



**Mandates of the Special Rapporteur on adequate housing as a component
of the right to an adequate standard of living and the Independent Expert on Minority Issues**

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REFERENCE: AL Housing (2000-6) Minorities (2005-1)
CZE 2/2007

21 August 2007

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and Independent Expert on Minority Issues pursuant to Commission on Human Rights resolutions 2004/21 and 2005/79 to Human Rights Council resolution 5/1 (2007).

According to resolution 2004/21, the Commission requested me during my mandate to, inter alia: report on the status of the realization of the rights relevant to adequate housing; promote cooperation among and assistance to Governments in their efforts to secure these rights; apply a gender perspective; and develop a regular dialogue with Governments, relevant United Nations bodies, specialized agencies, international organizations in the field of housing rights, inter alia the United Nations Human Settlements Programme (UN-Habitat), non governmental organizations and international financial institutions.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding housing conditions and evictions of Roma minority communities in the Czech Republic.

According to information received, Roma communities in the Czech Republic face discrimination and various other violations of their right to adequate housing, including living in overcrowded and substandard housing conditions, being subjected to forced evictions and the alleged family disruption and institutionalization of Roma children as a result of these evictions, homelessness, and discrimination in the allocation of state or municipally-owned housing.

It is reported that an amendment to the Civil Code (Law No. 107/2006 Coll, approved on 31 March 2006), has changed the rental housing regimes permitting unilateral increase of rent on flats. This law authorizes landlords to evict tenants without court approval under certain circumstances, and uses expressions that are not legally defined, such as "good behaviour".

An illustrative example is that tenants are now required to inform landlords in writing of any changes in the number of persons residing in a rented flat and to provide information on the name, surname, birth date, and citizenship of those persons. Reportedly, failure to provide this information within one month after such a

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change occurs can be considered a sufficient reason for the landlord to evict the tenant without court order. Landlords can also evict tenants without court approval should a tenant or his or her flatmates violate “good behaviour” in the building, a term that is not defined by law, thus leaving room for arbitrary treatment of tenants.

Reportedly, little public discussion took place on the passage of Law 107/2006 and those at risk of being consequently evicted were not consulted and had little or no opportunity to prepare for these changes in their tenancy rights.

Reports also indicate that prior to the enactment of these laws, in case of evictions of families with minor children, the courts could order that the landlord provide the evicted family with alternate accommodation (in some cases even permanent accommodation). Under the new law 107/2006, a court can only reach such a verdict if the tenant files a legal action to have the eviction reversed within 60 days of the eviction notice. Even though written eviction notices must instruct tenants of the option to file such a motion, socially disadvantaged tenants may not be able to use such an option without legal aid that is, in most cases, unavailable to them. Because of their economic situation, persons faced with eviction orders cannot in most cases afford legal counsel and must apply to the Czech Bar Association or an NGO for pro bono assistance which is scarce and underdeveloped.

It is further reported that municipal and private landlords take advantage of Roma tenants’ limited legal awareness. Reportedly, according to Czech law, once municipal property is transferred to a private owner, the terms of any existing leases remain in effect. However, it is alleged that in practice new private owners present new leases to the tenants, raise rents, and evict tenants unable to pay. New private landlords usually demand the new leases be signed without allowing the tenants to consult lawyers, and municipalities do not instruct the tenants about their right not to sign the new lease changing their rental conditions. Open-ended leases are also frequently changed to fixed-term leases without the tenants’ clear knowledge or agreement.

In this context, the Czech Justice Ministry reportedly announced on 22 June 2007 that it will be proposing amendments to the Civil Code which would make it possible for landlords to evict tenants at will after a two-year notice. The bill would take effect after 2011, when rents are expected to be completely deregulated. Because of the discrimination and the vulnerable situation they face, Roma communities would very likely be one of the groups that will be particularly affected by these further changes in the Czech Republic legislation.

Reports indicate that Roma communities affected by evictions are sent to the outskirts or out of their town in large groups and often allocated housing in isolated areas. The information received reports cases of evictions with public expressions of racism and intentional discrimination by public officials in connection with the resettlement of Romani residents of city-owned property as part of the election campaigns of the politicians.

For instance, it is reported that in the northern Moravian town of Bohumin, Mayor Petr Vicha announced in February 2005 that the city would purchase a hostel with 250 inhabitants, mainly Roma tenants, with the intention of evicting them and renovating the property. Under pressure and harassment by officials, most residents left the building, but four families, who had always paid their rent and utilities bills, filed lawsuits against the eviction and obtained a preliminary injunction against it. The injunction specified that the landlord, the city of Bohumin, was obliged to maintain a number of services in function in the building for the duration of the injunction. In July 2005, the city countered the suit; the eviction was granted and the tenants then appealed. The preliminary injunction reportedly remained in effect pending the outcome of the appeals.

During the course of these lawsuits, the city allegedly cut off the water and heat of the building. Even when exterior temperatures reached as low as minus 26 degrees Celsius, the heating was reportedly not resumed. The mail was also reportedly not properly delivered to these tenants. The families filed two complaints to have the original preliminary injunction enforced while waiting for their appeal to be heard. It is alleged that alternate accommodation was offered to families with children under the condition of separating children from their parents and institutionalisation of Roma children.

