

PART I

LEGAL AND INSTITUTIONAL FRAMEWORKS FOR HOUSING, URBAN DEVELOPMENT, AND LAND ADMINISTRATION AND MANAGEMENT

Housing policy development in the Republic of Moldova has passed through several phases since the country gained its independence. The first stage was defined by an urgent necessity to transform the housing sector to a market-oriented system. The second stage was an attempt to elaborate a strategic approach. The Government adopted the “National Housing Concept” that set the principles for the reform of the housing sector, in 1994, and the “Housing and Real Estate Market Strategy”, which provided guidance for the development of legal and institutional frameworks, in 1999. However, despite a number of framework documents, the housing sector did not benefit from a clear policy or legal context.¹² (See the UNECE Country Profile on the Housing Sector: Republic of Moldova, prepared in 2002, for details of these two phases, hereinafter, 2002 Moldova CP). There is enough evidence to state that the housing sector has entered its third stage of development, which focuses on policy implementation.

A. LEGAL FRAMEWORK FOR HOUSING, URBAN DEVELOPMENT, LAND ADMINISTRATION AND MANAGEMENT

Housing-related activities are governed within the framework of the Constitution, which guarantees private property rights for all citizens of the Republic of Moldova and foreign nationals without limitation, and the Civil Code, which establishes the basis for the functioning of the real estate market.

The Law on Housing, No. 75 of 30 April 2015, which replaced the Housing Code of 1983, establishes general principles that relate to the granting of social housing, including the categories of people eligible for it, the contract for the rent, and the general principles concerning the payment of communal services and administration of housing.

This Law promotes cooperation between the State and the private sector in order to provide affordable housing for socially vulnerable groups. Basic principles include constitutional guarantees of housing, legal equality of all types of housing ownership, the right of citizens to choose how to meet their housing needs, and freedom to dispose of property legally. In addition, it guarantees the distinct separation of housing responsibilities between central and local government, businesses and individuals.

The new Law addresses issues which the previous Housing Code did not, such as:

- Roles of different actors in the housing sector

¹² Council of Europe Development Bank (CEB), “Social Housing Project. Feasibility Study”, Draft, February 2011.

- Responsibilities of Government bodies in the sector, including the regulation of the provision of housing services and utilities to consumers¹³
- Guidelines on the use of the public housing fund
- Social housing and its use
- Administration of housing and utilities, and the reconstruction of uninhabitable residential premises
- Leased housing, including clarification of the rights and obligations of the lessee and the lessor

The provisions of the Law establish the elaboration of documents, such as:

- A regulation on the use, operation and management of housing stock
- A methodology for calculating the fees for renting houses, technical service and repair of dwellings
- A regulation on the use of social housing and how to assign them
- Standards of social housing and minimum requirements for it
- Rules and norms for the technical exploitation of housing

The Law on Local Public Administration, No. 436-XVI of 28 December 2006, defines the roles of LPAs. This Law gives LPAs the right to initiate and decide on matters of local interest.

Together with the new Law on Housing, some related functions given by this Law to local governments are the following:

- Promoting the Government's housing policy at the local level
- Keeping records of persons needing and entitled to social housing
- Approving the local budget and granting funds therefrom or from other special funds to support housing construction, purchase or maintenance, which meets the criteria set by the local or municipal council¹⁴
- Providing infrastructure and communal services
- Deciding on the construction, rebuilding and demolition of residential buildings or houses, except for those considered as being of historical or architectural importance
- Overseeing the allocation of buildings intended for housing, ensuring that they are used for that purpose
- Regulating the use of land for residential purposes and adopting urban development and zoning plans

In 2012, the Parliament adopted the **National Decentralization Strategy**, the main policy document in the domain of local public administration, aimed at transferring competences and financial resources from the central authorities to local ones.

In the Strategy, the concepts of Law No. 435-XVI "on administrative decentralization" are applied and developed.

According to the Strategy, local governments can make decisions and allocate resources on matters pertaining to social assistance, water supply, road infrastructure, etc.

¹³ These issues are partially regulated (Law on Local Public Administration, No. 436-XVI of 28 December 2006).

¹⁴ A local or municipal council is the local government of a municipality.

The Law on Condominiums, No. 913-XIV of 30 March 2000, limits the rights of State and territorial-administrative units, including management rights over common condominium property such as terraces, roofs, stairways, basements, pipes, and rubbish chutes. However, it does not provide a mechanism by which the common property of the condominium and its non-residential spaces are registered together with the property of the apartment owners, which leads to problems of how the building operates and is managed.

A new law on condominiums, which has been drafted and has yet to be approved by the Government, aims at solving such management problems that were not addressed in the housing privatization law or in the current condominium law. The new law, if passed, will address issues concerning the establishment of condominium co-owners' associations, the functioning and management of them, the rights and obligations of owners, and joint owners' associations with local authorities.¹⁵

It will create an efficient economic and social environment for the operation and maintenance of housing stock. Addressing the issues of the mandatory registration of ownership shares in common areas, the establishment of the maintenance and repair fund, and the transparent management of fund assets and other financial resources of the homeowners' association will motivate owners of condominium units to manage their properties and common areas more effectively.

