

*(Translated from Russia)*

No. 4864

The Permanent Mission of the Russian Federation to the United Nations Office and other international organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and, with reference to the joint enquiry 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, the Special Rapporteur on minority issues and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance concerning the situation of the Roma communities in the Republic of Khakassia and Penza province, has the honour to transmit herewith information from the Russian Federation.

The Permanent Mission takes this opportunity to convey to the Office the renewed assurances of its highest consideration.

Reference: AL RUS 7/2019

10 Dcccmbcr 2019



**Information from the Russian Federation in connection with the request 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, the Special Rapporteur on minority issues and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance**

Reference: AL RUS 7/2019

**1. State ethnic policy on Russian Roma**

The Russian Federation is a multi-ethnic State with more than 193 ethnic groups. According to the Russian National Population Census of 2010, approximately 205,000 persons identified themselves as Roma. Compared to the 2002 census, the number of Roma has increased by 12 per cent (with 183,000 persons in 2002). At the same time, according to unconfirmed expert estimates, the actual number of Roma in Russia is greater than the official statistics and may be as high as 500,000 persons. This can be explained by the fact that, in the course of the national censuses, not all Roma indicated their ethnic background. Furthermore, there is a lack of statistical data on the number of Roma who are not registered at their place of residence (generally involving Roma living in rural areas and Roma who illegally entered Russia from other countries of the Commonwealth of Independent States).

The Russian Federation pursues a consistent policy when it comes to ensuring and observing the rights and freedoms of all citizens, regardless of racial, ethnic, religious or linguistic background. Discrimination on various grounds is subject to prosecution under criminal and administrative procedures. Russian Roma are fully governed by the provisions of current legislation and they enjoy all the rights conferred by citizenship of the Russian Federation, including the right to access to housing.

In practical terms, the objective of preserving and promoting cultural and linguistic diversity in Russia is being realized through the implementation of relevant federal and regional programmes. In the area of inter-ethnic relations, for example, this includes the adoption of the strategy on State ethnic policy in the Russian Federation for the period up to 2025 (approved by order of the Government of the Russian Federation, No. 2648-r of 23 December 2015) and the State Programme of the Russian Federation on the Implementation of State Ethnic Policy (approved by decision of the Government of the Russian Federation, No. 1532 of 29 December 2016). Based on these strategic documents, programmes, plans of action and other measures have been adopted at the federal level and in the constituent entities of the Russian Federation, with due account taken of the ethnic composition of the population in specific regions in the process of drawing them up.

Federal programmes have identified the need to work out special measures towards Russian Roma. For instance, paragraph 19 of the plan of action for the implementation of the above-mentioned strategy provides for measures for the socioeconomic, ethnic and cultural development of Russian Roma and provides regional and local authorities with guidance on holding events at the regional and local levels and ensuring their funding. Major cultural and educational events such as the “Roma under the Sky” festival are held nationwide every year.

Russian Roma are also covered in events in a number of industry-specific cultural and educational programmes.

The approval of a comprehensive plan of action for the socioeconomic and ethnic cultural development of Roma in the Russian Federation by the Government of the Russian Federation on 31 January 2018 attests to the fact that this issue is included among the current objectives of State ethnic policy. Fifteen federal ministries and departments and the executive authorities of 32 constituent entities of the Russian Federation with a significant Roma population took part in the implementation of the first such comprehensive plan, for the period 2013–2014. Further to the work carried out since 2013, there will be continued efforts to provide the Roma population with Russian passports.

The comprehensive plan of action envisages the introduction of additional training programmes for preschool teachers and teachers in general education institutions to teach Russian to children, including from Roma backgrounds, who have a poor grasp of or are not fluent in the language or who do not attend school.

This plan focuses in particular on awareness-raising efforts aimed at overcoming negative stereotypes about Roma in society. A system is being set up to monitor publications on Roma

topics in the media and the Internet. Provision has been made for State support for organizations that produce, distribute or reproduce objective information in the media on the situation of Roma.

As part of the implementation of the plan, the Russian Federation will continue to work on the establishment of a public monitoring mechanism and conduct social research on the situation of Roma in the constituent entities of the Russian Federation. The results of such research and monitoring will make it possible to have an overview of the experience with the integration of Roma in different regions in the country, to identify bottlenecks in this area and focus efforts on the most pressing and challenging issues concerning the socioeconomic and ethnic cultural development of Russian Roma (including promoting employment, raising the educational level of Roma children and young persons, providing social support for low-income families, preventing and combating criminal activity in the Roma community and overcoming negative stereotypes about Roma in society).

