

The Committee for Private Property, Inc. a New Jersey non-profit organization, with more than 2,450 members, including over 1,000 American citizens of Romanian origin in its membership. For the past 7 years we have documented and informed through letters and our web site [www.romhome.org](http://www.romhome.org) the abuses perpetrated by the Romanian Government and Parliament against American Citizens of Romanian origin who are attempting to regain confiscated property in Romania.

The situation of rightful owners even worsened since your last hearing. The Romanian Government *modified the Law 10, approved in 2001, to the disadvantage of the rightful owners, by means of emergency ordinances*. These include supplementary limitations of owner rights and *represent an interference of the executive power into the legislative one*.

So the ordinance 184/18.12.2002 abolishes par. 16 (4) of the mentioned law, which stipulated that real estate, used by state educational, health, social-cultural institutions, party or diplomatic residences, confiscated without legal title, should be restituted to the rightful owners. *This represents a new nationalization in 2002 of properties belonging to owners, the rights of which had been formerly recognized by the law 10/2001*.

The Application Rules (AR) has introduced major alterations to the disadvantage of rightful owners<sup>1</sup>. Here are some of them:

- One of the principles stated by the AR is that *restitution should prevail over compensation*. But in fact, due to the numerous exceptions to restitution provided by the law and to the additional exceptions contained in the AR, the restitution rate will be very limited. *Even the responsible Authority admits that only 24% of confiscated real estate (50.000 cases from 210.000 requests) will be restituted in kind<sup>2</sup>*. We consider that even this figure is largely overestimated.
- Another AR declared principle is the conservation and the respect of the rights of "good faith purchasers". As a consequence, the AR introduced a prevalence (priority) of the title of the purchaser (who bought from the illegal owner the State) over the title of the rightful owner and limits the good faith to the good faith of the purchaser (instead of including also the good faith of the vendor). The result of this "principle" is that rightful owners, whose real estate has been sold to tenants or to private societies, will not get back their properties or will be involved in endless litigation, with an uncertain outcome.
- The AR declare the alienation of real estate to tenants before the publication of the Law 213/1998 always as valid, independently of the good faith of the purchaser, while for alienations after the apparition of this law, the good faith of the purchaser should be decisive. Such a differentiation has no legal justification and is not mentioned in the Law 10/2001.

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<sup>1</sup> AR: Normele metodologice de aplicare unitară a Legii nr. 10/2001, Hotărârea Guvernului nr. 498/2003 published in the Monitorul Oficial nr. 324 din 14 mai 2003

<sup>2</sup> From "Autoritatea pentru urmarirea aplicarii unitare a Legii nr. 10/2001. Stadiul aplicarii legilor de restituire a proprietatilor imobiliare preluate in mod abuziv" pt. IV Aa

- Although confiscation laws infringed upon the Constitution and the Civil Code in force at the moment of their issue<sup>3</sup>, the AR considers the title conferred to the State as valid. This infringes the title of the law, who declares all these actions as abusive.
- The AR requires from the petitioners new, supplementary documents<sup>4</sup>. As authorities deliver them only after long periods of time (sometimes not at all), the probable intention is to deny requests as being incomplete. At the same time, many elderly owners lost their property rights, because they are no more able to accomplish these costly and weary restitution procedures. The responsible authority estimates the denial rate at 20%; the actual figure will be probably higher<sup>5</sup>[5]. *Is a restitution law, which generates a denial rate of 20% and endless litigation an equitable law?*
- The law stipulates that real estate abusively confiscated by the state should either be restituted, or compensations paid to the rightful owners. The AR, *contrary to the law*, deny these rights to owners who, before leaving Romania in a legal mode, were forced to cede their real estate to the state and received a symbolic compensation.
- The AR formula for compensations converts the value of real estate at the moment of confiscation from ROL in US\$. This last value is reconverted in ROL at the moment of payment. This way, the devaluation of the US \$ during the last 40 years (about 7 times) is not taken into consideration, this way the value of compensations is strongly reduced.
- The AR do not mention private societies, who are actual beneficiaries of confiscated real estate, as is if they were not obliged to retribute it to rightful owners. The consequence: rightful owners, whose real estate had been transferred to privatized societies, would not receive the compensations provided by the Law 10/ 2001. The Romanian President says that the Romanian citizen is poor and has to fight against scarcity of money. The reality is that the protégés of the regime continue to profit of the best real estate they "bought" at minimal prices and the impoverished people has to pay the bill!

As a consequence of the pressure exercised by the Minister of Justice over the courts, the immense majority of the decisions are against the rightful owners. As for now, after 2 1/2 after the issue of the law, (Sept. the 6th, 2003) only about 3% of the requests in Bucharest (www.pmb.ro) have been solved (1.236 from 40.302)!

The law concerning compensations has not yet been issued. Most of them will be paid in form of stocks of societies not yet privatized or of "value titles", their value being very doubtful. The rightful owners do not accept them. The limited payment of monetary compensations will be spread out over ten years as stipulated in the project of the law.

Taking into account the above mentioned facts, *we would ask you to make use of the influence of the US authorities to urge the Romanian government to repair this injustice and declare the*

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<sup>3</sup> Constitution of 1948, art. 6, 10, 11.

<sup>4</sup> E.g.: the petitioner has to prove his ownership quality *at the moment* when the state took over the real estate; he has to bring costly expert evaluations.

<sup>5</sup> See document footnote 2, pt. IV B

*effects of confiscation laws as null and void.* In fact, if the Romanian State restituted real estate to the rightful owners and paid compensations to the buyers after 1990, the illegalities against rightful owners would be repaired and the state had to pay only a fraction (under 10%) of compensations (because new buyers have paid under 10% of the market value for the real estate bought).