

HUMAN DIGNITY, INCLUSION AND NON-DISCRIMINATION IN THE DIGITAL AGE IN RELATION TO THE REAL ESTATE ADVERTISING SYSTEM OF THE LAND REGISTRY

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Abstract: *The human dignity of Roma/Travellers is closely linked to other fundamental human rights, such as the right to adequate housing and the recognition of property rights in informal settlements, through the legalisation of tenure and the registration of ownership in the land register. In order to prevent ethnic discrimination and the legalisation of beneficial tenure, states have a duty to adopt legislative and administrative measures to support the integration of these social categories, in support of the registration of ownership rights in the land register.*

Keywords: *travellers, dignity, housing, land registry.*

1. Definition and Concepts of Human Dignity

The concept of human dignity originates from the Latin word *dignitas* and has been defined as the state of contentment of a human being, achieved through the satisfaction of physiological needs and the need for development.

Currently, human dignity has become an important topic of medical scientific research in the context of bioethics, genetic engineering, human cloning, assisted reproduction with third-party donors, organ harvesting, end-of-life care, and the right of individuals to euthanasia.

2. International Legal Regulation of the Concept of Human Dignity

The concept of human dignity must be understood and applied within the limits conferred by existing legal norms, both at the level of international law and from the point of view of domestic law provisions.

The most important basis for this was provided by the Universal Declaration of Human

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Rights of December 10, 1948, as an expression of the recognition of the inherent dignity of all members of the human family, with a view to its universal and effective recognition and application.

Based on the very legislative basis of human dignity conferred by Articles 1 and 2 of the Universal Declaration of Human Rights of December 10, 1948, the legislative basis was laid for respect for other human rights, as well as the right to enjoy the right to property, as set out in Article 17 of the Declaration.

3. The Convergence between Human Dignity and the Right to Housing

In a context where human dignity is violated through discrimination based on national or social origin, membership of a national minority, ethnicity, or any other situation (Article 14 of the European Convention on Human Rights) and interference in the exercise of property rights, we are trying to identify legislative solutions that can prevent and resolve such situations.

With the adoption of Directive 2000/43/EC on racial equality, the European Union has provided an important legal instrument that can be used to combat discrimination on grounds of racial or ethnic origin in relation to access to, among other things, goods and services, including housing, applicable in cases of discrimination against Roma and persons living in countries other than their country of origin, such as Sinti, Gypsies, Jenisch and their subdivisions, without prejudice to the way in which any of these groups present themselves, referred to in international case law as "travellers".

In the current context of freedom of movement and international circulation, there is currently an ascending judicial practice of the European Court of Human Rights (the Court/ECHR) regarding the situation of Roma and other ethnic groups generically referred to as "travellers" in relation to housing, with most of them alleging violations of Article 3 (prohibition of torture and inhuman or degrading treatment), Article 8 (respect for private and family life) and Article 1 of Protocol 1 (protection of property) of the European Convention on Human Rights (ECHR).

It is important to note that although the right to non-discrimination is protected by two provisions of the ECHR, namely Article 14 and Article 1 of Protocol 12, these provisions do not explicitly guarantee the right to housing or the right to property.

However, the European Court of Human Rights, which is frequently seized of such cases, has extended the legal application of the two provisions on combating discrimination to protect persons facing forced eviction or living in substandard conditions, without access to decent housing or respect for property rights, as a result of prejudice against the category of "travellers" to which they belong.

The right to housing is particularly important because it is the starting point for any human activity and implicitly ensures respect for human dignity: by owning a home in appropriate conditions, every person can actively exercise a number of other human rights, such as the right to work, the right to education, the right to social integration, and the right to health.

In international law, the UN Committee on Economic, Social and Cultural Rights (CESCR) was designated by the Optional Protocol to the International Covenant on

Economic, Social and Cultural Rights of the UN General Assembly on December 10, 2008, as the administrative body competent to receive and examine citizens' complaints related to the right to housing.

In the course of its work, the CESCR has observed frequent violations of the right to housing of travellers, creating relevant international case law referring to the violation of the right to human dignity, without these persons being legally protected against forced evictions.

Based on these practical cases, the CESCR has defined forced eviction as „the permanent or temporary removal, against their will, of individuals, families, and/or communities from the homes and/or land they occupy, without being provided with and having access to adequate forms of legal or other protection" (CESCR (1997) General Comment No. 7, The right to adequate housing: forced evictions, 19. 07.2009).

