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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Independent Expert on minority issues; and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

REFERENCE: UA Housing (2000-9) Minorities (2005-4) G/SO 214 (78-15)
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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Independent Expert on minority issues; and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance pursuant to Human Rights Council resolutions 15/8, 16/6, and 16/33.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the **alleged imminent forced eviction of approximately 350 Roma people from the Tor de' Cenci camp in Rome** .

According to information received:

Over 350 people of Roma ethnicity, of Italian, Bosnian and Macedonian nationality, are facing eviction from the Tor de' Cenci camp in Rome, where they have been living for up to 16 years. Authorities allegedly plan to complete the eviction by 10 July. The camp was opened by local authorities in 1995, in an area where residents have access to a range of services, including schools for children.

Reportedly, in the past two years, local authorities started referring to Tor de' Cenci as a "tolerated" camp (i.e. a camp which has existed for a long period, but was built irregularly on public or private land), and threatened to close it and transfer its residents to another camp further away from residential areas in the city. Allegedly, living conditions in Tor de' Cenci have progressively worsened, as the camp has been effectively abandoned by local authorities in view of its planned closure.

According to information received, local authorities plan to resettle the Roma families in a new camp called La Barbuta. This camp was built in 2011 using special powers granted under the so-called "Nomad Emergency" – a state of

emergency in place since 2008, which aimed to close Roma's informal camps and resettle their residents in 'authorized villages'. The Nomad Emergency was ruled unlawful in November 2011 by the Council of State. It is alleged that as the Nomad Emergency was found unlawful, all administrative acts issued on the basis of the emergency, including the establishment of La Barbuta camp, would likewise be unfounded and unlawful. Reportedly, in February 2012 the national government appealed the ruling to the Court of Cassation.

Compared to the location of Tor de' Cenci, which is near a residential area, the camp of La Barbuta is located in an isolated area next to Ciampino airport. It is allegedly surrounded by fences and security cameras to monitor movements inside the camp. Reportedly, local authorities plan to use the camp exclusively to house Roma families currently living in different camps in Rome. It is alleged that should these plans be implemented, the camp would constitute racially segregated housing.

Reportedly, no formal or comprehensive consultations were carried out with the Roma residents. The few consultations carried out were allegedly not genuine as they were conducted under constant threats of eviction and repeated messages to both the media and the residents that the camp would be closed. This was combined with a serious deterioration of living conditions at the Tor de' Cenci camp. Furthermore, no alternative options to relocation to the Barbuta camp (for instance, improvement of living conditions at the Tor de' Cenci camp, social housing, relocation to another settlement) were allegedly discussed. No formal eviction notice was issued. Most families seem opposed to their relocation to La Barbuta.

While we do not wish to prejudge the accuracy of these allegations, we would like to remind your Excellency's Government of the applicable international human rights norms and standards relevant to this case. Article 11.1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which Italy is a party, states that "the States Parties to present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including housing, and to the continuous improvement of living conditions".

The Committee on Economic, Social and Cultural Rights (CESCR) commented the right to adequate housing in its General Comment No. 4, stressing that the right to housing should not be interpreted in a narrow or restrictive sense such as merely having a roof over one's head; rather, it should be seen as the right to live somewhere in security, peace and dignity. With "due priority to those social groups living in unfavourable conditions," the right to housing includes 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. The Committee also added that "the right to housing should be ensured to all persons irrespective of income or access to economic resources" (para. 7-8). The Committee also stressed (para. 6), that the enjoyment of the right to adequate housing must not be "subject to any form of discrimination", in accordance with article 2(2) of the Covenant.

As repeatedly stated, including in resolutions 1993/77 and 2004/28 of the Commission on Human Rights, forced evictions constitute gross violations of a wide range of internationally recognized human rights and large-scale evictions may only be carried out under exceptional circumstances and in full accordance with international human rights law. According to the General Comment No. 7, by the CESCR:

“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.”

In view of this, we wish to recall the existence of the Basic principles and guidelines on development-based evictions and displacement (contained in document A/HRC/4/18) that aim at assisting States in developing policies and legislations to prevent forced evictions at the domestic level. Your Excellency's Government may find useful in the current circumstances the sections of the guidelines that focus on State obligations prior to, during and after evictions.

In addition we wish to draw the attention of your Excellency's Government to the provisions of the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Article 4.1. of the Declaration 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." The proposed eviction may have additional serious implication including with regard to the health and welfare of affected individuals, those suffering from illness or people with disabilities, as well as the right to education of affected Roma children. In this regard we would like to seek further information and assurances from your Excellency's Government.

We wish also to refer your Excellency's Government, to article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, which provides that "in compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all of 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 right to housing". In this connection, we would like also to refer to the General Recommendation No. 27 of the Committee on the Elimination of Racial Discrimination (CERD), which recommends that States "develop and implement policies and projects aimed at avoiding segregation of Roma communities in housing; involve Roma communities and associations as partners together with other persons in housing project construction, rehabilitation and maintenance; 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; act firmly against local measures denying residence to and unlawful expulsion of Roma, and refrain from placing Roma in camps outside populated areas that are isolated and without access to health care and other facilities".

Furthermore, we would like to draw the attention of your Excellency's Government to the Concluding Observations of the Committee on the Elimination of Racial Discrimination (CERD), adopted on 3 and 4 March 2008, which while noting the policy initiatives undertaken by the Government of Italy to combat marginalization of Roma and Sinti in the sphere of housing and facilitating their social inclusion, recommended that "the State party 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, and [...] act firmly against local measures denying residence to Roma and the 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 basic facilities".

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. Have complaints been lodged by the affected community or other parties, with respect to the imminent eviction and/or the establishment of La Barbuta camp?

3. Was a formal eviction notice issued to the residents? If not, why not?
4. Did appropriate consultations take place with the affected community? If yes, please give the details, date and outcome of these consultations.
5. Have alternatives to relocation to La Barbuta camp been explored with the affected community? If not, why not?
6. What is the legal status of the decision establishing La Barbuta camp, taking into account the ruling by the Council of State in November 2011 that the ‘Nomad Emergency’ was considered unlawful?
7. What measures have been foreseen to ensure that living and housing conditions at La Barbuta camp respect international standards pertaining to adequate housing and racial discrimination?

We undertake to ensure that your Excellency’s Government’s response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency’s Government adopt effective measures to prevent the recurrence of these acts.

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

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