

Mandate of the Special Rapporteur on minority issues

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Excellency,

I have the honour to address you in my capacity as Special Rapporteur on minority issues pursuant to Human Rights Council resolution 25/5.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning **the alleged imminent eviction of 150-200 Roma individuals, including minors and pregnant women, from the Sorgenfrilägret ("The Sorgenfri camp") Roma settlement in the Norra Sorgenfri area of the municipality of Malmö, which is scheduled to take place on 1 November 2015.**

According to information received:

On 27 October 2015, the Malmö municipality announced its intention to evict the Sorgenfrilägret Roma settlement, following a decision handed down by its environmental council that the settlement poses a health risks to the population living in the camp. Reasons stated for the eviction include soil pollution due to the location of the settlement in a former industrial area, the lack of adequate sanitation services, and the accumulation of household garbage which has heightened the risk of infection for residents of the settlement.

The Sorgenfrilägret settlement is home to approximately 150-200 Roma including minors and pregnant women, all of whom have Romanian nationality. It is the largest Roma settlement in Sweden. Some of the residents have been living in the settlement for one and a half years, and most of them have been living in the settlement between three and eight months.

Residents of settlement do not have access to basic services, such as basic sanitation, water supply and garbage collection despite repeated requests for such services from the community to the Malmö authorities. Basic garbage disposal services and two portable toilets have been provided by a local NGO, funded jointly by the residents of the settlement. None of the children of the settlement attend school.

Following the announcement of the intention to demolish the settlement on 27 October 2015, Roma residents were given five day notice of the pending eviction. The municipality has reportedly offered alternative accommodation for affected persons for a maximum of five nights on the basis of 'extreme weather'. However it seems that the city council only has a capacity of 50 beds, which is insufficient to house the 200 affected persons. It is also envisaged that another shelter may open on 1 December 2015 and operate during the winter months only (December-February), which will also have an additional capacity of 40 beds. These alternative accommodation options are clearly insufficient to meet the needs of the affected residents of the Roma settlement. Moreover, there is already a current population of approximately 300 homeless Roma people in Malmö. Affected Roma families from the Sorgenfrilägrät settlement have also reportedly been offered a ticket to return to their home countries. It is also alleged that if the residents of the settlement do not vacate it by the date specified, 1 November 2015, the municipality may request the assistance of the police to clear the settlement.

Reportedly, there is a current case pending before the Environmental Court of Appeals regarding an earlier attempt to evict this community. On 23 April 2015 a first eviction decision regarding Sorgenfrilägrät settlement was issued by the city environmental council (Miljöförvaltningen). This decision was overturned in favour of the Roma community by the supervising body (Länsstyrelsen). That decision was subsequently appealed by the municipality to the Environmental Court, which also ruled in favour of the community. The case is currently pending trial before the Environmental Court of Appeals (Mark-och Miljööverdomstolen).

Without awaiting the decision of the Environmental Court of Appeals, the Malmö municipality, by using *rättelse*, a special legal mechanism, was able to secure the current separate eviction order over the community on 27 October 2015. The *rättelse* is reportedly a special mechanism that empowers authorities to act independently and is intended to be used in cases where there is a particular necessity to act to prevent environmental damage. It also does not allow for a review of the reasons for the decision by an independent court or tribunal. It is alleged that the authorities should not have used the *rättelse* to seek a separate eviction order, and should have awaited the outcome of the case pending in the

Environmental Court of Appeals, which reportedly prevents new legal proceedings to be lodged by the local authorities.

On 28 October 2015 the community has filed an appeal against the decision of the environmental council made through the “rättelse” mechanism; however it is unclear whether this appeal will have injunctive effect as the decision of the environmental council specifies immediate implementation.

Allegedly, in all of the above judicial proceedings, the local authorities failed to adequately consult with the Roma residents of Sorgenfrilägret, and also failed to inform them on how and where to apply for legal aid after the decisions on the evictions were issued.