There are more than 70 voluntary associations in Russia that represent the interests of Roma and carry out activities in the areas of culture, education and the protection of their rights. The [REDACTED], established in 1999, operates as an umbrella organization at the federal level. Since 2012, the head of this organization, [REDACTED], has been a member of the Council on Inter-Ethnic Relations attached to the Office of the President and the Expert Advisory Board of the Interdepartmental Working Group on Inter-Ethnic Relations attached to the Government of the Russian Federation.

## **2. Legal access to housing**

In accordance with national law, the right to housing has a constitutional basis and is a fundamental right. This right is enjoyed by all citizens of the Russian Federation, regardless of social, racial, ethnic, linguistic or religious background.

Under article 25 of the Constitution of the Russian Federation, the right to housing consists in the provision by the State of stable, permanent use of a legally occupied dwelling, the provision of housing from State, municipal or other housing stock to citizens in need of housing, the provision of assistance to citizens for improvements in their living conditions and also guarantees of the inviolability of housing and the barring of cases of arbitrary deprivation of housing.

In cases of large families (families with three or more children) or deprived families, members of the Roma community may be provided with plots of land free of charge in the manner prescribed by regional law, land and property tax exemptions, State social support, subsidized housing and utilities and dwellings under social rent contracts.

Under article 222 of the Civil Code of the Russian Federation, unauthorized constructions mean an edifice, structure or other building erected or established on a plot of land that is not provided for under the established procedure or on a plot of land the permitted use of which does not allow for the construction of such a facility on it or the erection or establishment without obtaining the necessary approvals or permits for such by virtue of the law or in violation of town planning and building codes.

One of the priorities of comprehensive work with the Roma community of Russia is tackling issues involving the legalization of unauthorized buildings. In constituent entities of the Russian Federation with large Roma populations, there are examples of good practice in this area. For example, in Tula province, a special working group was established under the Office of the Vice-Governor of the province that includes representatives of authorities of the provinces or urban settlements like Plekhanovo (which has a large Roma community) as well as representatives from the Roma community. This working group's main task is to legalize existing unauthorized Roma constructions. Furthermore, the local administration is carrying out work to inform the Roma community about the need to enter into contracts to connect their homes to the power grid and gas and water supply.

## **3. The events in the village of Chemodanovka and Lopatki, Bessonovsky district, Penza province**

The total population of this district of Penza province 7,500, including 680 Roma. Some 500 Roma live in the village of Lopatki, accounting for 50 per cent of the population, and 180 in the village of Chemodanovka (or 2 per cent of the population). These settlements are made

up of multiple ethnic groups, including Russians, Moldovans, Chuvash, Tatars, Armenians and others.

On the whole, more than 3,000 Roma (0.25 per cent of the population) live in 18 municipal districts and 2 urban settlements in Penza province.

On 13 June 2019, members of the Russian and Roma communities got involved in a quarrel over private matters in Chemodanovka, Bessonovsky district, in Penza province. Arguments over child-rearing escalated into a fight, which resulted in one death, four injuries, damage to 5 vehicles and the destruction of a home.

On 14 June 2019, criminal proceedings were brought for murder, assault, criminal mischief and intentional destruction of property. Those responsible were detained and the necessary criminal procedures and investigative steps were carried out.

In the first days after the conflict, all members of the local Roma communities in the villages of Chemodanovka and Lopatki left their homes.

The authorities of Penza province promptly took measures to resolve the conflict. The police force in of Chemodanovka was strengthened and the homes and property of members of the Roma community were protected. The electronic media was monitored in order to counter the distribution of xenophobic material aimed at escalating the conflict.

The authorities took a set of measures to improve the social infrastructure in the village, including repairs of hospitals, water works, access roads, schools, etc. They also took steps to check whether the housing of Roma was legally constructed in Chemodanovka and Lopatki and, in instances where that was not the case, provided assistance in obtaining State registration of the properties in question. There are currently only two homeowners located in areas subject to restrictions on construction (matters that will be decided in court). Measures have also been taken to identify Roma children who are not in school.

