**I. Background and objectives of this questionnaire**

In her upcoming report to the General Assembly, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Ms Leilani Farha, outlines some of the priority themes that she intends to address during her mandate (A/69/274).[[1]](#footnote-1)

Among others, she identifies the increasingly important role of governments at the sub-national level (state, provincial and municipal) in the implementation of the right to adequate housing. In many countries sub-national levels of government hold key responsibilities for a range of programs and policies linked to adequate housing, including not only housing programs but also income assistance programs, provision of water, sanitation, electricity and other utilities, tenancy and security of tenure legislation, programs assisting particular marginalized and vulnerable groups (such as migrants, persons with disabilities, women, Indigenous peoples, among others) and implementation of housing strategies and strategies to address homelessness.

Since under international law, accountability to human rights norms and standards operates primarily through the national level government, there are often particular challenges facing countries in ensuring implementation of the right to adequate housing by sub-national levels of government. The Special Rapporteur notes that this issue has not attracted concentrated attention from special procedures mandate holders though often arising in the examination of the situation in many countries. Hence, she has decided to focus her first thematic report to the Human Rights Council, pursuant resolutions 15/08 and 25/17, on the question of enhancing accountability to international human rights norms and standards of sub-national governments in relation to adequate housing.

The Special Rapporteur is mindful of diverse domestic arrangements of responsibilities among various levels of government. She wishes to better understand those arrangements and existing mechanisms for monitoring and accountability for the implementation of binding international human rights treaties related to the right to adequate housing. This questionnaire is designed to invite Governments and other relevant stakeholders to share information and inputs for the report, which will be presented to the Human Rights Council at its 28th session in March 2015.

This questionnaire aims to identify key challenges facing States in relation to the implementation of the right to housing by subnational levels of government and the primary means through which accountability to international human rights can be ensured. It also aims to identify illustrative examples of the kinds of issues faced by countries in the implementation of the right to adequate housing through sub-national governments and new and innovative strategies that have been developed to address these issues, or other examples of good practices. The Special Rapporteur also hopes to learn of sub-national initiatives to ensure accountability to the right to adequate housing, in particular to those vulnerable to rights violations (eg. incorporating the right to adequate housing, non-discrimination and other housing-related rights into city, provincial/state Charters).

**II. Submission of Responses**

Kindly bear in mind that the study does not intend to address the detailed distribution of responsibilities in each country, but aims to focus on an overview of challenges and examples of practices which will be of benefit to the Special Rapporteur in understanding the situation. Therefore, it is hoped that responses will provide a brief overview of how responsibilities are divided up and some concrete examples of challenges and how these have been addressed.

When possible, please identify links or provide copies of any law, regulation, policy or other document related to your answers. Due to limited capacity for translation, we kindly request that you submit your answers, if possible, in English, Spanish or French and, **no later than Friday, 31 October 2014.**

Please send your responses preferably via email to: srhousing@ohchr.org, or to:

UN Special Rapporteur on adequate housing

Office of the High Commissioner for Human Rights

Special Procedures Branch, Palais Wilson, Room 3-077

CH – 1211, Geneva 10

Switzerland

For any question, please contact the Special Rapporteur through her assistant, Ms. Juana Sotomayor, Special Procedures Branch- OHCHR: email: jsotomayor@ohchr.org; phone: +41 22 917 94 45.

**III. Questionnaire**

**A. Distribution of responsibilities related to the right to adequate housing:**

1. Please identify the levels of government (national, provincial/state, municipal) primarily responsible for the following: (where primary responsibility is shared please check more than one):

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | National/ Federal | | Provincial/state | Municipal | Explanatory Notes |
| Housing programme |  | |  |  | According to the Law of Georgia on Social Assistance, local self-governing bodies are obliged to provide shelter to homeless persons. Central authorities define housing policies and an action plan necessary for their implementation. |
| Income support (eg: transfer payments to individuals, welfare, social security and/or rent subsidies/supplements) |  | |  |  | The budget of local authorities, as a rule, includes funds assigned for providing homeless population with a rent; though this financial resource is very scarce and therefore only several hundred, and in some municipalities just a few, homeless persons are financially supported. |
| Tenancy and security of tenure legislation |  | |  |  | Country lacks social legislative regulations in this regard. General norms are defined in the Civil Code of Georgia. |
| Infrastructure (eg: Water/sanitation, electricity) |  | |  |  | The current legislation does not define an agency responsible for provision of infrastructure. Though, taking into account the fact that responsibility of providing homeless persons with housing lies with   local self-governing authorities, access to main infrastructure is also considered to be their competence. |
| Prohibition of discrimination in housing | |  |  |  | According to the Law of Georgia on Elimination of All Forms of Discrimination, that entered into force in May 2014, the mandate of the Public Defender of Georgia includes examination and monitoring of cases of discrimination in all spheres. |

2. What are the primary bases for the allocation of responsibilities among different levels of government? Please identify the appropriate provision(s) and provide a copy or link if possible:

 Constitutional

✓ National framework legislation or housing strategy

 Sub-national level legislation or housing strategy

 Inter-governmental agreement

 other – Please explain

The Law of Georgia on Social Assistance defines competences of state bodies with regards to homeless persons across the country. Namely, in accordance with Article 18 of the law, local self-governing bodies are obliged to provide homeless persons with housing. However, the document does not clarify the grounds on which it is appropriate to allocate authority.

