

Technological Upgrade of the Land Registry's Real Estate Advertising System to Legalize Real Estate Occupancy by Roma People and Ensure Equal Opportunities

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Abstract

The registration in the land registry of property rights held by Roma individuals over real estate located in informal settlements grants this ethnic group equal opportunities regarding the constitutive effect of registering real rights in the land registry. Using the historical method, we can highlight how the acquisition of private property rights over a property was previously regulated by law, as a result of the exercise of useful and unchallenged possession. Through the documentary method, we highlight consistent judicial practice, according to which the registration of a real right in the land registry ensures its enforceability against third parties. Using the comparative method of real estate registration systems, we emphasize the importance of conducting cadastral surveys of properties using modern digital technology as a practical solution for eliminating racial discrimination and supporting the legal recognition of beneficial possession exercised by ethnic minorities. Following an analysis of the study's results and implications, we note that public authorities have a duty to adopt legislative measures ensuring the legal integration of Roma people by recognizing their property rights over structures located in informal settlements. To this end, it is necessary to accelerate the legislative reform of the land registry system through the digitization of technical property surveying operations and the electronic transcription of the data obtained into the land registries.

Keywords: informal settlements, property, digitization, electronic land registers.

JEL Classification: K11, K40, J15, R14, O17

1. Domestic legislation governing the acquisition of real rights

According to domestic legislation set forth in the Civil Code² and Law No. 7/1996 on the Cadastre and Real Estate Publicity³, the right of private ownership of real property is the most important real right, by virtue of which the owner, in an absolute, perpetual, and exclusive manner, possesses, uses, and disposes of the property, within its physical limits, under the conditions established by law.

The manner of acquiring private property rights is regulated in Romanian law by the Civil Code, as a rule of common law, which is supplemented by other special laws.

The main methods of acquiring private property rights over real property are those provided for in Article 557 of the Civil Code, namely: the sales agreement, testamentary or intestate inheritance, real property accession, adverse possession as a

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² Romania, Law No. 287/2009 on the Civil Code, republished in Official Gazette of Romania, Part I, no. 505 (July 15, 2011), as amended.

³ Romania, Law No. 7/1996 on Cadastre and Real Estate Publicity, republished in Official Gazette of Romania, Part I, no. 201 (March 3, 2006), as amended.

result of effective and unchallenged possession exercised by a possessor for a specified period of time, by a court decision with a transfer of title effect, by the effect of an administrative act under the terms of Law No. 18/1991 on the Land Fund⁴ or other special reparatory laws, or by other methods provided for by special laws.

Upon the full completion of systematic cadastral works and the opening of new land registers for each property, at the level of each administrative-territorial unit, the registration of the right of ownership in the land register becomes a means of acquiring a real right, in particular the right of ownership, as a result of the constitutive effect of the land register, as follows from the combined provisions of Article 887(1) of the Civil Code and Article 56 of Law No. 71/2011 on the implementation of Law No. 287/2009 on the Civil Code⁵.

2. Case law of the European Court of Human Rights regarding the right to property of travellers with respect to dwellings located in informal settlements

Under international law, the Charter of Fundamental Rights of the European Union⁶ governs the right to property in Article 17. According to these international legal provisions, the right to property may be held by any person, without discrimination, and the holder may use and dispose of it in any manner, including through testamentary dispositions. The holder of the right may not be deprived of this right, except in situations expressly provided for by law, where public interest so requires, in exchange for fair and proportionate compensation, under the conditions provided by law.

Article 1 of Protocol 12⁷ supplements the provisions of Article 17 of the Charter of Fundamental Rights of the European Union with provisions on non-discrimination in the exercise of the rights set forth in the Convention⁸, referring generally to all rights established by domestic laws.

In 2000, the European Union adopted Directive 2000/43/EC⁹ on racial equality, with the aim of eliminating racial or ethnic discrimination, including the right of ethnic minorities to access housing and, by extension, to regulate property rights over it, in the context where Roma and similar groups, generically referred to as travelers, settle in countries other than their country of origin as a consequence of international freedom of movement and must be granted recognition of the right to housing, given that discriminatory evictions have occurred.

It was found that there is a restriction on the right to property regarding housing held by persons belonging to ethnic minority groups, through their eviction from

⁴ Romania, Law No. 18/1991 on the Land Fund, Official Gazette of Romania, Part I, no. 37 (February 20, 1991), as amended.

⁵ Romania, Law No. 71/2011 for the Implementation of Law No. 287/2009 on the Civil Code, art. 56, Official Gazette of Romania, Part I, no. 409 (June 10, 2011), as amended.