Awareness-raising work is being done with the Roma community. A community council on Roma issues has been set up under the local authorities for this purpose. From the outset, this work has involved representatives from the [REDACTED] (headed by Mr. [REDACTED]).

Roma families are currently returning to their homes. The situation is returning to normal and remains under the control of the relevant provincial and local authorities.

#### **4. Events in the Ust-Abakan settlement of the Republic of Khakasia**

The Investigative Committee of the Russian Federation for the Republic of Khakasia opened an investigation on [REDACTED] May 2018 (criminal case No. [REDACTED]) into an offence covered under article 111 (4) of the Criminal Code of the Russian Federation involving assault negligently causing the death of Mr. [REDACTED].

The Committee found that, on [REDACTED] May 2018, between 11 a.m. and noon, Mr. [REDACTED], Mr. [REDACTED] and Mr. [REDACTED] were on the street in the Siberian settlement of Ust-Abakan in the Republic of Khakasia, where they came to find out from persons of Roma background the circumstances surrounding the theft of a fence on Mr. [REDACTED]'s land, which is located close to the places of residence of the Roma community. At that time, Mr. [REDACTED] and Mr. [REDACTED] were in a vehicle moving along the above-mentioned street.

Mr. [REDACTED], Mr. [REDACTED] and Mr. [REDACTED] got in front of the vehicle and stopped the car and then accused Mr. [REDACTED] and Mr. [REDACTED] who were in the vehicle of stealing the fence. Following a heated exchange Mr. [REDACTED] got out of the vehicle and struck Mr. [REDACTED] in the face, causing head injuries that led to his death at the scene of the incident.

Mr. [REDACTED] fled the scene and, on [REDACTED] May 2018, was placed on the federal wanted list. On [REDACTED] September 2018, Mr. [REDACTED] was arrested and remanded in custody as a preventive measure.

On [REDACTED] May 2019, the criminal case against [REDACTED] on charges of an offence covered under the Criminal Code, article 111 (4) (Intentional infliction of grievous bodily harm), was referred to the Ust-Abakan District Court for consideration on the merits. This court reclassified Mr. [REDACTED]'s act as an offence under article 109 (1) of the Criminal Code (Negligent homicide) and took into consideration the fact that the person who started the fight was the victim himself. By decision of the court on [REDACTED] September 2019, Mr. [REDACTED] was



convicted of the crime and sentenced to 2 years' deprivation of liberty. In the light of the time spent in the pretrial detention centre, the court decided to commute his sentence to restriction of liberty.

The Investigative Committee of the Russian Federation for Krasnoyarsk territory initiated a criminal investigation on [REDACTED] December 2018 (criminal case No. [REDACTED]) into an offence covered under articles 30 (3) (a) and (e) and 105 (2) of the Criminal Code – the attempted murder of more than two people by means that endanger public safety, the burning of a dwelling house (unauthorized residential building) located near [REDACTED] Street, Ust-Abakan, Ust-Abakan district, Republic of Khakasia.

The preliminary investigation revealed that, at approximately 1 a.m. on 6 November 2018, [REDACTED] came to the above-mentioned house (unauthorized residential building), poured petrol on the side of the house and set it on fire. According to Mr. [REDACTED]'s testimony, he committed these acts out of revenge for the crime Mr. [REDACTED] had committed against his friend [REDACTED].

Since contradictory information was received during the investigation about the presence of people in the house at the time of the arson and Mr. [REDACTED]'s awareness of such, whether his acts are to be classified as falling under articles 30 (3) (a) and (e) and 105 (2) or article 167 (2) of the Criminal Code will depend on the outcome of the ongoing investigation. The time frame for the preliminary investigation has been extended until 10 December 2019.

As of 11 November 2019, 349 Roma, including 10 children, were living in Ust-Abakan settlement, and 254 of them are officially registered at their place of residence. The Roma community has been residing in Ust-Abakan since the late 1990s after moving there from Voronezh province. There were no recorded conflicts between local residents and the Roma community in the period up to 2018.

