



**Mandates of the Independent Expert on Minority Issues, Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Special Rapporteur on the right to education**

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Excellency,

We have the honour to address you in our capacities as Independent Expert on Minority Issues, Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and Special Rapporteur on the right to education pursuant to Commission on Human Rights resolutions 2005/79, 2004/21, 2005/64 and 1998/33 respectively, to the General Assembly resolution 60/251 and to Human Rights Council decision 2006/102.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding living conditions in socially excluded localities in the Czech Republic, affecting mainly persons belonging to the Roma minority.

According to information received:

A recent study conducted for the Ministry of Labour and Social Affairs of the Czech Republic identified 310 socially excluded Roma localities in the country, 35% of which have emerged in the last 10 years. Reportedly, these localities possess a considerably sub-standard quality of housing (i.e. flats of lower quality, unsatisfactory hygienic conditions, bad transport services, often on the outskirts of towns, etc.), which in turn affects negatively the quality of life and related human rights of these individuals, such as access to work, health care and education services. According to reports, over 50% of Roma inhabit bare-walled apartments, otherwise known as "apartments of the lowest quality", into which people with outstanding rent are relocated. In some cities this number reaches as much as 90%.

Even though it is acknowledged that the creation of Roma socially excluded localities arises from a mix of problems relating to high rates of unemployment and substandard education, it is alleged that they are often the result of racial discrimination and deliberate segregation policies within some municipalities. Reportedly, 90% of the municipalities where socially excluded communities are found do not have any concept or strategy of integration of Roma, while only 1% has an explicit one.

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Furthermore, according to the information received, the system in place for providing public housing owned by municipalities is not transparent, and the criteria are often indirectly discriminatory (confirmation that the applicant has a clean criminal record; evidence that the applicant and members of his/her immediate family do not have any debts; and sometimes an employment criteria is used), which may result in disadvantaged Roma communities being unable to obtain adequate housing. This situation is reportedly aggravated by the attitude of some regional representatives towards issues of social exclusion, which applied consciously or unconsciously, can lead to the perpetuation of existing problems of those Roma localities, thus reinforcing their social exclusion and even their segregation.

As an illustration of this social exclusion, in the eastern town of Vsetín, reportedly in an attempt to solve the problem of 42 (mostly Roma) families living in a big house in the centre of town which was in critical condition, the local government decided to demolish the house and resettle the inhabitants. It is alleged that most of the resettlements were carried out late at night, and without the families having prior knowledge of the housing conditions they were moving into. Some of the families were resettled in new flats on the outskirts of the town; however, these flats are allegedly situated next to the former waste dump in an area which is full of toxic substances and they are cut from the centre by an industrial zone. Furthermore, it is reported that the flats were built out of metal containers used for shipping, and shortly after the families moved in mould appeared inside given that the flats have inadequate air ventilation and are overpopulated. According to the information received, the rest of the families were moved some hundreds miles away into houses that have been described by experts and local public officials as uninhabitable, given that there is no potable water, roofs are full of holes, rafters are rotting, and the electricity distribution is unsuitable and even life-threatening. The former mayor of Vsetín has stated that: *“We chose this solution in necessity only because we do not want hundreds of homeless Roma wandering around the town and being a nuisance to their fellow citizens”*, which allegedly illustrates a process of social exclusion which is being applied in the Czech Republic.

We note, in this regard, the results of a January 2007 poll conducted by the Sociological Institute of the Academy of Social Sciences of the Czech Republic, which reflect high levels of prejudice against Roma among the population in general.

Furthermore, it is alleged that Roma children do not receive the same standard of education as other pupils. According to the information received, Roma children are segregated from regular schools in different ways: firstly, they have separated classes in regular schools; secondly, the schools they attend enjoy a bad reputation regarding the quality of education; finally, more than half of Roma children attend schools for children with disabilities (*zvláštní pomocná škola*), now renamed as ordinary basic schools (*základní škola*). It is alleged that one of the reasons why a number of Roma children attend special schools is that teachers and psychologists who are in charge of mental tests do not take into account that these children have some learning difficulties. This is due to their social background and the fact that they have special educational needs. In addition, it is reported that schools prefer to label Roma children as children with mental disabilities in order to obtain extra resources from the State. It is reported that, for example, in Ivanovice na Hané, a town with a population of approximately 30,000 inhabitants, all Roma children were officially acknowledged as mentally handicapped. This is exacerbated by the fact that aliens are obliged to prove the lawfulness of their stay in the Czech Republic at the beginning of their school attendance at the latest under the new Education Act N. 561/2004. This act establishes that the headmasters of elementary and secondary schools cannot enrol any foreign children without documentation that proves their legal status in the country. In addition, Roma children are allegedly excluded from certain advantages granted only to Czech and European Union citizens, for example, free educational services such as counselling and accommodation facilities.

Without implying any conclusion as to the facts mentioned above, I should like to draw the attention of your Excellency's Government to the interpretation of provisions contained in the international legal instruments which the Czech Republic has ratified, such as the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Discrimination in Education.

In 1991 the Committee on Economic, Social and Cultural Rights adopted General Comment No. 4 on the right to adequate housing, which defines seven basic contents of the right, which Government must ensure. With “due priority to those social groups living in unfavourable conditions,” these include guaranteeing: (a) legal security of tenure; (b) availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) location; and (g) cultural adequacy.