⁶ Charter of Fundamental Rights of the European Union, art. 17, 2012/C 326/02, Official Journal of the European Union C 326 (October 26, 2012): 391–407.

⁷ Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, art. 1, ETS No. 177 (Rome, November 4, 2000).

⁸ Convention for the Protection of Human Rights and Fundamental Freedoms, ETS No. 5 (Rome, November 4, 1950).

⁹ Council Directive 2000/43/EC of June 29, 2000, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Official Journal of the European Communities L 180 (July 19, 2000): 22–26.

informal settlements, as a result of racial discrimination, such that the international case law of the European Court of Human Rights has found an increasingly frequent violation of the provisions of Article 1 of Protocol 1 regarding the protection of property of Roma or other ethnic groups, generically referred to as travelers.

Although the right to non-discrimination is regulated by Article 14 of the ECHR and Article 1 of Protocol 12, these provisions do not explicitly guarantee the right to housing or the right to property.

As a result of international judicial practice, the European Court of Human Rights, in cases frequently brought before it in this context, has thus extended the application of the aforementioned provisions to combat racial discrimination and provide legal protection for the rights of forcibly evicted travelers, whose right to property is violated as a result of racial discrimination.

Following these judicial decisions, the UN Committee on Economic, Social and Cultural Rights (CESCR) provided a definition of forced eviction, which consists of 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 without access to, adequate forms of legal or other protection¹⁰.

The European Court of Human Rights has ruled that mobile homes situated on a plot of land, even if they do not have prior authorization, must be considered dwellings and must be protected by law under Article 8 of the Convention, and, in certain circumstances, even an illegally constructed dwelling may be considered property by the authorities, in which case the owner is entitled to compensation under Article 1 of Protocol 1 (the right to property) in the event of forced eviction, as an exceptional interference with private life that must be analyzed by the authorities in terms of the proportionality of the cause-and-effect relationship, but also as an exceptional solution. It was thus required that state authorities assess whether the public interest in terms of compliance with urban planning regulations is proportionate to the right of *travellers* to private life and to a home, with the obligation to support and facilitate their nomadic way of life.¹¹

In accordance with this international case law, the European Court of Human Rights has ruled that the dwellings of Roma or *travellers* constitute homes and are therefore covered by Article 8 of the Convention, which guarantees the right to respect for private and family life.¹²

Thus, racial discrimination in all its forms was prohibited in order to guarantee the right of every person, regardless of race, color, or national or ethnic origin, to equality before the law in the exercise of the rights protected by the Convention, including with regard to respect for the right to property over dwellings located in informal settlements.¹³

¹⁰ UN Committee on Economic, Social and Cultural Rights, General Comment No. 7, *The Right to Adequate Housing (Art. 11.1): Forced Evictions*, May 20, 1997, E/1998/22, annex IV, para. 3.

¹¹ *Chapman v. the United Kingdom* [GC], no. 27238/95, judgment of January 18, 2001, ECHR 2001-I; *Connors v. the United Kingdom*, no. 66746/01, judgment of May 27, 2004; and *Winterstein and Others v. France*, no. 27013/07, judgment of October 17, 2013.

¹² *Öneryıldız v. Turkey* [GC], no. 48939/99, judgment of November 30, 2004, ECHR 2004-XII; see also *Hamer v. Belgium*, no. 21861/03, judgment of November 27, 2007, ECHR 2007-V (extracts).

¹³ International Convention on the Elimination of All Forms of Racial Discrimination, art. 5, adopted December 21, 1965, UN General Assembly Resolution 2106 (XX), 660 UNTS 195.

It can therefore be concluded that international judicial practice requires European Union member states to establish bodies and domestic legislation to promote equal rights and combat racial discrimination, including with regard to the legislative regulation of how property rights over housing located in informal settlements are acquired.

Thus, the right to housing is addressed differently in each EU Member State, in accordance with domestic legislation, but this legislation must be updated and harmonized in line with international provisions on fundamental human rights and the consistent case law of the European Court of Human Rights.

3. Legal protection of the right to housing in domestic law

In Romania, the right to housing is governed by the Romanian Constitution, the Civil Code, Housing Law No. 114/1996¹⁴, and other special laws, and the eviction procedure is carried out in accordance with the Code of Civil Procedure¹⁵, specifically Articles 1034–1045, with domestic law protecting the right to housing, particularly for families.

Currently, proof of the right to housing and the right to ownership of a property can generally be established through the property's land registry extract; the notation or registration of the right in the land registry confers enforceability against third parties and serves the function of publicizing the property.