In accordance with Act No. 33-ZRK of 8 July 2017 of the Republic of Khakasia on the granting of title to land to persons with special entitlements in the Republic of Khakasia and Act No. 88-ZRK of 8 November 2011 of the Republic of Khakasia on the granting to title to land in the Republic of Khakasia to persons with three or more children, members of the Roma community have been given title to land located in Ust-Abakan settlement and also in the villages of Solnechnoe, Zelenoe and Kalinino in Ust-Abakan province.

Moreover, some households have availed themselves of this entitlement to obtain plots of land twice. In cases where marriages were not officially registered, every household received two plots of land, in violation of the law, and the plots were subsequently sold by their owners.

Specialists in the Ust-Abakan settlement council periodically carry out land surveys. In 2018, it was established that buildings had been put up without permits on the plots of land located on the property of the settlement council. The survey established the unique parcel reference numbers of all 32 plots of land and 48 buildings, of which only some 13 dwelling houses were registered under the established procedure. Furthermore, in registration block [REDACTED], another 13 buildings were put up illegally. Under Russian law, buildings are real property and title to such property is subject to public registration.

The residents of the unauthorized buildings were duly notified of the ban on construction without obtaining a permit or completing the formalities for ownership or tenure of land. The inspection resulted in 13 warnings being issued about the demolition of 13 unauthorized buildings.

On [REDACTED] September 2018, the administration of the settlement filed a petition with the Ust-Abakan District Court for the demolition of the unauthorized buildings located in the Ust-Abakan settlement along [REDACTED] and [REDACTED] streets. Surveys carried out revealed that there were six unauthorized residential buildings that were not registered in accordance with the relevant law.

The petition was filed because there is a sewage pressure manifold that runs under the above-mentioned streets, which is a buffer zone. Part of the unauthorized buildings were located directly on the manifold. The current state of the manifold poses a threat to the safety and health of the settlement population as a whole. Repair and restoration work is impeded by the unauthorized buildings in the buffer zone.

The Ust-Abakan District Court ruled against the petition of the administration for the demolition of the unauthorized buildings on [REDACTED] February 2019. However, the Supreme Court

of the Republic of Khakasia overturned that decision on appeal on [REDACTED] May 2019 and required the members of the Roma community living in the buildings ([REDACTED], [REDACTED], [REDACTED], [REDACTED] and others) to pull down the unauthorized buildings within a month of the appellate decision of the Court.

The deadline for voluntarily complying with the court decision passed on 30 June 2019 and the above-mentioned buildings have yet to be demolished. On [REDACTED] August 2019, the Ust-Abakan District Court issued a ruling to defer the appellate decision until 1 August 2020.

Currently the local Roma community has title to six plots of land and leases three. There are no dwelling houses on three plots of land (two of which are owned and one leased). There are 13 individual dwelling houses that have been registered under the established procedure.

To date, nine members of the Roma community have the right to receive plots of land as beneficiaries under the law on the granting of title to land to persons with special entitlements in the Republic of Khakasia (Act No. 33-ZRK) and have been provided with the relevant documents to be completed. The beneficiaries have rejected the plots of land in the village of Solnechnoe in Ust-Abakan district proposed by the administration of the Ust-Abakan settlement council. No compensation in the form of housing or cash payments has been awarded to the persons living in the unauthorized buildings.

On [REDACTED] May 2018, the Investigative Committee of the Russian Federation for Ust-Abakan district launched a criminal investigation into damage caused by unidentified persons and theft of property on [REDACTED] and [REDACTED] streets (criminal case No. [REDACTED]), offences covered under articles 158 (3) (a) and (c) (Intentional destruction or damage of property) and 167 (1) (Theft) of the Criminal Code. The internal affairs agencies are currently handling the criminal case.

The investigation of the case revealed that, on 17 May 2018, unidentified persons on [REDACTED] and [REDACTED] streets in the Ust-Abakan settlement of Ust-Abakan district of the Republic of Khakasia had caused damage to 57 buildings and property found in them and had stolen property from these houses estimated to be worth some 300,000 roubles.

On 25 May 2018, [REDACTED], head of the Roma camp was interviewed and said that the Roma community had left the settlement voluntarily and had no claims against the local authorities.

On 15 August 2018, the head of the municipality of Ust-Abakan district held a meeting to discuss measures to defend the rights of Roma and the distribution of plots of land and provision of social support to Roma families and access to education and monitoring of the situation with a view to preventing manifestations of racism, xenophobia and intolerance.

