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PROCEDURES SPECIALES DU
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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; 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)
ROU 1/2012

3 May 2012

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 General Assembly resolution 60/251 and 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 evictions of approximately 300 Roma families from the settlements of Craica, Garii and Pirtia in Baia Mare.**

From the outset, we would like to refer to a previous communication sent to your Excellency's Government on 19 August 2011 by 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, regarding previous decisions with regard to the housing situation of Roma communities in Baia Mare. We regret that to date no reply to this communication has been received .

According to recent information received:

Around two thousand Roma residents of the settlements Craica, Garii and Pirita, in Baia Mare are to be forcefully evicted from their homes. We are informed that the Baia Mare authorities have offered to relocate the affected communities to a former office building of an industrial factory. Reportedly, 70 families from the Craica settlement have accepted this relocation option. However, it is reported that the remaining families in all three settlements, who have refused to relocate to this site, have not been offered an alternative relocation solution. Reports received indicate that demolition orders have already been issued for the Pirita settlement. Allegedly, residents, who are not registered in Baia Mare are to be evicted back to their place of origin.

While we do not wish to prejudge the accuracy of these allegations, 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 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.

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:

"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 addition, we draw your Excellency's Government's attention to the provisions of the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. The Declaration requires under article 1.1 that “States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity.” 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 evictions of members of these Roma communities may have serious implications, including in regard to the health and welfare of affected individuals, particularly women, children, and the elderly or infirm and 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.

Furthermore, we would 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, ratified by your Excellency's Government on 15 September 1970, which obliges States “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”.

We would also like to refer your Excellency's Government to the General Recommendation No. 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”.

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. Please indicate the legal basis of the planned evictions.
3. What are the legal recourses available to the affected residents to contest the decision of the local authorities in Baia Mare? Has free legal aid been made available for the affected residents in this case?
4. Has a complaint been lodged by or on behalf of the affected communities?
5. Did appropriate consultations take place with the affected persons? If yes, please give the details, date and outcome of these consultations.
6. To what extent have measures of compensation been put in place for all concerned person, with a due assessment of the loss of their housing?
7. What measures have been foreseen to ensure that the evicted persons will not become homeless?
8. What has been foreseen in terms of relocation? If sites have been designated for relocation, please provide details on the exact location, including details on the area and quality of land, access to public services and livelihood sources.

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 Roma families from the settlements of Craica, Garii and Piritia in Baia Mare in compliance with the above international instruments.

We undertake to ensure that your Excellency’s Government’s response to each of these questions will be made available in a report to the Human Rights Council for its consideration.

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

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