However, it was specified that legal protection against forced eviction by public authorities or private individuals of Roma or travelers should not be extended unjustifiably, based on the principle of non-discrimination, and the following concepts should be analyzed in concrete terms: prior consultation with the persons to be evicted, the provision of reasonable prior notice of the time of eviction and the availability of legal remedies to prevent eviction or obtain compensation.

In addition, the Convention (Article 3 and Article 5(e)(iii)) specifies the obligation to eradicate racial segregation and guarantee the right to housing without distinction on the basis of race, emphasizing that racial segregation may arise as an undesirable consequence of private actions, which the state must strive to eradicate. [General Recommendation No. 19 of CERD (1995), Racial Segregation and Apartheid, (12.10.2009).

Both internationally and nationally, there is the legal problem of Roma or Travellers who are subject to racial discrimination in terms of their right to housing.

Taking into account the cultural beliefs of these groups, the need arose to identify and define their right to housing, including in relation to caravan sites equipped with all the necessary facilities, but also other related and often overlapping issues concerning: racist reactions from local residents of other ethnicities, the adoption of discriminatory measures by local authorities, non-discrimination in the exercise of the right to housing, and the existence of legal remedies for challenging discrimination. (CEDR (2000), General Recommendation No. 27, Discrimination against Roma, paragraph 1.2, (18.7.2009).

In this context, the European Court of Human Rights ruled that caravans installed on a plot of land without prior authorization must also be considered dwellings and fall under Article 8 of the Convention, and that, in certain circumstances, even an illegally constructed dwelling may be considered "property", with the owner being entitled to compensation under Article 1 of Protocol 1 (right to property). According to this approach, the Court seems to accept that Roma shelters also constitute housing and therefore fall within the scope of Article 8 (privacy and family life). (ECHR, Grand Chamber judgment, Öneriyıldız v. Turkey, 48939/99 (30.11.2004), ECHR, Chamber judgment, Hamer v. Belgium, 21861/03 (27.11.2007).

4. International Judicial Practice regarding Violations of Human Dignity in Relation to the Right to Housing

The CESCR Committee has been notified of racial discrimination in relation to the right to housing of Roma/travellers, as follows:

In Slovakia, the Municipal Council of Dobšiná adopted a decision approving administrative measures to provide housing for Roma communities who had no income and did not originate from that area, by preparing the necessary documentation and obtaining funding from the state. The town's residents opposed this administrative initiative to build housing, arguing that the town would be targeted by an influx of unadaptable Roma citizens seeking to benefit from these free measures (Housing conditions of Roma and Travellers in the European Union - Comparative Report, October 2009).

The local project was amended by the City Council with regard to the beneficiaries of free housing, thus targeting "unadaptable" citizens of that city, excluding Roma people. The project was subject to public debate on its appropriateness.

The Roma subsequently appealed to the CESCR Committee, which considered that the initial project belonging to the municipal council was an important political and practical step towards realizing the right to housing for Roma/travellers. It also noted that the subsequent revocation of this project on racial grounds constituted a violation of the state's obligation to ensure that all authorities, both national and local, exercise their functions in a manner that is non-discriminatory on the basis of race, a violation of the prohibition of discrimination in relation to the right to housing, and a violation of the right to defense in the absence of references to the Roma's right to appeal the first administrative project, in violation of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Article 2(1)(a), adopted by the UN General Assembly (16.8.2009).

Directive 2000/43/EC of June 29, adopted by the Council of the European Union (the Racial Equality Directive), required the implementation of the principle of equal treatment between persons in both the public and private sectors, regardless of race or ethnic origin, setting July 19, 2003, as the deadline for its transposition into the legislation of Member States.

Member States were thus required to designate one or more bodies to promote equality and provide independent assistance to victims of discrimination by following up on their complaints, conducting independent investigations into discrimination and publishing independent reports, as well as providing recommendations on any issues related to discrimination.

5. Domestic Case Law on the Non-Violation of Human Dignity in Relation to the Right to Housing

With regard to domestic law, deprivation of property rights on the basis of racial discrimination is prohibited by Article 4(4) of the Romanian Constitution of 2003.

In response to the international situation of the Roma, Decision No. 522 of April 19, 2006, was adopted in domestic law to amend and supplement Government Decision No.

430/2001 approving the Romanian Government's Strategy for Improving the Situation of the Roma.

From a jurisprudential point of view, we note that in the case of *Fatme Memet and others v. Romania*, filed on March 30, 2016, and communicated on March 8, 2017, the conditions of forced eviction, the lack of suspensive effect, and possible discrimination on the grounds of ethnic origin (Application No. 16401/16) were analyzed, taking into account the following facts:

By Decision No. 296 of September 19, 2013, issued by the mayor of Eforie, the demolition of houses built without a building permit belonging to Roma complainants, a group consisting of ten families, including twenty-one children, one pregnant woman, and two persons with disabilities, was ordered. The families were informed that they had to leave their homes by September 26, 2013.

Some of the applicants took administrative steps to have the mayor's decision of September 19, 2013, overturned, claiming a violation of Articles 3, 8, and 14 of the European Convention on Human Rights („the Convention”) and Article 1 of Protocol No. 1 to the Convention.

The applicants subsequently applied to the European Court of Human Rights, claiming that there had been violations of Article 3 (subjection to inhuman and degrading treatment), Article 8 (right to respect for private and family life), Article 13 (lack of remedies against administrative decisions), Article 14 (being discriminated against on the grounds of ethnicity, as only Roma people were housed in containers, even though the town of Eforie had a fairly large stock of social housing).

In its decision of October 1, 2019, the European Court of Human Rights considered that the exhaustion of domestic remedies were intrinsically linked and should therefore be dealt with and the applicants' complaints concern the anxiety experienced over a period of approximately eight weeks (paragraph 57) due to an allegedly unlawful and discriminatory threat of eviction, which was ultimately not carried out.

The Court held that as long as the applicants had not applied to the Romanian courts for compensation for the non-pecuniary damage suffered, in accordance with the compatibility of domestic law with the provisions of the European Convention on Human Rights, the principle of subsidiarity of recourse to the European Court of Human Rights was not respected (*Case of Cazaciu and Others*, 129-134 and *Costică Moldovan and Others v. Romania* (dec.), no. 8229/04 and others 29, 136, February 15, 2011), which is why their complaints were rejected on the basis of Article 35(1) and (4) of the Convention for failure to exhaust domestic remedies.

6. Domestic Law Solutions regarding the Enforceability of the Right to Housing

From the judicial practice outlined above, we can conclude that all EU Member States have established equality bodies that can receive complaints regarding discrimination, with varying scopes of application.

The right to housing is approached differently in each Member State, in accordance with domestic legal systems, but in line with international provisions on fundamental human rights.

In Romania, the right to housing is governed by the Romanian Constitution, the Civil Code, Housing Law No. 114/1996, updated in 2025 and the eviction procedure is carried out in accordance with the Code of Civil Procedure, Articles 1034-1045, with domestic law protecting the right to housing, especially in the case of families.

The rules of the Civil Code (Article 321) define the family home as the joint home of the spouses or, failing that, the home of the spouse with whom the children live, either spouse being able to request the registration of a property as the family home in the land registry, in accordance with the law, even if they are not the owner of the property.

The family home can also be protected by law through the registration of the right of residence in the land register.

The land register is an official public register that shows the legal status of real estate, including technical descriptions (such as area and location) and information about property rights (ownership, mortgage, usufruct, etc.) but also other rights, facts, or legal relationships, if they are related to the properties included in the land register, such as the right to housing. This is the property's "identity" document, essential for the security of real estate transactions, such as sale, credit, or inheritance.

Both the proof of the right to housing and the right to ownership of a property acquired under the conditions of Article 557 of the Civil Code, in the case of notation or registration in the land register, can be achieved with an extract from the land register, which is enforceable against all and ensures the function of real estate publicity.

7. Solutions Provided by Domestic Law in the Digital Age in Relation to the Land Registry System for Real Estate Advertising

In the case of Roma in Romania, there is a significant number of them living in rural areas, and local public authorities are obliged to improve their living conditions by adopting reforms that respect their right to housing and, consequently, their right to adequate living conditions.

Improving the living conditions of Roma, as an obligation and responsibility of public authorities, has included legalizing the right to housing, as follows: preventing the construction of new, illegal buildings in new locations, and the legalization of informal dwellings built in old settlements, so that the Roma's right of ownership can be established and enforced against third parties by registering their rights in the land registry.