**Decision to open criminal case No. [REDACTED] and bring proceedings**

Ust-Abakan district settlement

[REDACTED] May 2018

3 p.m.

[REDACTED], investigator of the Ust-Abakan inter-district investigating agency, a unit of the investigation department for the Republic of Khakasia reporting to Investigative Committee of the Russian Federation, having reviewed the case file for procedural check No. [REDACTED] of [REDACTED] May 2018,

**HAS ESTABLISHED:**

On [REDACTED] May 2018, at approximately 12 p.m., the officer on duty at the Department of the Ministry of Internal Affairs of Russia for Ust-Abakan district informed the inter-district investigating agency reporting to the investigation department for the Republic of Khakasia that the body of [REDACTED], born on [REDACTED] 1988, was found approximately 25 m north-east of [REDACTED] Street in the Ust-Abakan settlement in Ust-Abakan district of the Republic of Khakasia showing signs of violent death.

Whereas there is sufficient information available to indicate evidence of an offence under article 111 (4) of the Criminal Code and guided by articles 140, 145, 146 (147) and 156 (1) of the Code of Criminal Procedure,

**HAS DECIDED:**

1. To open a criminal case on evidence of a crime covered under article 11 (4) of the Criminal Code.
2. To initiate criminal proceedings for an assault negligently causing the death of [REDACTED] based on evidence of a crime covered under article 11 (4) of the Criminal Code.
3. To initiate investigations into the case.
4. To send this decision to the procurator of the Ust-Abakan district of the Republic of Khakasia.

[REDACTED]  
Investigator of the Ust-Abakan investigating agency

**Decision to open criminal case No. [REDACTED] and bring proceedings**

Ust-Abakan district settlement

[REDACTED] December 2018

11 a.m.

[REDACTED], investigator of the Ust-Abakan inter-district investigating agency, a unit of the investigation department for the Republic of Khakasia reporting to Investigative Committee of the Russian Federation, having reviewed the case file for procedural check No. [REDACTED] of [REDACTED] 2018 involving the burning of the dwelling house located at [REDACTED] Street, Ust-Abakan, Ust-Abakan district, Republic of Khakasia,

**HAS ESTABLISHED:**

On 6 November 2018, between midnight and 1.30 a.m., an unidentified person attempted with criminal intent to murder members of the Roma community living at [REDACTED] Street, Ust-Abakan, Ust-Abakan district, Republic of Khakasia by means that endanger public safety, through arson.

The unidentified person, with criminal intent, being aware of the public danger and the unlawful nature of his criminal acts, knowing that dangerous consequences would for certain ensue given and that there was a Roma inside the dwelling at [REDACTED] Street, Ust-Abakan, Ust-Abakan district, Republic of Khakasia, as the light was on at the entrance to the house on the street; in this connection, his acts were directed at murdering Roma persons by arson and endangered the lives of the persons living at the above-mentioned address; acting deliberately, he poured petrol on the side of the house and then committed arson, which resulted in the fire spreading to the entire house at [REDACTED] Street, Ust-Abakan, Ust-Abakan district, Republic of Khakasia.

However, the unidentified person's plan to murder the Roma by means that endanger public safety failed because those living at the above-mentioned address discovered the fire and managed to leave the house in time.

Whereas there is sufficient information available to indicate evidence of an offence under article 111 (4) of the Criminal Code and guided by articles 140, 145, 146 (147) and 156 (1) of the Code of Criminal Procedure,

**HAS DECIDED:**

1. To open a criminal case on evidence of a crime covered under article 11 (4) of the Criminal Code.
2. To initiate criminal proceedings for an assault negligently causing the death of [REDACTED] based on evidence of a crime covered under article 11 (4) of the Criminal Code.
3. To initiate investigations into the case.
4. To send this decision to the procurator of the Ust-Abakan district of the Republic of Khakasia.

[REDACTED]  
Investigator of the Ust-Abakan investigating agency



Chief Judge [REDACTED]

Case No. [REDACTED]/2019

### Decision on Appeal

[REDACTED] May 2019

Abakan

The administrative division of the Supreme Court of the Republic of Khakasia, consisting of:

Presiding justice [REDACTED];

Judges [REDACTED] and [REDACTED]; and

Secretary [REDACTED],

Considered in a public sitting the claim brought on appeal by the administration of the Ust-Abakan settlement council against [REDACTED],

[REDACTED] and [REDACTED] involving the demolition of unauthorized buildings, which was dismissed by the Ust-Abakan District Court on [REDACTED] February 2019,

Having heard the report of the presiding justice, the explanations of the representatives of the complainants from the Ust-Abakan settlement administration, [REDACTED] and [REDACTED], who supported the conclusions of the complaint, the representative of the defendant [REDACTED], who supported the decision of the court [to dismiss the petition for demolition], the administrative division

HAS ESTABLISHED:

The administration of the Ust-Abakan settlement council filed a claim with the court against [REDACTED], having stated its demands on a number of occasions (case file pp. [REDACTED] of case No. [REDACTED]), and made a final request for the demolition of the following unauthorized buildings within a month after the court decision took effect belonging to: [REDACTED] and [REDACTED], located at land parcel address reference point [REDACTED] Street, Ust-Abakan settlement; [REDACTED], located at land parcel address reference point [REDACTED] Street, Ust-Abakan settlement; [REDACTED], located at land parcel address reference point [REDACTED] Street, Ust-Abakan settlement (building No. [REDACTED]); [REDACTED] and [REDACTED], located at land parcel address reference point [REDACTED] Street, Ust-Abakan settlement; [REDACTED] and [REDACTED], located at land parcel address reference point [REDACTED] Street, Ust-Abakan settlement (building No. [REDACTED]); [REDACTED], located at land parcel address reference point [REDACTED] Street, Ust-Abakan settlement (building No. [REDACTED]); [REDACTED] and [REDACTED], located at land parcel address reference point [REDACTED] Street, Ust-Abakan settlement ([REDACTED]); [REDACTED] and [REDACTED], located at land parcel address reference point [REDACTED] Street, Ust-Abakan settlement; [REDACTED] and [REDACTED], located at land parcel address reference point [REDACTED], Ust-Abakan settlement; and [REDACTED], located at land parcel address reference point [REDACTED] Street and [REDACTED] Street, Ust-Abakan settlement. The complainant's claims were brought on the grounds that, on [REDACTED] May 2018, as part of a land survey conducted by specialists working for the Ust-Abakan settlement council, in the course of inspections of land parcels located at the above-mentioned address reference points, it was found that buildings had been put up on the foregoing land parcels without permits. These land parcels are the property of the Ust-Abakan settlement council and the defendants did not own or lease them. A sewage pressure manifold runs along [REDACTED] Street and [REDACTED] Street in the Ust-Abakan settlement, which is a buffer zone. Parts of the buildings are located directly over this sewage pressure manifold.

By decisions of the court on [REDACTED] October 2018 (case file pp. [REDACTED], vol. No. [REDACTED]), [REDACTED] November 2018 (case file pp. [REDACTED], vol. No. [REDACTED]) and [REDACTED] January 2019 (case file pp. [REDACTED], vol. No. [REDACTED]), the following persons were named as co-defendants: [REDACTED] and [REDACTED].

By a decision of the court on [REDACTED] January 2019 (case file pp. [REDACTED], vol. No. [REDACTED]), the proceedings brought by the Ust-Abakan settlement council against [REDACTED] involving the

demolition of the unauthorized building located at address reference point [REDACTED] (building No. [REDACTED]) were terminated because the plaintiff failed to bring legal action.

At the sitting of the court of first instance, the representative of the complainant by proxy, [REDACTED], argued for the claim to be upheld. The representative of the defendant [REDACTED], Mr. [REDACTED], requested the dismissal of the claim, arguing that the buffer zone had not been determined by the procedures established by law and was not registered. [REDACTED] does not have anything to do with the building. None of the buildings are immovable property. While the Ust-Abakan settlement council has the authority to take decisions on the demolition of unauthorized structures on its own it did not do so. [REDACTED] and other defendants in the case are Roma and came to the Ust-Abakan district in 1999; as was pointed out to the heads of the village, they were able to occupy certain parcels of land.

The complainant did not agree with the decision and sought to have it overturned and a new claim [fax is illegible] The court, in taking its decision, did not have specialized knowledge in the area of construction and concluded that the disputed buildings were not immovable property. However, it did not take account of the fact that the provisions of article 222 [illegible] were changed in August 2018. [illegible] Furthermore, the complainant presented evidence that there was a sewage pressure manifold and that there was a risk of an accident and other possible adverse consequences for people living on the disputed plots of land.

