

**NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU
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; 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)
BGR 1/2011

18 July 2011

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 bring to the attention of your Excellency's Government information we have received regarding the alleged **imminent threat of forced eviction of the Dobri Jeliatzkov Roma community in Sofia district**.

From the onset, we wish to draw your Excellency's Government's attention to a communication submitted on 25 June 2011 by the Dobri Jeliatzkov residents to the Human Rights Committee for consideration under the Optional Protocol to the International Covenant on Civil and Political Rights (No. 2073/2011), following which the Human Rights Committee has issued interim measures of protection, to prevent the eviction and/or demolition in the said community.

According to information received:

The Dobri Jeliatzkov community consists of impoverished Roma and has been in existence for over 70 years. Currently 34 individuals live in the community, 15 of whom are children.

Reportedly, none of the affected persons who are to be forcibly evicted have been offered alternative housing and no meaningful consultation has taken place with the community.

According to reports received, in 2006 the Sofia Municipality, Vuzrajdane sub-district, issued evictions orders against the Dobti Jeliaskov community, based on article 65 of the Municipal Property Act. Allegedly, the orders require the residents to vacate and demolish their own homes.

Information received indicates that the community challenged the evictions orders before the Sofia City Court, which upheld the orders in 2007. The Sofia City Court decision was appealed before the Supreme Administrative Court, which upheld it on 28 October 2009.

On 26 March 2011, the Sofia Municipality decided to execute the eviction orders. Notice has been handed to the Dobri Jeliaskov community on 23 June 2011, in which they were given seven days to file objections against the evictions with the municipality. According to information received, objections were filed on behalf of the residents; however, the eviction orders against the residents are still pending.

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 Bulgaria 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".

As stated 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.”

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 8 August 1966, 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 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 [...] Roma, and refrain from placing Roma in camps outside populated areas that are isolated and without access to health care and other facilities”.

In this regard, 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 3 March 2009, which recommends that “the State party continue taking positive measures to improve the living conditions of Roma in respect of access to work, health care, housing and education within the framework of the Plan of Action for Roma Inclusion and the Decade for Roma Inclusion, in accordance with article 5 of the Convention and general recommendation XXVII (2000) on discrimination against Roma (art. 5)” (CERD/C/BGR/CO/19, para. 15).

Furthermore, the Independent Expert on minority issues draws 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 states 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 Independent Expert notes that the alleged evictions of members of the Roma minority community may have additional serious implication including in regard to the welfare and health of affected individuals and the right to education of affected Roma children. In this regard she would like to seek further information and assurances from your Excellency's Government.

The Independent Expert on minority issues undertook an official visit to Bulgaria between 4 and 11 July 2011 at the invitation of your Excellency's Government. The Independent Expert visited numerous Roma settlements, including in Sofia, and noted in a press release issued on 11 July that "Roma community leaders and Roma local officials frequently voiced their frustration at the Government's failure to constructively address the infrastructure problems of most Roma neighborhoods of significant size, parts of which have existed for generations." In her preliminary findings she called for review of some national legislation, such as the Territorial Planning Act, to allow long-standing Roma neighborhoods to be granted legal status, and for the incorporation of these Roma communities into municipal Master Plans.

In addition, we would like to draw the attention of your Excellency's Government to the recommendations accepted during its Universal Periodic Review on 4 November 2010 to "ensure necessary resources to facilitate the implementation of programs aimed at improving the situation of Roma people; use more actively existing or new platforms for involving the Roma community in policy formulation and implementation at both the local and central levels [...]; promote the economic and social integration of Roma individuals and respect for their rights by ensuring that due consideration is given in all policymaking processes to the impact on Roma of proposed legislation; and pursue its integration policy for the Roma population, guaranteeing access to basic health and social services, education, housing and employment" (A/HRC/16/9, paras. 80.26, 80.86, 80.104, 80.105; A/HRC/16/9/Add.1).

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 Excellency's 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 summaries of the cases accurate?
2. Please provide the details of the judicial and administrative processes carried out in relation to this case. Has an administrative decision been reached regarding the recent objections filed by the residents to the municipality? If so, please present details of the decisions.
3. Did appropriate consultations take place with the affected persons? If yes, please give the details, date and outcome of these consultations.

4. What measures have been foreseen to ensure that the persons affected by the forced evictions will not become homeless?
5. Were the affected persons offered compensation for the loss of their houses? If not, state the reasons for this decision. What has been foreseen in terms of relocation?

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

Gay J. McDougall

Independent Expert on Minority Issues

Githu Muigai

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