1. What role does the national level government play in relation to housing and related programs? How is compliance with the right to adequate housing structured between the national and sub-national levels? If possible please kindly provide concrete examples of how these roles and compliance mechanisms are operationalized.

With respect to homeless persons, responsibility of the central authorities (the Ministry of Labour, Health and Social Affairs) is limited to keeping general registry of homeless persons.[[2]](#footnote-2) Apart from creating a database, all other responsibilities fall into the competence of local authorities.

While creating the database the central authorities are guided by information received from local self-governing bodies across the country. Within the limits of their authority, municipal units conduct registration of homeless persons and provide it to the central authorities.  The boundaries of obligation of central authorities in respect to the right of adequate housing are very scarce and the main burden lies on local government bodies. Uneven distribution of competences leads to lack of communication between them.

Despite a legislative regulation, registration of homeless persons constitutes a serious problem for local authorities, and subsequently for the central government authorities too. This problem is due to the fact that local authorities struggle to define criteria for choosing to describe a homeless person/family (in Georgia there are numerous people who do not have a real estate registered in their name, thus this cannot be used as criteria). Criteria that should be met by a person in order to be considered a homeless is not specified in the legislation.

1. Where sub-national governments hold key responsibilities in relation to the right to adequate housing, please describe how programs and policies are co-ordinated nationally and what responsibilities remain with national level institutions.

In respect to the right of adequate housing, the role of local authority bodies is critically important. In accordance with the current legislation, municipal units within their jurisdiction are conducting registration of homeless persons and their provision with shelter.[[3]](#footnote-3) The central authorities are not involved in this process at any level. In other words, the government does not carry out activities that would have facilitated effective realization of the right by local authorities. As a result of such regulations cases of non-provision of homeless persons with housing has systematic nature in practice that, as explained by local authority bodies, is due to lack of housing funds and financial resources. The local authorities also refer to absence of support on the part of the central authorities in this direction.

Beyond the main obligations of the local authorities, the central authorities elaborate human rights strategy [[4]](#footnote-4) and action plan[[5]](#footnote-5). It shall be noted that one of the goals of the current strategy is to comply with obligations emanating from the right to adequate housing and overcoming homelessness. However, the action plan for 2014-2015 on the right to adequate housing which was drawn up by the central authorities does not include specific activities. In addition, the central authorities define necessary regulations[[6]](#footnote-6) for operation of institutional facilities (temporary shelters) for homeless persons. It shall be hereby noted that against the background of legislative regulations there are no such institutions in the country at this stage.

5. Where housing and related programs are administered by sub-national level governments, by whom and how are these programs funded? Are conditions attached to the funding which seek to ensure the resources are spent in a way that protects the right to adequate housing? How is this monitored?

Despite the fact that obligations of local authorities are defined in the current legislation there is no program or a strategy with respect to provision of shelter to homeless persons that would ensure application of the said obligations on practical level. Practice shows that accumulation of funds for necessities of homeless persons is not happening either in central or local budgets. Therefore, there is no monitoring of targeted allocation of funds. Small funds that are allocated by local authorities for provision of rent for homeless persons are only accumulated in the local budget.

**B. Accountability of Sub-National Governments**

1. Are sub-national governments legally accountable to the right to adequate housing on the basis of any of the following?

 International human rights law? (Yes***/***No)

 Constitution/National Bill of Rights (Yes/No)

 National or sub-national legislation (Yes/No)

 State level or municipal level Bills of Rights/Charters (Yes/No)

 Inter-governmental agreements (Yes/No)

 Conditional financing (eg: budget transfers from national level to sub-national) (Yes/No)

2. With respect to the above and where applicable, please identify:

1. The relevant provision.

Article 3 of the Law of Georgia on Social Assistance stipulates: *Legislation on social assistance includes the Constitution of Georgia, Georgia’s international treaties and agreements, the above-mentioned law, other legislative and normative acts*.

1. The sub-national levels of government to which the legal provision applies.

Article 18 of the Law of Georgia on Social Assistance stipulates:

1. *Local self-governing bodies:*
2. *Participate in evaluation system in accordance with a rule determined by the Georgian legislation;*
3. *Provide shelter for homeless persons;*
4. *Conduct registration of persons placed in shelters;*
5. *Ensure access to information on registered homeless persons for the agency.*
6. *In case of implementation of local social programmes, local self-governing bodies provide the ministry and the agency with access to data on benefits for beneficiaries defined by this law and incorporation of this information into the general database of socially vulnerable families living in the country, adhering by rules, forms and timeframe defined by the minister*.
7. The means of enforcement (eg: courts, tribunals, national human rights institution, including ombudsmen, administrative mechanisms, etc.) and examples of how these means have been applied.

