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CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS**

**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; and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

REFERENCE: AL Housing (2000-9) G/SO 214 (78-15)
ROU 1/2011

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Excellency,

We have the honour to address you in our capacities as 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, and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/8 and 16/33.

In this connection, we would like to bring to your Excellency's Government's attention information received regarding **the building by the local authorities in Baia Mare of a wall surrounding the apartment building on 46B Horea Street in Baia Mare, populated mainly by Roma residents, and additional discriminatory treatment in regard to the right to housing.**

According to the information received:

On 28 June 2011, the mayor of Baia Mare city announced the decision to build a 3 meters high and 100 meters long wall, surrounding the apartment building on 46H Horea Street in Baia Mare. Reportedly, most of the residents in the building are Roma people. According to information received, the construction of the wall was completed a few weeks ago; it is around two meters high and 100 meters long. It was reported that the affected community was not consulted prior to this initiative and less drastic solutions were not explored. Moreover, although the local authorities in Baia Mare allegedly stated that the wall was built to separate the buildings from the adjacent road in order to minimize the risk of accidents, concerns were raised by non-governmental organizations that this initiative may lead to Roma "ghettoization".

Furthermore, according to additional information received, the Baia Mare Local Council recently decided to acquire 10 hectares of land for the purpose of

constructing social housing (1000 housing units) and resettle “marginalized communities”. Reports received indicate that the areas targeted for relocation and resettlement are mainly inhabited by Roma. We also received information indicating that the social housing is to be built in the outskirts of the city and next to the sewage treatment plant. Local non-governmental organizations are particularly concerned that plans to resettle Roma from various communities to one location in the outskirts of the city would amount to segregation.

While we do not wish to prejudge the accuracy of these allegations, the information received raise concerns regarding the possible discriminatory impact of the Government’s measures. In this regard, we are concerned about the erection of a wall to surround a building mostly inhabited by members of the Roma minority in Baia Mare. Furthermore we are also concerned at the alleged chosen area of the social housing project which in addition intends to target members of the Roma minority currently residing in different locations. We would like to express our concerns about the de facto segregation of the Roma community that may possibly result from these measures.

In this regard, we would like to remind your Excellency’s Government of Article 11.1 of the International Covenant on Economic, Social and Cultural Rights, to which Romania is a party, which 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 commented on 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 unfavorable 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.

The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, would like to recall your Excellency’s Government that article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, ratified by your Excellency’s Government on 15 September 1970, 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 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 the Special Rapporteur would like to draw your Excellency's Government's attention to General Recommendation N° 27 of the Committee on the Elimination of Racial Discrimination which recommends that the State party "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".

The Special Rapporteur also invites your Excellency's Government to implement the Concluding Observations of the Committee on the Elimination of Racial Discrimination adopted on 23 August 2010 which encourages "the State party to continue its efforts and take the necessary measures to prevent and combat racial discrimination against Roma" and recommends that the State party: "(a) enforce existing legislation and other measures banning any discrimination against Roma; [...] (c) facilitate access by Roma to housing, including by avoiding unlawful expropriation and forced evictions without offering alternative accommodation; [...]"(CERD/C/ROU/CO/16-19, para. 14) He further draws the attention of your Excellency's Government to the recommendation made by the Committee that "the State party continue its public education and awareness-raising initiatives in the areas of multicultural diversity, harmony and tolerance of minorities, particularly the Roma" (CERD/C/ROU/CO/16-19, para. 20).

It is our responsibility, according to the mandates entrusted to us by the Human Rights Council, to clarify all allegations brought to our attention. We would therefore greatly appreciate detailed information from your Government concerning the above situations and about the measures taken by the competent authorities. We would in particular appreciate to receive information on the following points:

1. Are the facts alleged in the above summary of the cases accurate?
2. What are the legal recourses available to the affected residents to contest the decision of the local authorities in Baia Mare to build the aforementioned wall? Has free legal aid been made available for the affected residents in this case?
3. Has a complaint been lodged by or on behalf of the affected community?
4. Did appropriate consultations take place with the affected persons?
If yes, please give the details, date and outcome of these consultations.
5. What are the targeted communities to be settled in the new social housing project and has a process of consultation been undertaken with these communities?

6. Please provide information regarding the location of the proposed social housing project, including its proximity to public services and transportation.

We would greatly appreciate receiving from your Excellency's Government within 60 days the above mentioned additional information. 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.

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

Raquel Rolnik

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

Githu Muigai

Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance