings.

2. Municipal association:

- **Creates list of obligatory and recommended measures for the renovation of buildings;**
- **Elaborates calculations for the needed resources for the renovation;**
- **Elaborates prepositions for the implementation of investments projects for the renovation of housings on the territory of the municipality;**
- **Organizes information campaigns for the terms and benefits from the participation into the investment projects;**
- **Assigns, finances and manages the implementation of investment projects with state subsidies;**

According to the statistical data – 96,5 % of housings are private owned and only 3 % are owned by municipalities and /or the state.

In 2009, the Law for management of the block of flats was adopted. The Law defines the public relations connected with the management of the common parts in buildings within the regime of the block of flats. According to the Law all owners of housings in the regime of the block of flats have to register till the end of 2010.

According to the Law the municipality establishes and manages the public register of housings on its territory and regularly provides information for registered housings, their number and state to the government authorities.

In view of social housing there is the Fund “Social Assistance” managed by the Minister of Labor and social policy. With the financial resources provided by the Fund municipalities can apply for the implementation of different social services they provide. Another opportunity for municipalities for investment in social housing is financial resources provided by the EU under the OP “Regional Development”.

Municipalities elaborate Strategies and Programme for management of municipal housings; with their own financial resources they may also build social houses.