The land registry extract is the document certifying the cadastral and legal status of the property, specifically indicating the property's current status in the land registry at the time of its issuance.¹⁶

Deprivation of property rights on the basis of racial discrimination is prohibited by the 2003 Constitution of Romania, under Article 44(4), which prohibits nationalization or any other measures for the forced transfer of property into public ownership based on the social, ethnic, religious, political, or other discriminatory characteristics of the owners — provisions that also apply to persons of Roma ethnicity.¹⁷ Given the historical and economic evolution of the Romanian people, it is a well-known fact that a portion of the Roma population has lived and continues to live in substandard housing, forming informal settlements.

Prior to 1989, Roma people — and not only this social minority — were subjected to racial discrimination as a result of the communist regime's policies, as they were denied the right to own housing. Roma people, due to their nomadic lifestyle and the lack of legislative measures for legal protection, would gather and settle in certain rural areas, usually on the outskirts of towns, where they established informal settlements lacking access to water, sewage, and electricity, resulting in substandard living

¹⁴ Romania, Law No. 114/1996 on Housing, republished in Official Gazette of Romania, Part I, no. 393 (December 31, 1997), as amended.

¹⁵ Romania, Law No. 134/2010 on the Code of Civil Procedure, republished in Official Gazette of Romania, Part I, no. 247 (April 10, 2015), as amended.

¹⁶ Carmen Nicoleta Bărbieru and Codrin Macovei, *Activitatea notarială: De la teorie la practică* (Bucharest: Universul Juridic, 2018), 1038.

¹⁷ Constitution of Romania, rev. 2003, art. 44(4), republished in Official Gazette of Romania, Part I, no. 767 (October 31, 2003).

conditions.¹⁸

After the fall of the communist political system, the Romanian state, through its public authorities, gradually began to adopt various legislative and administrative measures regarding informal Roma settlements.

Public administrative authorities face a significant number of such settlements in rural areas and are obliged to improve the living conditions of these social groups by adopting legislative and administrative reforms that respect their right to housing and, consequently, their right to adequate living conditions.

Some of the measures adopted were aimed at evicting them from public or state-owned private properties, while other measures sought to improve the legal status of informal settlements, leading to the decision to legalize the Roma's right to use informal housing.

Thus, the improvement of Roma living conditions, as an obligation and responsibility of public authorities, included the legalization of the right to housing, as follows: preventing the construction of new illegal structures in new locations, and ensuring that informal dwellings already built in existing settlements are legalized, so that the Roma's right of ownership over the dwellings can be established and enforced against third parties by registering the property rights in the land registry.

Of all the methods applied over time, the most effective measure has been the legal recognition of Roma ownership of housing that meets an adequate standard of living.

4. The legal process by which de facto possession of real property in informal settlements can be converted into a property right subject to registration in the land registry

As provided for in Article 916 of the Civil Code, possession consists of the actual exercise of the prerogatives of ownership over a property by the person who holds it and who acts as an owner or as the holder of another real right, with the exception of security interests.

The legal effects of the exercise of actual possession have been identified in legal literature as follows: it creates a presumption of ownership in favor of the possessor; possession of real property is protected through possessory actions; a bona fide de facto possessor may be the first to register their right in the land registry, in the event of a succession of legal acts transferring ownership originating from a common source, provided they are the first to file the application for registration with the land registry office in the district where the real property is located; the possessor acquires ownership of the real property through acquisitive prescription, known as real property adverse possession.

In the case of informal settlements, the relative presumption of the possessors' intent is evident from the fact that Roma individuals reside permanently in structures built without a building permit and without holding documents attesting to ownership.

Given the provisions of Article 919 (3) of the Civil Code and Article 935 of the Civil Code, possession as a factual state is exercised by the owner of the property

¹⁸ Emil Cernea and Emil Molcuț, *Istoria statului și dreptului românesc*, rev. and expanded ed. (Bucharest: Universul Juridic, 2006), 34.

themselves, who is presumed to have a right to the residential property.

To prove the intentional element of exercising possession as a true owner, the possessor must also demonstrate the existence of a material fact, namely that they have effectively controlled the real property, in the event that no land registry record has been opened.

At the same time, in the context of a dispute challenging the right of ownership, the possessor in good faith holds a more advantageous position than the non-possessing owner, who bears the burden of proof.

If it is proven that the possession is defective, then the possessor must prove his title.¹⁹

With regard to possessory actions, the aim is to defend actual possession against disturbances or other legal actions seeking to recover lost possession, with the goal of restoring the factual situation that existed prior to the disturbance.

At the same time, any real right may be acquired through the exercise of useful and uncontested possession over a certain period of time and, consequently, may be the subject of possessory actions, which, being of a real nature, are not subject to a statute of limitations.