The representative of the defendant [REDACTED], [REDACTED] pointed out in his written objection to the complaint lodged on appeal that the decision of the court was lawful and fair and made a request for it to be upheld without changes and the complaint to be dismissed.

The representatives by proxy of the Ust-Abakan settlement administration, [REDACTED], [REDACTED] and [REDACTED] argued in favour of the complaint on appeal at the hearing of the court of appeal and the representatives of the defendant [REDACTED], the lawyer [REDACTED] expressed his agreement with the decision of the court. Other participants in the proceedings who had been duly informed of the time and place of the review of the case did not appear at the hearing of the court of appeal, nor did they give reasons for their failure to appear; the administrative division, in accordance with article 167 of the Code of Civil Procedure of the Russian Federation, considered the case in the absence of the defendants who failed to appear.

Having heard the participants in the proceedings, reviewed the evidence in the case and discussed the complaint on appeal and the objections to the complaint, the administrative division concluded the following.

By virtue of article 11 of the Land Code of the Russian Federation and article 14 of Federal Act No. 131-FZ of 6 October 2013 on the general principles of local self-government in the Russian Federation, the local authorities have jurisdiction over issues involving the settlement of towns and villages, including matters concerning land use, building permits, operation of facilities, construction and major renovation projects within the town boundaries, supervise the land surveys of a settlement in the cases provided for in the Civil Code of the Russian Federation, inspect buildings and structures and issue recommendations for dealing with violations found in the course of such inspections.

Evidence in the case file and the court established that [illegible] The buildings along the land parcels on [REDACTED] Street and [REDACTED] Street are not intended for residential use.

[illegible] The court of first instance, having heard the explanations of the representatives of [illegible] Having analysed the circumstances, the court of first instance found that the local authorities

The administrative division [of the Supreme Court] considers that the arguments put forward by the complainant in its complaint on appeal have merit and that the appeal against the court [of first instance] decision should be overturned by virtue of the following.

Under article 222 (1) of the Civil Code of the Russian Federation, unauthorized constructions mean an edifice, structure or other building erected or created on a plot of land that is not provided for under the established procedure or on a plot of land the permitted use of which does not allow for the construction of such a facility on it or the erection or creation without obtaining the necessary approvals or permits for such by virtue of the law or in violation of town planning and building codes.

It follows from the above-mentioned provision that an edifice, structure or other building erected on a plot of land that is not provided for under the established procedure is an unauthorized construction.

Article 12, 56 and 67 of the Code of Civil Procedure states that the adversary procedure requires each party to substantiate the grounds that it is invoking for its claims or objections. No piece of evidence is established beforehand by the court as fact.

The Court assesses the evidence in accordance with its inner convictions based on a comprehensive, complete, objective and direct examination of the evidence in the case (Code, art. 67 (1)).

The court evaluates the relevance, admissibility and credibility of each piece of evidence individually and also whether it is sufficient and has a bearing on the evidence as a whole (Code, art. 67 (2)).

As the evidence in this case shows, which was not challenged by the defendants, the land on which the disputed structures were located are part of the land of the settlement and are within the boundaries of Ust-Abakan township. No documents were presented by the defendants attesting to the construction of the disputed structures according to the procedures provided for by law.

Evidence that the defendants in this dispute moved to Ust-Abakan in 2000 and are among the 12 families who moved [illegible]

The administrative division [of the Supreme Court] takes a critical view of the evidence presented by the witness [illegible] at the hearing on [redacted] January 2019 [redacted] (case file pp. [redacted], vol. No. [redacted]), as, in his own words, he is a relative of the defendant. The evidence of this witness is contradictory. For example, at the beginning of his testimony he said that approximately 25 families had moved from Voronezh. Thereafter, the lawyer [redacted] explained that there were 5 to 8 families. Furthermore, his testimony that the defendants had moved to Ust-Abakan in 1999 was not corroborated by other evidence in the case nor by other witnesses. The assertion by the witness that the disputed house had been built more than 10 years previously was also not corroborated by other evidence. [illegible]

In the light of the unsubstantiated evidence that the defendants had been living in Ust-Abakan since 2000, the court of first instance, in the opinion of the administrative division [of the Supreme Court] improperly cited the decision of the Ust-Abakan District Court of [redacted] December 2009, which, as the complainant rightly pointed out, has no prejudicial effect on the consideration of the current dispute.