In practice, it was envisaged that the administrative measure of evicting Roma from previously established informal settlements would be carried out in situations where these dwellings were located in hazardous areas, posing a health risk, in extremely poor areas, or which presented any other danger to the inhabitants. This measure was intended to lead to better living conditions for those evicted and not to become a discriminatory administrative measure.

To this end, administrative measures were taken to legislate the Roma's right to ownership of informal dwellings, in the sense that urban planning began to regulate the areas occupied by informal settlements built by Roma as residential areas, and the buildings erected by them began to be registered in the land registry in order to make their property rights enforceable and public against third parties. (Study conducted by the Agency for the Roma Minority, 2015).

It also proceeded to delimit public and private space, in accordance with the urban plan, and to resolve issues relating to this space by demarcating the land on which the dwellings were built, with the participation of all interested parties -the municipality, Roma settlements (both the community and individual families) - based on criteria such as the age of the settlement, its location within the city, in other words its geographical location in relation to the center of the settlement, proximity to infrastructure, proximity to public transport, environmental conditions, so that it can be objectively determined whether a Roma settlement can be legalized or not, so that Roma can become the legal owners/users of the land on which their houses were built.

Thus, in order for the occupant of a dwelling located in an informal settlement to convert their possession of the dwelling into ownership rights by registering it in the land registry, the judicial authorities established a framework procedure, regulated by Law No. 7/1996 (Article 13(3), as follows: beneficiaries had to prepare written documentation consisting of: an application for registration in the land registry as the rightful owner; a certificate issued by the mayor's office stating that the procedure for displaying the technical cadastral documents had been completed, that the possessors had not been challenged and that no challenges or requests for rectification had been made regarding possession; the cadastral plan, drawn up by the person authorized to carry out cadastral works, verified and approved by the territorial office; the certificate issued by the town hall in whose territorial area the property is located, showing that the owner is known to hold the property as the owner and that the property is not part of the public domain or has not been registered as being in the private domain of the state or of administrative-territorial units; a sworn statement by the owner, authenticated by a notary, declaring that: they own the property as the owner; they are or are not married, and if married, they shall specify the matrimonial regime; they have not alienated or encumbered the property; the property has not been removed from legal circulation and is not the subject of any litigation.

After submitting this documentation, the technical cadastral documents are published and displayed, in accordance with the law, by the city hall, and the notary public issues, based on the uncontested files, the certificates for registration in the land registry of the possessors as owners. Rejection of the file by the notary public results in the registration in the land registry as a possessor (and not as an owner), with automatic registration as an owner five years after this registration.

In parallel with these administrative measures, public authorities, using state and European funds, connected initially informal dwellings, for which ownership rights were recognized and registered in the land registry, to the water, sewerage, and electricity networks, made improvements to infrastructure, streets, and public spaces, and allocated housing to ensure the right to education, so that with the recognition of property rights, and implicitly the right to housing, Roma people could also benefit from adequate living conditions and the right to integrate into society.

Through this 2015-2023 national cadastre and land registry program managed by ANCPI, priority was given to infrastructure projects of national interest, infrastructure projects of local interest, and informal settlements of communities living in extreme poverty.

9. Conclusions

In order to respect human dignity and ensure the right to housing for Roma people, there may even be an obligation for the state to intervene in order to provide the material resources necessary for life, to the extent that their absence would reduce the living standards of Roma/travelers to a level that cannot be considered appropriate for any human being.

Thus, granting increased protection to vulnerable persons who, in addition to their disability, are in difficult family situations or do not have the resources necessary to meet a minimum standard of living is consistent with the requirements of human dignity.

This legal protection, manifested through the adoption of easy solutions to legislate the right of possession, the right of ownership, the right to adequate housing, and the registration of these rights in the land registry system, ensures a stable approach to human dignity, inclusion, and non-discrimination of Roma in the digital age.

Human dignity is a supreme, inviolable, inalienable value and, together with the right to free development of personality, the source of all constitutional rights, freedoms, and duties, but it is not limited, at a conceptual level, to these alone.

Where the fundamental rights and freedoms expressly provided for in the Universal Declaration of Human Rights are not applicable in the case brought by the applicant, in relation to their content, the concept of human dignity is subsidiary in nature, with new jurisprudential implications associated with this notion.

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