In this regard, legal literature has held that judicial protection of actual possession effectively protects the right of ownership.²⁰

If the immovable property has a land registry title, the presumption of ownership through the exercise of actual possession applies only under the conditions provided by the Civil Code for adverse possession or pursuant to Decree-Law No. 115/1938²¹ for possessions that began prior to October 1, 2011, when the Civil Code entered into force.

Regarding the necessity of a title transferring ownership of the property held by the possessor, such a title must exist from the perspective of contractual intent — *negotium* — and not necessarily as a written instrument of proof — *instrumentum*.

The title of ownership may be either a title transferring ownership or a title declaring rights, being an integral part of good faith, with judicial practice holding that a possessor who has exercised possession in good faith over a property affected by absolute or relative nullity may acquire ownership under the conditions of adverse possession.²²

Furthermore, in accordance with judicial practice, proof of the exercise of useful and unvitiated possession may be established by the possessor's registration of the property with the local public administration, along with the payment of the corresponding taxes and fees.²³

One can thus observe the close link between the exercise of useful and uncontested possession of the property and real property adverse possession, such that in the absence of proof of the exercise of possession, the acquisition of ownership cannot be achieved through this method provided by law.

¹⁹ Ioan Adam, *Drept civil: Teoria generală a drepturilor reale*, 3rd ed. (Bucharest: C.H. Beck, 2013), 511–13.

²⁰ Constantin Stătescu and Corneliu Bîrsan, *Drept civil: Teoria generală a drepturilor reale* (Bucharest: University of Bucharest, Faculty of Law, 1980), 250.

²¹ Romania, Decree-Law No. 115/1938 on the Unification of Provisions Concerning Land Books, Official Gazette of Romania, Part I, no. 95 (April 27, 1938).

²² Adam, *Drept civil*, 510.

²³ Eugen Chelaru, *Drept civil: Drepturile reale principale*, 5th ed. (Bucharest: C.H. Beck, 2019), 349.

However, it is important to note that although a large portion of the informal settlements of Roma people are located on land that is part of the public domain or that has been declared inalienable or removed from the civil legal system, in these cases, ownership cannot be acquired through adverse possession, even if possession was exercised under the conditions stipulated by law, through physical control of the property, through acts of use or maintenance in the public interest, or if the possessor behaved as a true owner or holder of real rights.

In most cases of informal settlements, the construction of buildings has been tolerated by local authorities.

However, court case law has established that in situations where possession of the structure was exercised with the permission of the owner of the land on which it was built, this constitutes defective possession rather than valid, good-faith possession, as the condition of exercising the attributes of ownership over the built-up land has not been met.

The same situation applies when a family begins living in a building, with the owner's consent, for an extended period of time, but cannot invoke adverse possession of the building because their possession is defective, even if they have performed maintenance or preservation work on the property.

Another condition that must be verified when invoking adverse possession is the identification of the applicable legal provisions in effect at the time the beneficial possession began, based on which the conditions, duration, and effects of adverse possession are determined.

In our country, in the territories of Moldavia and Wallachia, prior to the entry into force of Law No. 7/1996 on the Cadastre and Real Estate Publicity — which established a nationwide general cadastre — the personal system of real estate publicity of the registers of transcriptions and inscriptions provided for by the Civil Code of 1864²⁴ was in effect, while in the regions of Transylvania, Banat, Crișana, and Bukovina, the real system of real estate publicity of the land registers regulated by Decree-Law No. 115/1938 was implemented.

With the implementation of Law No. 7/1996 and subsequently the Civil Code of 2009, effective October 1, 2011, the real estate registration system based on land registers was exclusively established throughout the entire territory.

However, in current judicial practice, there are still many pending cases in Transylvania and Banat concerning the establishment of real property adverse possession under the terms of Decree-Law No. 115/1938.

There is, however, a transitional legislative period, spanning from the effective date of Law No. 7/1996 — March 3, 1996 — to the effective date of the Civil Code — October 1, 2011, during which it was held that the exercise of useful and uncontested possession that had begun but remained unfulfilled would produce its effects under the Civil Code.

By Decision No. 86 of December 10, 2007, issued by the High Court of Cassation and Justice in an appeal in the interest of the law²⁵, judicial practice was

²⁴ Romania, Civil Code of 1864, Official Gazette of Romania, no. 271 (December 4, 1864).

²⁵ High Court of Cassation and Justice of Romania, United Sections, Decision No. LXXXVI (86) of December 10, 2007, appeal in the interest of the law, Official Gazette of Romania, Part I, no. 697 (October 14, 2008).

unified in the sense that it was ruled that in the case of the exercise of possession over immovable property commenced during the reference period of Decree-Law No. 115/1938 and completed after the entry into force of Law No. 7/1996, actions to establish the acquisition of ownership by adverse possession under the land registry system are governed by the old law²⁶.