Thus, despite the findings of the court, there is no evidence in the case to show that the municipal authority has hostile intentions in providing the parcels of land on which the disputed buildings are located.

Therefore, given the existing evidence in the case, all disputed buildings put up on the parcels of land that were not provided to the defendants according to the established procedure are unauthorized constructions. Whether these buildings are immovable property does not have any legal significance for the consideration of this dispute and the assertion by the court of first instance that the unauthorized constructions could be structures that meet the criteria for immovable property is based on a misreading of the provisions of article 222 of the Civil Code, which in its current version does not contain such a provision and under which an unauthorized construction means an edifice, structure or other building.

As the Constitutional Court of the Russian Federation has pointed out on a number of occasions in its decision, the guarantee of the right to property established under article 35 of the Constitution is ensured only with respect to property that belongs to the corresponding person on legal grounds; unauthorized buildings are violations and the obligation to demolish such constructions is a penalty for such a violations, as is provided under article 222 of the Civil Code. Furthermore, the provisions of article 222 set out the criteria for unauthorized constructions, i.e. a building put up in violation of the established legal provisions and [illegible] requirements of article 17 (3) and 55 (3) of the Constitution.

Article 222 of the Civil Code provides that unauthorized constructions [illegible]

Under such circumstances, the complainant's claim on appeal [illegible] is to be allowed and the appeal against the decision to be overturned with the adoption of a new decision [illegible] to meet the claim.

Guided by articles 328 (2) and 329, the administrative division

HAS DECIDED:

The decision of the Ust-Abakan District Court of [REDACTED] February 2019 on the present case is to be overturned and a new decision taken.

The claim of the administration of Ust-Abakan settlement is to be met.

Within a month from the handing down of this decision on appeal:

1. [REDACTED] and [REDACTED] are under the obligation to demolish the unauthorized construction located at land parcel address reference point [REDACTED] Street, Ust-Abakan settlement.

2. [REDACTED], to demolish the unauthorized construction located at land parcel address reference point [REDACTED] Street, Ust-Abakan settlement.

3. [REDACTED], to demolish located at land parcel address reference point [REDACTED] Street, Ust-Abakan settlement (building No. [REDACTED]) with the coordinates:

[REDACTED]

[Other land survey coordinates are listed]

4. [REDACTED], to demolish the unauthorized construction located at land parcel address reference point [REDACTED] Street, Ust-Abakan settlement.

5. [REDACTED], to demolish located at land parcel address reference point [REDACTED] Street, Ust-Abakan settlement (building No. [REDACTED]) with the coordinates:

[REDACTED]

[Other land survey coordinates are listed]

[REDACTED], to demolish located at land parcel address reference point [REDACTED] Street (buildings Nos. [REDACTED] and [REDACTED]), Ust-Abakan settlement, with the coordinates:

[REDACTED]

[Other land survey coordinates are listed]

7. [REDACTED] and [REDACTED], to demolish the unauthorized construction located at land parcel address reference point [REDACTED] Street (building No. [REDACTED]), Ust-Abakan settlement, with the coordinates:

[REDACTED]

[Other land survey coordinates are listed].

8. [REDACTED], to demolish the unauthorized construction located at land parcel address reference point [REDACTED] Street (buildings Nos. [REDACTED], [REDACTED] and [REDACTED]), Ust-Abakan settlement, with the coordinates:

[REDACTED]

[Other land survey coordinates are listed].

9. [REDACTED], [REDACTED] and [REDACTED], to demolish the unauthorized construction located at land parcel address reference point [REDACTED] (building No. [REDACTED]), Ust-Abakan settlement, with the coordinates:

[REDACTED]

[Other land survey coordinates are listed].

10. [REDACTED], to demolish the unauthorized construction located at land parcel address reference point [REDACTED] Street and [REDACTED] Street (building No. [REDACTED]), Ust-Abakan settlement, with the coordinates:



[REDACTED]

[Other land survey coordinates are listed].

Presiding justice

[REDACTED] (signed)

Judges

[REDACTED] (signed)  
[REDACTED] (signed)

---