In General Comment No. 7 on forced evictions, adopted by the Committee in 1997, it is recognized that “forced evictions are prima facie incompatible with the requirements of the Covenant” and provided explicit legal guidance on how Governments can pursue enduring solutions. The Committee further stated that:

“15. Appropriate procedural protection and due process are essential aspects of all human rights but are especially pertinent in relation to a matter such as forced evictions which directly invokes a large number of the rights recognized in both the International Covenants on Human Rights. The Committee considers that the procedural protections which should be applied in relation to forced evictions include: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.”

“16. Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.”

Likewise, in General Comment N. 13 on the right to education, the Committee established that: “34. The Committee takes note of article 2 of the Convention on the Rights of the Child and article 3 (e) of the UNESCO Convention against Discrimination in Education and confirms that the principle of non-discrimination extends to all persons of school age residing in the territory of a State party, including non-nationals, and irrespective of their legal status”. In this context we would like to bring to your Government’s attention, the article 3 of the Convention against discrimination in education, ratified by the Czech Republic in 1993. This article establishes that States Parties should undertake the measures to “a) To abrogate any statutory provisions and any administrative instructions and to discontinue any administrative practices which involve discrimination in education”, and to “e) To give foreign nationals resident within their territory the same access to education as that given to their own nationals”.

We would also like to draw the attention of your Excellency’s Government to article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, under which States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the civil, economic, social and cultural rights, including the right to housing and to education (article 5 (e) (iii and v)).

In addition, we deem it appropriate to refer to the General Recommendation No. 27 on discrimination against Roma, adopted by the Committee on the Elimination of Racial Discrimination, which encourages States parties to the Convention:

“30. To develop and implement policies and projects aimed at avoiding segregation of Roma communities in housing; to involve Roma communities and associations as partners together with other persons in housing project construction, rehabilitation and maintenance”.

“31. To act firmly against any discriminatory practices affecting Roma, mainly by local authorities and private owners, with regard to taking up residence and access to housing; to act firmly against local measures denying residence to and unlawful expulsion of Roma, and to refrain from placing Roma in camps outside populated areas that are isolated and without access to health care and other facilities”.

We also highlight the obligations under the 1992 United Nations Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities, which apply to persons of all minority groups in the Czech Republic. Article 4 establishes that “States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law”.

We appreciate the recognition by the Government of the situation of the Roma in the housing sector, as reflected in the State reporting to CERD and to Council of Europe mechanisms, and encourage the willingness

to seek lasting solutions. In this regard, we would greatly appreciate detailed information from your Government concerning the situation described in this letter and about the steps taken by the competent authorities in compliance with the provisions contained in the international legal instruments, particularly in order to ensure that evictions do not take place without: (1) appropriate consultation, (2) due process - including adequate and reasonable notice and an opportunity to seek redress without sanction, (3) the provision of sufficient information to those affected both on the purpose for which the land is to be used and on compensation and assistance offered, and (4) ensuring that the evictions do not result in homelessness. I would also be grateful to receive information concerning the housing and basic services conditions of the evicted people mentioned above.

The Special Rapporteur on adequate housing has repeatedly drawn the attention of the international community to the worrying practice of forced evictions worldwide. Forced evictions constitute prima facie violations of a wide range of internationally recognized human rights and large-scale evictions can only be carried out under exceptional circumstances and in full accordance with international human rights law. In view of this, the Special Rapporteur has recently developed a set of guidelines, presented in the recent report (A/HRC/4/18) that aims at assisting States in developing policies and legislations to prevent forced evictions at the domestic level. The guidelines are attached to the present communication. Your Excellency's government may find useful in the current circumstances the sections of the enclosed guidelines that attempt to make clear State obligations prior to, during and after evictions.

Furthermore, we would welcome detailed information from your Government on the following questions:

1. Is the Government considering to amend domestic regulations to clearly prohibit racial discrimination in the enjoyment of the right to housing, as well as a prohibition on discrimination explicitly in regulations concerning the lease, privatisation or sale of housing owned by municipalities (in line with the recommendations by the UN Committee on the Elimination of Racial Discrimination in March 2007, and further to implementing the Act on equal treatment and protection against discrimination)?

2. Has the Government undertaken a study of the effects on persons belonging to the Roma minority with regard to the 31 March 2006 amendment to the Law No. 40/1964 Civil Code through Law No. 107/2006, authorizing landlords to evict tenants without court approval?

3. Which measures has the Government undertaken to ensure that persons belonging to the Roma minority are able to use the Romani language in their communications with the authorities when at risk of being evicted from housing owned by municipalities (further to the accession in 2006 of the Czech Republic to the European Charter of Regional and Minority languages, and pursuant to Article 9 of the National Minorities Act of 2001 and the Administrative Procedure Act amended in 2004)?

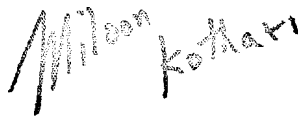
4. Please explain how the Education Act N. 561/2004 is compatible with the international obligations acquired by the Czech Republic by the ratification of the International Covenant on Economic, Social and Cultural Rights and the Convention against Discrimination in Education.

5. Please indicate if the evictions, as the one carried out in Vsetín, (a) have been authorized by law; (b) are reasonable and proportional; (c) were regulated so as to ensure full and fair compensation and rehabilitation, (d) and have not resulted in homelessness or inadequate housing conditions. Please also provide information regarding the adequacy of the relocation sites and houses, and access to basic services in the relocation area.

We undertake to ensure that your Government's response is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

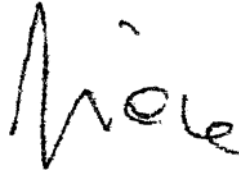


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