With regard to the provisions of Articles 930–934 of the Civil Code concerning real property adverse possession, pursuant to Article 6 of the same legislative act, these shall apply only to possessions commenced after October 1, 2011, when the Civil Code entered into force.

If possession began prior to this date, the possessor may waive the elapsed period and begin exercising a new useful possession if the new 10-year term provided by the Civil Code is more favorable to them and if, at the time possession began, the property had an open land registry.

Within the same legislative framework, the consolidation of periods of possession is also permitted, a legal procedure whereby the term of a current period of possession may be added to the term of the period of possession exercised by its possessor. For this, it is considered that the initial possession exercised by the original possessor must not have expired at the time when the possessor transfers the property to a person who becomes a new possessor, but who cannot be the owner because the agreement between the parties was not concluded in the form required by law.

In this case, the joinder of possessions may be valid if the combined possessions are unvitiated and useful, the only common element being the completion of a single common period of adverse possession, and the possessors are not owners.

It is also important to note that the current Civil Code provides for two types of acquisition of ownership through adverse possession of real property, namely registered adverse possession, for properties with an open land registry in which the possessor has registered their ownership right, acquired through an invalid transfer deed, but has possessed the property in this manner for a period of time — and extratabular adverse possession — for properties with an open land registry where the possessor exercises useful and unchallenged possession for a period of time, starting from the date of death or the judicial declaration of death of the registered owner.

Nevertheless, it should be noted that ownership is acquired retroactively, but becomes enforceable against third parties from the date of registration of the right in the land registry, based on a final court decision, in the case of extratabular real property adverse possession.

Another way to acquire ownership of structures located in informal settlements is to grant a concession right to the owner of the structure — a real right specific to public administration — on the basis of which the right can be registered in the land registry.

There are also situations in which the non-possessing owner may sue the non-owner possessor following the filing of a real property claim, a real and imprescriptible action for recovery of property, even if there are evidentiary difficulties and, in many cases, proof of ownership cannot be established with certainty.²⁷

In such cases, if the owner-possessor has not been found to have acquired ownership through extratabular adverse possession by means of a final court judgment,

²⁶ Adam, *Drept civil*, 571–72.

²⁷ Valeriu Stoica, *Drept civil: Drepturile reale principale*, 3rd ed. (Bucharest: C.H. Beck, 2017), 62.

the non-possessing owner or their heirs may bring a claim for recovery at any time, at which time a comparison of titles is made and the fulfillment of the conditions for adverse possession is verified.

In the case of real estate unlawfully seized during the communist regime, the legislative provisions set forth in the special reparatory laws shall apply, rather than the general law provisions regarding the recovery of real estate.

In situations where the possessor wishes to carry out certain maintenance works on the property over which they exercise possession, they may file a petition requesting the courts to take measures for the preservation of the property, under the conditions of Art. 952 of the Civil Code, subject to the payment of any security deposit.²⁸

In addition to the provisions of the Civil Code and Decree-Law No. 115/1938, Law No. 7/1996 on the Cadastre and Real Estate Publicity provides for the possibility of registering a property right in the land registry based on actual possession of the property, which is supplemented by the provisions of ANCPI Director's Order No. 600/2023²⁹.

Regarding these provisions of the special law, a doctrinal opinion has noted that this procedure is treated summarily by the legislative act, showing no concern for either the interests of the actual possessors or the protection of the actual owners of the properties subject to registration in the land registry, in accordance with the national systematic cadastre program.³⁰

5. Legislative and administrative measures regarding the regulation of property rights for buildings located in informal settlements

In practice, the administrative measure of evicting Roma from previously established informal settlements was intended to be implemented in situations where these dwellings were located in high-risk areas posing a health hazard, in extremely poor areas or areas posing any other danger to residents—a measure intended to lead to better living conditions for those evicted and not to become a discriminatory or excessive administrative measure.

To this end, to legalize the Roma's right to property over informal dwellings, administrative measures were taken, in that urban planning began to designate the areas occupied by informal settlements built by the Roma as residential zones, and the structures built by them have begun to be registered in the land registry, to ensure the enforceability and publicity of their property rights vis-à-vis third parties.³¹

At the same time, steps were taken to demarcate public from private property in accordance with urban planning schemes, as well as to resolve issues regarding these areas by demarcating the built dwellings on-site, with the participation of all stakeholders — the municipality, Roma settlements (both the community and individual families) —

²⁸ Gabriel Boroi, Carla Alexandra Anghelescu, and Ioana Nicolae, *Fișe de drept civil, vol. 1, Partea generală. Persoanele. Familia. Drepturile reale principale*, 8th ed. (Bucharest: Hamangiu, 2024), 833–34.