In the course of 2015, evictions of two other Roma communities in Malmö, have been reported, namely “Lucu camp”, whose residents then moved to Sorgenfrilägret, and may be again affected by the pending eviction, and “Pildammsparken”, whose residents became homeless. Those Roma rendered homeless by the latter eviction are allegedly still in Malmö, sleeping outside in the streets and in parks and are chased away by police almost every night.

I express grave concern at this alleged imminent eviction of Sorgenfrilägret, which may reinforce the exclusion and marginalized position of this Roma community and may have serious implications on the enjoyment of their fundamental human rights. I am particularly worried about the lack of reasonable alternative accommodation for the affected community, which could lead to this community becoming homeless.

Furthermore, while I appreciate that substandard conditions present in the settlement may require its ultimate demolition, any such action must take place in consultation with the affected Roma community in a transparent way when information and appropriate alternatives are provided to the affected community, including for resettlement.

While I do not wish to prejudge the accuracy of these allegations, I wish to express serious concern about the announcement to dismantle the camp, and that many in the camp may be forced to return to their countries of origin, without any consultation with the relevant Romanian authorities regarding resettlement or reintegration of these families.

I would like to remind your Excellency’s Government of the applicable international human rights norms and standards relevant to this case, including the obligation 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, notably in the enjoyment of the right to housing.

I would like to refer to the International Covenant on Economic, Social and Cultural Rights to which Sweden is a party since 6 December 1971, and more specifically article 11.1 recognizing 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. This article must be read in conjunction with article 2.2 of the Covenant which provides for the exercise of any right under the Covenant without discrimination of any kind.

The Committee on Economic, Social and Cultural Rights in its General Comment no. 4 has stressed that the right to adequate housing includes various aspects such as legal security of tenure to protect against forced evictions and other threats; and in its General Comment no. 7 on forced evictions, paragraphs 15 and 16, states that procedural protections are essential in relation to forced evictions, including, among others, genuine consultation, adequate and reasonable notice, alternative accommodation made available in a reasonable time, and provision of legal remedies and legal aid.

Furthermore, I would like to draw the attention of your Excellency's Government to article 5 (e) (iii) of the International Convention on the Elimination of All Forms of Racial Discrimination, to which Sweden is a party since 6 December 1971 and which obliges States to prohibit and 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.

I also refer to General Comment 27 on discrimination against Roma of the Committee on Racial Discrimination, which notes that States must avoid any discriminatory practices affecting Roma, including regarding access to housing, and in particular to act firmly against local measures denying residence to, and unlawful expulsion of Roma.

I would like to recall the Guiding Principles on security of tenure for the urban poor (A/HRC/25/54) prepared by the Special Rapporteur on adequate housing's predecessor. I also recall the Special Rapporteur on adequate housing's report on the obligations of subnational and local governments in the implementation of the right to adequate housing (A/HRC/28/62).

I also refer to my recent Study on the Global Situation of Roma (A/HRC/29/24) which notes that measures to confront the social-economic exclusion of Roma, including ensuring the right to adequate housing, must be part of a wider approach that fosters Roma inclusion in all aspects of life, including through tackling the widespread prejudice, discrimination and racist attitudes against Roma, including anti-Gypsyism, that Roma communities regularly face.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon.

Since it is my responsibility under the mandate provided by the Human Rights Council to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegation.
2. Please indicate the legal basis of the planned eviction.
3. Did appropriate consultations take place with the affected persons? If yes, please give the details, date and outcome of these consultations.
4. To what extent have measures of compensation been put in place for all concerned persons, with a due assessment of the loss of their housing?
5. What measures have been foreseen to ensure that the evicted persons will not become homeless?
6. 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, and cultural appropriateness for the Roma community.

While awaiting a reply, I urge that all necessary interim measures be taken to safeguard the rights of the affected Roma families, in compliance with the above international instruments.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

Rita Izsák
Special Rapporteur on minority issues