In terms of enforcement mechanisms we can outline the court and the Public Defender (Ombudsman) of Georgia. In case of the court, when passing a negative decision by local authorities on registration of a person as homeless this person has a right to initiate administrative proceedings. If sufficient evidence exists in the case the court obliges local authorities to register the person as homeless that will automatically lead to obligation of providing housing for him/her. Though, in practice it is difficult to implement such decisions and it has no effect on realization of the right.

The Public Defender of Georgia conducts supervision on facts of violation of the right to adequate housing by state bodies and in case of necessity addresses local self-governing body with a recommendation to protect the right.

1. Are sub-national governments involved in State reporting to international human rights monitoring mechanisms and in implementing recommendations? (eg, UN treaty monitoring body, Universal Periodic Review). If so, how? Please kindly provide an example.

Local self governing bodies are involved in the process of drafting relevant reports on areas within their competences.

1. Apart from the legal and international accountability described above, what political or institutional accountability mechanisms are in place in your country through which sub-national governments are held accountable to standards or requirements linked to the implementation of the right to adequate housing (eg, Government review procedures, ombudsman/national human rights institutions, local human rights councils). Please provide any useful examples of how these have been used and, if possible, assess the outcome.

Country lacks any political or institutional body that would exercise supervision of local self-governing bodies with respect to application of the right to adequate housing. An exception is the Public Defender of Georgia who, with respect to the application of the right to adequate housing studies applications of citizens and reflects both individual and systematic problems existing in this sphere in the annual parliamentary report. The above is confirmed by the parliamentary reports of the Public Defender of Georgia of recent years.[[7]](#footnote-7) As a result, one of the objectives specified in the human rights strategy adopted by the government is fulfillment of obligations related to the right to adequate housing. Regulations of operation of temporary shelters for homeless persons have also been drawn up. Despite this fact, conducted activities are not enough and it is necessary to strengthen positive steps.

1. Please kindly identify what in your view may be the three most significant challenges in your country to effective accountability of sub-national governments to the right to adequate housing as guaranteed under international human rights law and identify key strategies or ideas for addressing these challenges:
2. Monitoring of homelessness is not carried out across the country. As a result no information and statistical data is available on the scale of homelessness. Due to non-existence of this information it is difficult to form an effective action plan that would be directed at step-by-step and irrevocable eradication of homelessness. It is necessary to complete a legal rules related to keeping homeless persons' database with practical regulations. For this, it is necessary to study in details various forms of homelessness in the country and their causes. This will allow us to determine concrete and practical criteria for defining homelessness, as well as to elaborate activities for preventing and averting homelessness.
3. Incomprehensive definition of homeless persons - current legislation considers the right to housing in a narrow context that only refers to provision of a roof. It is necessary to carry out legislative changes and elaborate a definition of homelessness that will be in compliance with international standards which implies not only provision of a roof but also life in safe, peaceful and decent conditions.
4. Absence of the national action plan to ensure adequate housing - objectives of improvement of housing conditions should be established, existing resources and ways of their handling to be defined for the purpose of achieving this goal, also bodies responsible for implementation of these activities and timeframe of implementation should also be defined.

Thank you for your contribution

1. The report is available at: http://www.ohchr.org/EN/Issues/Housing/Pages/AnnualReports.aspx [↑](#footnote-ref-1)
2. The law of Georgia on Social Assistance, N4289, Article 17 (D). [↑](#footnote-ref-2)
3. The law of Georgia on Social Assistance, N4289, Article 18 (1). [↑](#footnote-ref-3)
4. A Decree of the Parliament of Georgia on Adoption of the National Strategy of Georgia on Human Rights (for 2014-2020).

   https://matsne.gov.ge/index.php?option=com\_ldmssearch&view=docView&id=2348314&Itemid=&lang=en [↑](#footnote-ref-4)
5. A Decree of the Georgian Government N445 of July 9 2014 On adoption of the Human rights and government action plan of Georgia and formation of coordination inter-agency council of the Georgian human rights and government action plan (for 2014-2015) and adoption of its provisions.

   https://matsne.gov.ge/index.php?option=com\_ldmssearch&view=docView&id=2391005&lang=en&Itemid= [↑](#footnote-ref-5)
6. A decree of the Government of Georgia N131 of February 7, 2014 Technical regulations – on adoption of minimum standards for operation of temporary homeless shelter

   https://matsne.gov.ge/index.php?option=com\_ldmssearch&view=docView&id=2240289&lang=en&Itemid= [↑](#footnote-ref-6)
7. “Right to Adequate Housing”, Annual Report of the Public Defender of Georgia 2013 pg: 198-303; “Right to Adequate Housing”, Annual Report of the Public Defender of Georgia 2012 pg: 324-329;

   “Right to Adequate Housing”, Annual Report of the Public Defender of Georgia 2013 pg: 116-119; http://www.ombudsman.ge/en/reports/saparlamento-angarishebi [↑](#footnote-ref-7)