The Law on the Energy Performance of Buildings, No. 128 of 11 July 2014, creates the legal framework and necessary mechanisms to encourage improvements in the energy performance of buildings. It establishes the rights and duties of the MRDC to set the minimum energy performance of buildings through a series of normative documents in construction. It also establishes the obligation to comply with minimum energy performance requirements in the design and construction of new buildings and the major renovation of existing ones. All new buildings, major renovation for existing ones, and buildings for sale or rent must be certified in terms of energy performance.

The Law on the Principles of Urban and Spatial Planning, No. 835-XIII of 17 May 1996 (amended in 1998 and 2007), states that the management of land and settlements "is aimed at achieving a physical and functional framework of the natural and built habitats, to meet human needs, consistent with public interest and according to planning documents and approved landscaping".

The Law on Authorizing the Execution of Construction Works, No. 163 of 9 July 2010, regulates the procedure of:

- Authorizing, approving and verifying design works
- Constructing, rebuilding or demolishing buildings and facilities in accordance with urban and spatial planning documentation
- Applying normative documents in construction to ensure transparency in the issuance of administrative acts and the creation of favourable business conditions

The Law on Access to Information", No. 982 of 11 May 2000, and the **Government Decision "on Approval of the Regulation on Public Consultation in the Development and Approval of Documentation on Territorial Development and Urbanism, No. 951 of 14 October 1997**, regulates the involvement of key stakeholders in spatial planning.

¹⁵ Draft Law on Condominiums (December 2013 version). Available from <http://mdrc.gov.md/libview.php?l=ro&idc=145&id=2755&t=/Transparenta-decizionala/Rezultate-consultare/Proiectului-legii-cu-privire-la-condominiu-versiunea-din-decembrie-2013/>

Currently the Republic of Moldova is working on the Urban Planning and Construction Code, which unifies and systematizes provisions, and harmonizes Moldovan legislation with the construction principles and regulations of the EU.

The draft Code has been developed in accordance with the provisions of the Government programme “European Integration: Freedom, Democracy, Welfare” for the years 2011–2014 (action: removing administrative constraints in the business environment; sub-action: development of a code in the construction field which would cover all procedures of construction improvements and, in particular, would ensure optimization of licensing procedures and acceptance of construction by combining documentation of completion of construction works in a single procedure).

The draft Code establishes:

- A unified legal framework governing planning and urban development
- Approval and execution of construction works
- Quality assurance of construction materials and products
- The exercise of State control in planning and licensing
- Uniform application of legal provisions on construction quality

This Code, if passed, will integrate the process of constructing a building, including location, design, approval, implementation, monitoring, and post-use.

In 2004, the city of Chisinau adopted a housing strategy, and a new local plan has been prepared.

The Land Code, No. 828-XII of 25 December 1991, sets out the legal framework for all aspects of land and property ownership and dispute resolution. It also provided the framework for major changes in land ownership during the privatization process.

The Law on Real Estate Cadastre, No. 1543-XIII of 25 February 1998, stipulated the mandatory registration of all real estate property, and established a unified system, bringing technical, legal and ownership characteristics together to ensure the identification, registration and monitoring of all land and other real estate property, regardless of its use or owner.

Overall, the country has adequate legislation for the functioning of the housing and land management sectors. However, the challenge is the lack of its effective implementation.¹⁶

B. INSTITUTIONAL FRAMEWORK FOR HOUSING, URBAN DEVELOPMENT, LAND ADMINISTRATION AND MANAGEMENT

Several Government institutions shape policies related to the housing sector, such as the: Ministry of Economy; Ministry of Finance; Ministry of Labour, Social Protection and Family; Ministry of Justice; and the Agency of Land Relations and Cadastre. However, the authority responsible for housing and urban development at the central level is the MRDC.

¹⁶ S. Tsenkova, “Lost in Transition: Housing Reforms in Moldova.” *Sustainable Urban Areas: An international conference of the European Network for Housing Research (ENHR)*, Rotterdam, June 25-28, 2007. (Rotterdam: Delft University, 2007). Available from http://s3.amazonaws.com/zanran_storage/www.enhr2007rotterdam.nl/ContentPages/2486807089.pdf

Its mission is to develop, promote and implement State policy in regional development and spatial planning, architecture, design, planning, construction, production of construction materials, and housing.¹⁷ To fulfil its mission, the MRDC involves the media, non-governmental organizations (NGOs), and the public in its decision-making and implementing process, in line with the pillars of the UNECE Aarhus Convention¹⁸. The Republic of Moldova was among the first states to ratify the Convention in 1999.