²⁹ National Agency for Cadastre and Real Estate Publicity, Order No. 600/2023 approving the Regulation on Reception and Registration in Cadastre and Land Book Records, Official Gazette of Romania, Part I, no. 125 (February 14, 2023), as amended.

³⁰ Marian Nicolae, *Tratat de publicitate imobiliară* (Bucharest: Universul Juridic, 2006), 2: 748.

³¹ Romania, Government Decision No. 18/2015 approving the Strategy of the Government of Romania for the Inclusion of Romanian Citizens Belonging to the Roma Minority for 2015–2020, Official Gazette of Romania, Part I, no. 49 (January 21, 2015), as amended.

based on objective criteria such as: the age of the settlement, its location within the city — in other words, its geographical position relative to the town center — infrastructure, public transportation, and environmental conditions, so that it could be objectively determined whether a Roma settlement could be legalized or not, so that Roma become the legal owners/users of the land on which their homes were built.

Thus, in order for the occupant of a dwelling located in an informal settlement to convert their possession of the dwelling into a property right by registering the right in the land registry, the judicial authorities have established a framework procedure, regulated by Law No. 7/1996 (Article 13, paragraph 3), as follows: beneficiaries must prepare written, legal, and technical documentation consisting of: an application for registration in the land registry as the rightful possessor; a certificate issued by the municipal office stating: completion of the procedure for posting the technical cadastral documents, the fact that the holders have not been challenged, and that no objections or requests for correction regarding possession have been filed; the cadastral plan, prepared by the person authorized to perform cadastral work, verified and approved by the territorial office; the certificate issued by the municipality in whose territorial jurisdiction the property is located, stating that the possessor is known to hold the property as owner and that the property is not part of the public domain or has not been registered in the records as being in the private domain of the state or of administrative-territorial units; a sworn statement by the possessor, notarized, in which the possessor declares that: they possess the property as the owner; whether or not they are married, and if married, specifying the matrimonial regime; whether they have alienated or encumbered the property; whether the property has been removed from legal circulation and is the subject of any litigation

After this documentation is submitted, the technical cadastral documents are published and posted by the local authorities in accordance with the law, and the notary public issues, based on uncontested files, certificates for the registration of the possessors as owners in the land registry. Rejection of the file by the notary public results in the holder being recorded in the land registry as a possessor (rather than as an owner), and after a period of 5 years from this entry in the land registry, the possessor is automatically registered in the land registry as an owner.

In parallel with these administrative procedures, public administrative authorities, using state and European funds, connected the initially informal dwellings — for which ownership rights had been recognized and registered in the land registry — to the water, sewer, and electricity networks; they made improvements to infrastructure, streets, and public spaces; and allocated housing units 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.

For both Roma homeowners and other property owners or possessors, implementation has begun of the 2015–2023 National Cadastre and Land Registry Program managed by ANCPPI and approved by Government Decision No. 294/2015³², with a view to applying the provisions of Article 9, paragraph 11, of the Law on Cadastre and Real Estate Publicity, for the purpose of the systematic, free registration of properties

³² Romania, Government Decision No. 294/2015 approving the National Cadastre and Land Book Program, Official Gazette of Romania, Part I, no. 309 (May 6, 2015), as amended.

in the integrated cadastre and land registry system (title deeds), funded by ANCPI's own revenues (900,000,000 euros), non-reimbursable external funds (312,000,000 euros), and allocations from the local public administration budget (co-financing).

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 ethnic communities living in conditions of extreme poverty.

In this context, the cadastral map for each administrative unit is a fundamental component of the implementation of the real estate registry for informal Roma settlements, supplemented by terrestrial geotopographic surveys, carried out using modern technological means to render parcels and built structures in stereo format, supplemented by other necessary data such as the cadastral plan included in the documentation submitted to the land registry office, as well as population identification data obtained from the Permanent Population Register³³ or from other registers held by public authorities.³⁴

Furthermore, public authorities are granted the authority to issue administrative acts on the basis of which ownership rights or rights of residence may be registered in the land register, under the conditions provided by special laws.³⁵

These administrative measures naturally also include a financial and economic component, in the sense that by registering property rights over dwellings in the land registry, the public authority can accurately determine the owner or possessor responsible for paying taxes and fees, which constitute revenue for the state budget, thus becoming a matter of public interest.³⁶

To supplement these legislative measures, the Romanian legislature adopted Law No. 151/2019 supplementing Law No. 350/2001 on land use planning and urban planning, published in the Official Gazette of Romania, Part I, No. 623 of July 26, 2019.³⁷

This entire legislative act introduced substantial legislative changes in the field of urban planning, imposing new responsibilities on local and county public authorities to implement administrative measures regarding informal settlements occupied primarily by individuals belonging to vulnerable ethnic groups.

