

SIRDO OPINION
IN RELATION TO THE DRAFT LAW ON THE ESTABLISHMENT AND THE
PAYMENT OF THE DAMAGES TO BE PAID TO ROMANIAN CITIZENS IN
ACCORDANCE WITH THE LAWS OF THE RESTITUTION FOR BUILDINGS
ABUSIVELY SEIZED DURING THE COMMUNIST REGIM

The draft law does not contain viable solutions and it does not give any evidence for its content. Contain the regulations deeply unfair, unconstitutional and who break the rules of treaties and conventions to which Romania is part, without bring any sort of improvement process of settlement of the refund applications made by the persons entitled to.

Adoption of the draft of the law in the form proposed would not represent only a punishment unfair on those who have submitted requests for refund with compliance with the terms and conditions required by law.

Suppressing refund in nature, as the current legislation legislator has generated in the benefit persons who satisfy the conditions of refund an ownership interest appliance by Article 1 of Protocol 1, is nothing more than a new nationalization.

It is abolished possibility measures consisting of the weightings in the other goods. Such a deletion is profoundly unfair, unconstitutional and discriminatory. The European Court of Human Rights says that when a Contracting State which has ratified the Convention, including the Protocol no. 1, Adopted legislation providing for total or partial refund of goods seized in a regime above, it can be considered that this legislation will generate a new property right appliance by Article 1 of Protocol no. 1 For the benefit persons who satisfy the conditions of refund, any amendments to legislation must take into account the existence of concrete of this right and to monitor its guarantee, restriction exercise of the right being possible only in exceptional cases as conventions and treaties Romania is a party to, and the very Constitution.

The law must to be applied to persons whose claims were not solved until the date of entry into force of this law. Establishment of a period of decay is deeply unfair and immoral in conditions in which, up until the present time, hundreds of owners have been forced, result of negligence by the employees' entities invested with solving applications, to submit papers

related notifications of several times without any of them had ever guarantee that the folder or it would be completely irrational never any communication to this effect.

The deadlines set in the draft law are not reasonable, project initiators forgetting that the applications which should be solved has been lodged with over 10 years ago and failure to do so does not have any penalty.

Person entitled should be allowed to prove his rights asserted throughout the whole of the administrative proceedings and including in front of the court in the framework of the possible oppositions to the there is a counterbalance, a means of effective defense of the right of ownership to the person entitled imprescriptibly according to the legislation in force. Result of the interpretation of provisions project that a person entitled which has made a notification accordance to the Law no. 10/2001, outstanding at the date of entry into force of the law, which would have to wait for a further period of 48 months by the authorities to resolve the request, followed by a new waiting period of 36 months in which CCCSD will issue the validate.

In the case of non-compliance with these time limits, but only after exhausting their (situation involving a limitation on access to justice), within a period of 18 months, has the possibility the referral court ruling in the case. The indemnification fixed amount of 500 euros, in a situation in which do not result in the papers surface construction for which have been applied for compensation, is ridiculous. The authors of the bill have been identified but financial resources to be fully paid the price to be paid, up-to-date with the consumer price index for the owners whose contracts have been canceled by final judgment and irrevocable. In our opinion therefore that the draft law may not to become law in the Romania of the years 2012, in accordance with the conditions to ratification by the Parliament of several treaties and conventions which has bound to fundamental rights and freedoms of its citizens.

SIRDO's Juridical Department