The main responsibilities of the MRDC include:

- Developing, monitoring and evaluating the implementation of the National Strategy for Regional Development and the National Fund for Regional Development
- Cooperating with other ministries, as well as with the National Coordination Council for Regional Development and Regional Development Councils, to achieve national regional development priorities

It therefore:

- Develops and enforces the national landscape plan
- Coordinates the implementation of sustainable development principles in urban design
- Coordinates and monitors the reconstruction, rehabilitation and restoration of monuments of architecture, history and culture that epitomize urban areas within historical districts, cities, towns, villages and municipalities, as well as architectural complexes
- Promotes the implementation of new technologies, machines, performance mechanisms and materials in its field

It also develops and implements State policy in the construction, reconstruction and maintenance of housing, and:

- Contributes to policy implementation of housing for socially vulnerable segments of the population
- Develops and promotes policies to secure housing for young people
- Participates in the development of national housing programmes for young and vulnerable people, and is involved in completing apartment buildings started with State funds
- Develops national and regional programmes jointly with local authorities, to rehabilitate housing, implementing the principles of energy efficiency
- Monitors, together with local authorities, the implementation of legislation regarding the housing sector
- Contributes to enhancing the quality of public housing through management of the housing fund

¹⁷ Government Decision No. 662 of 10 November 2009. Available from <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=332629>

¹⁸ The UNECE Aarhus Convention (Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters) grants the public rights and imposes on parties and public authorities obligations regarding access to information and public participation and access to justice.

Picture 1. A housing construction project for socially vulnerable segments of the population



Within the MRDC, the General Directorate of Architecture, Construction and Housing¹⁹ is responsible for:

- Architecture, design, spatial planning
- Technical problems of buildings
- The construction materials industry
- Accreditation, certification and technical approval of construction quality management activities
- Technology deployment
- Modern and competitive production of building materials
- Housing-related matters
- The development and implementation of State housing programmes

The General Directorate is divided into three divisions:

- 1) The Division of Architecture, Design, Urbanism and Planning ensures the development, maintenance, monitoring, compliance and subsequent amendment of the

¹⁹ Functions of the General Directorate of Architecture, Construction and Housing. Available from <http://mdrc.gov.md/slidepageview.php?l=ro&idc=132&t=/Minister/Structura-ministerului/Atributiile-subdiviziunilor&>

National Spatial Plan, based on the coordination of regional and local plans and policies. It also coordinates the implementation of sustainable development principles in urban design (including city Master Plans and zoning); supervises the implementation of urban landscaping, water supply, sanitation and recreation; and creates pilot projects in development and spatial planning.

- 2) The Division of Construction, Building Materials and Modern Technologies promotes the implementation of new technologies, machines, performance mechanisms and materials. It also participates in organizing the development of regulations for construction, building materials and housing. Furthermore, it oversees the technical approval of construction materials and their quality testing.
- 3) The Housing Division develops and implements State policy in the construction, reconstruction, and maintenance of housing. It also contributes to housing policy development and its implementation for socially vulnerable segments of the population, as well as the implementation of national housing construction programmes for young and other vulnerable people. It participates in the completion of buildings started with State funds, and oversees the national rehabilitation of housing, implementing energy-efficient principles jointly with local authorities.

The National Housing Service (NHS) under the Ministry of Ecology, Construction and Territorial Development was established in 2003 as a public institution to improve the condition of the housing stock. The NHS has commissioned 65 multi-storey housing blocks, around half of which are in the Chisinau area. Currently, it has finished its mandate and is in the process of liquidation.

The local government authorities and municipalities are responsible for ensuring the overall urban plan development and documentation of urban and spatial planning.

The Parliament has established a number of standing committees related to housing matters: the Committee on Public Administration and Regional Development; the Committee on Economy, Budget and Finance; the Committee on Environment and Climate Change; and the Committee on Social Protection, Health and Family. However, there is no specific committee on housing and urban development, meaning that these problems tend to have less importance in parliamentary debates.

The Agency of Land Relations and Cadastre (ALRC) was set up by Government Decision No. 383 of 12 May 2010 to carry out State policy on land, cadastre, geodesy, cartography and geo-informatics. It is responsible for the establishment of the National Spatial Data Infrastructure, and is currently involved in the development of a National Geographic Information System.²⁰ It maintains the system, which covers over 90% of all real estate in the country.²¹ It hosts several technical institutions and state-owned enterprises. The State enterprise “Cadastru” is responsible for the management of the cadastre and registry.²²

Important private-sector institutions are involved in the production, allocation and consumption of housing, e.g., the federation of employers of builders, road builders and producers of building materials “CONDRUMAT”, and the public association “Republican Union of Associations of Co-owners in Condominium” or “GESTIONARUL”.

²⁰ European Commission, Infrastructure for Spatial Information in the European Community (INSPIRE), “List of Registered Organisations”. Available from <http://inspire.ec.europa.eu/index.cfm/pageid/42/list/6/id/8759>

²¹ Ibid., footnote 16.

²² World Bank, Moldova Land Governance Assessment Framework (LGAF). Final Report. March 2014. Available from http://siteresources.worldbank.org/INTLGA/Resources/Moldova_Final_Report.pdf