The purpose of this legal provision was to assign responsibilities to local and county public authorities in updating urban plans, taking into account the dwellings identified within informal settlements in urban and rural areas, and to provide legislative solutions through which vulnerable and socially discriminated individuals can be integrated into the surrounding residential areas and benefit from better, modernized living conditions.

Within these legislative provisions, specifically in Annex No. 2 of Law No.

³³ Nicolae Boş and Ovidiu Iacobescu, *Cadastru şi cartea funciară*, 2nd ed. (Bucharest: C.H. Beck, 2019), 236–37.

³⁴ Oliviu Puie, *Cadastru şi publicitate imobiliară: Contenciosul special în materia cadastrului şi a cărţii funciare* (Bucharest: Universul Juridic, 2019), 654.

³⁵ Szilárd Sztranyiczki, *Publicitatea imobiliară: Conform noului Cod civil* (Bucharest: C.H. Beck, 2013), 83.

³⁶ Mircea Miclea, *Cadastrul şi cartea funciară* (Bucharest: All, 1995), 87.

³⁷ Romania, Law No. 151/2019 supplementing Law No. 350/2001 on Spatial and Urban Planning, Official Gazette of Romania, Part I, no. 623 (July 26, 2019).

350/2001³⁸, the legal concept of an informal settlement was introduced through Point 8, Article I of Law No. 151/2019, defined as a group of at least three housing units developed spontaneously, occupied by individuals or families belonging to vulnerable groups as defined under Social Assistance Law No. 292/2011, as amended and supplemented, and who have no legal claim to the properties they occupy. Informal settlements are usually located on the outskirts of urban or rural areas, comprising makeshift dwellings built from salvaged materials and/or dwellings built from conventional construction materials, and due to their location and sociodemographic characteristics, they generate exclusion, segregation, and social marginalization. Due to their location in areas at risk from natural hazards (landslides, floods), biological hazards (landfills, waste dumps, contaminated sites, and the like), or anthropogenic hazards (safety zones or protection zones for Seveso facilities, technical and municipal infrastructure, and the like), some informal settlements endanger the safety and health of their residents.

Thus, Article 19¹ of Law No. 350/2001 stipulates that central and local public administration authorities, as well as other public administration bodies, are required to collect and identify informal settlements within each administrative-territorial unit and to prioritize, in accordance with their administrative powers and responsibilities, public actions and policies regarding the living conditions of structures built without building permits, access to infrastructure, public health, and personal safety, determining the legal and economic status of the land, and establishing a general cadastre of informal settlements, as well as registering properties in informal settlements in the integrated cadastre and land registry system in accordance with Law No. 7/1996 on the Cadastre and Real Estate Publicity, as republished, with subsequent amendments and additions, to which other social assistance programs regarding areas affected by unsanitary conditions, lack of services, and poverty shall be added.

At the same time, the County Council was required to provide methodological and technical support to local public administration authorities for the purpose of identifying, monitoring, and organizing informal settlements, and to establish commissions to implement and monitor the measures necessary to improve the living conditions of the inhabitants of these settlements, including Roma housing settlements.

Furthermore, pursuant to Article 27¹ of Law No. 350/2001, the mayors of administrative-territorial units and the mayor of Bucharest, together with the specialized urban planning department headed by the chief architect, the following obligations: to identify the lands within the administrative territory occupied by informal settlements; to establish their boundaries through stereographic measurements and to submit the cadastral documentation in electronic format to the county council and the Ministry of Regional Development and Public Administration for inclusion in the National Territorial Observatory, and for the registration of property rights in the land registry; to create and update a database regarding the number of people living in informal settlements, the properties they occupy, and the typology of informal settlements; to inform residents of informal settlements about the provisions of the amended Law No. 350/2001; to initiate a process of consultation and participatory planning to identify intervention solutions tailored to the specific characteristics of the informal settlement

³⁸ Romania, Law No. 350/2001 on Spatial and Urban Planning, Official Gazette of Romania, Part I, no. 373 (July 10, 2001), as amended.

and the needs of the community; to initiate and coordinate the necessary steps to determine the legal and economic status of the land occupied by informal settlements with a view to their regulation.

In cases where approved urban planning documents provide for the partial or total dismantling of informal settlements, it has been legally mandated that representatives of local or county authorities ensure the relocation of residents from these areas, under the following conditions: they must be offered alternative housing solutions, either by providing social housing or by supporting the reconstruction of homes on plots of land equipped with public utilities, identified and made available by local public administration authorities in accordance with the law, as well as informing and consulting in advance with residents facing relocation regarding possible alternatives and obtaining their consent.

