Constitutional framework of Social Housing in the Republic of Serbia

Dr Nataša Rajić, Faculty of Law, University of Novi Sad

Research objectives :

- **to identify main sets of constitutional provisions that make constitutional framework of social housing**
- **to analyze certain constitutional provisions in greater detail**
- **to evaluate the capacity of constitutional framework related to social housing in the Republic of Serbia**

Constitution of the Republic of Serbia,

Official Herald of the Republic of Serbia, Nos. 98/2006 and 115/2021

1. Constitutional principles

- The Republic of Serbia is based on social justice
- The place of ratified international treaties in the legal system of the Republic of Serbia.
  - integral part of the legal system of the Republic of Serbia
  - must be in accordance with the Constitution
  - ratified international treaties are directly applicable.

The Right to Housing is not specifically guaranteed by the Constitution, but by certain international treaties ratified by the Republic of Serbia.

2. Fundamental principles of human and minority rights and freedoms

Direct application of human rights and freedoms

Manner of exercising of human rights and freedoms - **stipulated by law** /an ordinary piece of legislation / in case :

- it is explicitly stipulated by the Constitution
- it is required by the nature of certain right.

However, in any case – **the essence of the right must be preserved!**

Interpretation of provision on human and minority rights – in line with:

- the values of democratic society,
- international standards and practice of international institutions that supervise their implementation

- principle of **equality** and **prohibition of discrimination**
- explicit constitutional provision - **special measures** that the Republic of Serbia may introduce **to achieve full equality** of individuals or a group of individuals who are in a substantially unequal position in comparison to others - **cannot be considered to be discrimination**.

- **right to judicial protection** of human rights and freedoms
- **right to address international institutions** for protection of human rights and freedoms

Constitutional court:

- **indirect** constitutional protection of human right / within the competence of **constitutional review of general legal acts**
- **direct** constitutional protection of human rights/ within the competence of deciding on **costitutional complaint**

3. Human rights closely connected to social housing

Right to social protection

- guaranteed in favor of citizens and families with social and existential difficulties
- social protection - based on social justice, humanity and respect of human dignity
- nature of this right – put in question the principle of direct application
- content of this right highly depends on the will of the legislator

Special /additional/ constitutional protection - in favor of precisely defined categories - families, mothers, single parents, children, disabled individuals, war veterans and victims of war

Conclusions

- Constitutional framework is flexible enough to accommodate a variety of rights related to social housing
- Right to social protection – covers rights related to social housing
- Scope and content of rights related to social housing highly depend on economic development of the state as well as the state politics