The city also allegedly hired a private security company to prevent visits to the tenants, including their family members. On 5 October 2005, several representatives of non-governmental organizations, as well as Deputy Public Defender of Rights and Czech Government Human Rights Commissioner Svatopluk Karasek were refused entry to the hostel for more than five hours, despite having been invited onto the premises by residents. Despite the fact that a court injunction permitted normal use of the facility by the residents, including

the right to receive visitors, the Czech Police officers summoned to the scene declined to intervene on behalf of the residents and their visitors. The tenants were reportedly billed by the City for the security company's services. In July 2005, the bill amounted to 76 549 Czech Koruna (approximately 2 580 Euros) to be divided among the four families.

It was also reported that the monthly rent previously charged per flat was changed to a per resident charge, i.e., if a six-member family lived in one flat, their rent increased six-fold. This situation forced families into debt and made them ineligible for social housing until the debt is paid. For the concerned families, the debt per tenant is the equivalent of thousands of Euro, and the court issued payment orders for the amounts within four days of the city filing suit in 2006. Objections were filed against the orders to pay, but almost a year later, hearings on those objections had reportedly yet to be scheduled. In this context, the four families gradually left the property without any alternative housing solution proposed by the city. As of June 2007, one family had moved in with relatives in Bohumin who have no electricity; one family was living in a single room in another hostel; one family was living in a hostel in Prague; and one family was in rental accommodation in the town of Ostrava.

On 10 May 2007, a joint allegation letter was sent to your Excellency about the situation of the Roma in the Moravian town of Vsetin. Further information was received subsequent to this communication concerning eviction of Roma families in the Poschla neighbourhood on the edge of town, creating a racially segregated housing estate.

Reports indicate that in October 2006, the town of Vsetin completed construction of housing comprised of metal containers in the Poschla neighbourhood on the outskirts of town, into which officials intended to move some of the 42 Romani families residing in a building slated for demolition in the centre. Reportedly, on 5 October 2006, the town of Vsetin held an official opening of the Roma's new housing area, which was attended by 40 municipal representatives from different towns of the Czech Republic, and presented to the press as a model project. Funding for the container housing had reportedly been provided in part by the State Fund for Construction. The container tenants received month-to-month contracts and Vsetin Mayor Jirí Cunek has reportedly stated that anyone with whom the contract had to be terminated would be immediately "put out on the street." It is further alleged that fees for electricity used for the heating in the buildings were charged at a very high rate.

The information received also indicates that three of the relocated Roma families wrote letters to the Ombudsman, the President and a political party to draw attention to the policy of the Vsetin town towards the Roma community. On 13 October 2006, Mayor Cunek stated that Roma families, including these three "problematic" families, would be transported not just out Vsetin, but as far as 230 kilometres. The Mayor stated that he has reached an agreement with the families by purchasing properties in isolated areas throughout the neighboring Olomouc region and was providing them with loans to buy these houses. It has been alleged that some social workers employed by the city of Vsetin (with Council funding) have been telling the families that, should the parents refuse to sign the purchase agreements, they might end up in inadequate housing conditions, which may lead to the institutionalization of their children.

Reportedly, these Roma families were forcibly transferred to villages throughout the Jeseník district. Children, accompanied by their fathers, were separated from their mothers during the travel. They report being left hungry after buses dropped them off in the middle of the night in front of their new "homes", which are derelict farms. Olomouc regional officials were never notified that these families would be placed in these isolated premises. In addition, these areas have reportedly a very high rate of unemployment which may result in depriving the Roma families of a livelihood.

Without implying any conclusion as to the facts mentioned above, we 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 and other international standards.

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.

General Comment No. 7 on forced evictions, adopted by the Committee in 1997, 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.”

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”. Moreover, Article 5.1 provides that “National policies and programmes shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.”

In this context, 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. We would in particular be grateful to receive information on measures:

- (1) taken by the authorities to inform tenants about their legal rights and steps taken to ensure their protection including legal aid for persons with low-income;
- (2) to protect the rights and access to basic services including water, electricity and heating while a court procedure is underway;
- (3) to ensure that private security companies and the public security forces act in conformity with the law in the situations mentioned above;
- (4) to ensure that the evictions do not result in homelessness;
- (5) to avoid any form of discrimination toward the Roma communities; and
- (6) the consultation at all stages of the eviction procedure with the affected communities and their representatives.

We would also be grateful to receive information concerning the housing and basic services conditions of the evicted persons mentioned in this communication.

We continue to draw the attention of the international community to the worrying practice of forced evictions worldwide, and its effects on persons belonging to minorities. 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, we reiterate the set of guidelines, presented in the most recent report of the Special Rapporteur on the right to adequate housing as a component of the right to and adequate standard of living (A/HRC/4/18), that aims at assisting States in developing policies and legislations to prevent forced evictions at the domestic level.

The guidelines were attached to the earlier communication dated 10 May 2007. Your Excellency's government may find useful in the current circumstances the sections of the enclosed guidelines that focus on State obligations prior to, during and after evictions.

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.

Please accept, Excellency, the assurances of our highest consideration.

A handwritten signature in black ink, appearing to read "Miloon Kothari". The signature is written in a cursive style with some stylized flourishes.

Miloon Kothari
Special Rapporteur on adequate housing as a component of the right
to an adequate standard of living

A handwritten signature in black ink, appearing to read "Gay J. McDougall". The signature is written in a cursive style with a large, prominent 'G'.

Gay McDougall
Independent Expert on Minority Issues