It is provided that administrative authorities shall initiate and coordinate the necessary actions to limit the expansion of informal settlements by identifying land available for future residential areas or alternative housing solutions and informing residents of informal settlements about these, as well as initiating and coordinating the necessary actions to provide infrastructure services to areas containing informal settlements subject to urban regeneration or restructuring.

Last but not least, Article 51(1)(1) of Law No. 350/2001 regulates land-use planning and urban planning activities of national and regional interest, funded from the state budget through the budget of the Ministry of Regional Development, Public Administration, and European Funds, such as: programs to support local development for the identification and demarcation of informal settlements, the determination of their typology, the identification of measures and solutions for their regulation or, where appropriate, relocation and support for the reconstruction of housing, and the implementation of actions aimed at improving the living conditions of residents in informal settlements.

In this legislative context, we note that the provisions of Article 887(1) of the Civil Code and Article 56 of Law No. 71/2011 amending Government Decision No. 1,705/2006 approving the centralized inventory of state public property, so that real estate assets benefit from a systemic cadastre and new land registers

6. Digitization of the real estate advertising system and electronic land registries

Under current law, every property must have a land title; otherwise, it cannot be sold or encumbered.

The land title deed is the property's record, containing all data regarding legal transactions related to the real rights exercised over the property, information on the beneficiaries of these rights, and a technical and cadastral description of the property.

The process of digitizing old land registers and converting them into electronic land registers is a technical operation whereby all written information regarding the respective real property is transformed into electronic data, which can be accessed at any time by any person, subject to compliance with personal data protection requirements.

If the legal and technical written data are incomplete or invalid, the electronic conversion of the land registers cannot be carried out until these issues are resolved, at

the request of the rights holder, and not *ex officio*.

However, the electronic conversion of land registers may be carried out if, at the level of each administrative-territorial unit, all systematic cadastral work has been completed and new land registers have been opened for each individual property. Although, since 2011, when the Civil Code came into force — which regulates the land registry's real estate publicity system as a matter of common law — multiple national programs have been implemented to fund systematic cadastral work, the technical and legal procedure is cumbersome; as of December 29, 2025, cadastral work in Braşov District had been completed only for the localities of Viştea, Hoghiz, and Vama Buzăului, given that this area was under the political rule of the Austro-Hungarian Empire and the land registry system for real estate publicity, as provided for by Decree-Law No. 115/1938 and other special laws adopted for this purpose, was implemented.

In this context, in the territorial areas of Muntenia, Oltenia, Dobrogea, and Moldova, where the personal real estate publicity system of the register of transcriptions and inscriptions provided for by the Civil Code of 1864 was implemented — based solely on the owner's data, without relying on the property's technical data — it can be objectively and unanimously concluded that the systematic cadastral survey and the opening of new land registers, including electronic ones, in these regions will be a difficult process that may take a long time.

Pursuant to the provisions of Article 887(3) of the Civil Code, owners cannot dispose of real property unless it is registered in the land registry; for this reason, owners have partially carried out these cadastral surveying operations and the opening of new land registries.

However, the national systematic cadastre plan could become effective in these areas if public authorities were to implement, on a much larger scale, legislative measures allowing for the use of modern technical technology and the digitization of the data obtained.

Thus, real estate could be identified, measured, and updated much more quickly through the digital processing of cadastral and legal data.

However, if civil proceedings were initiated in which the obtained data could be challenged, the procedure would be complicated due to the lengthy duration of civil court proceedings, delays in the preparation of technical judicial expert reports, or errors in these documents

These administrative measures may also apply to structures located in informal settlements, thereby giving occupants a real opportunity to enjoy property rights over their homes, which provides them with stability and economic, legal, structural, and functional security regarding the property.

7. Conclusions

To ensure human dignity and the registration in the land registry of property rights to housing owned by Roma or vulnerable persons located in informal settlements, with a view to combating discrimination, as established in the case law of the European Court of Human Rights, public authorities have an obligation to intervene legislatively and economically by continuing to fund modern technological programs to expedite the systematic cadastral survey at the level of each administrative-territorial unit.

By providing legislative protection based on the development of technological means and the digitization of operating systems and data processing, simple solutions have been created to legalize the valid and uncontested possession exercised and, consequently, to secure the property rights of ethnic minorities over dwellings located in informal settlements.

This approach, followed by the registration of the acquired property right in the land registry's real estate publicity system, ensures a stable path toward respecting human dignity, inclusion, and legislative non-discrimination of Roma in the digital age

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