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**CONSEIL DES DROITS DE L'HOMME**

**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**

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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 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 received regarding the **alleged forced eviction of approximately 1,000 Roma residents (240 families) from the Belvil settlement in Belgrade.**

At the outset, we would like to refer to our previous communication sent to your Excellency's Government on 3 May 2010 regarding decisions to evict this community. We regret that to date no reply to this communication has been received.

According to recent information received:

On 26 April 2012, approximately 240 families (1,000 people, mainly Roma) were evicted from the informal Belvil settlement in Belgrade, including more than 75 children and over 60 older persons. Reportedly, the evicted persons were relocated on the same day to four relocation settlements in Belgrade and to six municipalities outside Belgrade.

Concerns have been raised that, whilst the conduct of Government authorities on the very day of the eviction appeared to respect international human rights standards, steps taken prior to the eviction (such as consultations with the affected community) and following the eviction (resettlement and compensation options) fall short of international standards. Furthermore, concerns were raised as to potential adverse effects of the eviction on the enjoyment of human rights of the evicted community, including their right to

an adequate standard of living, adequate housing, food, access to safe drinking water and sanitation, their right to health, to work, and access to education.

**Prior to the eviction:**

Reportedly, in April 2011 Belgrade City authorities convened a meeting with members of the Belvil community, during which the authorities committed to develop a Resettlement Action Plan and provided information regarding alternative housing options.

It is reported that there has been no comprehensive resettlement plan developed. Moreover, reportedly, there have been no additional consultations held with the affected persons on possible alternatives to evictions, relocation and compensation options, location of resettlement sites or the conditions of the proposed sites, and no additional information was provided to the affected persons. Allegedly, Belgrade City authorities did not explore possible alternatives to the eviction, and the affected persons were not provided with information about the reasons for the eviction at any stage.

Reportedly, on 16 March 2012 the Belgrade City authorities distributed eviction notices to some of the residents in the Belvil settlement, indicating that they were required to vacate the settlement within three days. Additional notices were presented to other residents in the settlement on 4 April. Final notices were given to the residents on 24 April 2012 (two days before the evictions). On that day, a meeting was held next to the settlement, during which representatives of the City of Belgrade informed the residents of the date of the eviction as well as of the various resettlement locations. Residents were informed that these resettlement locations would be temporary. Reportedly, civil society organizations representatives were not allowed by City authorities to participate in the meeting.

According to the information received, the written notices that were given to some of the residents did not provide a reason for the evictions and the proposed use of the land. Reportedly, the eviction notices indicated that legal proceedings would not have any effect on the date of the eviction, and no information was provided to the residents about legal remedies.

**During the eviction:**

Reportedly, the evictions took place on 26 April 2012, and were carried out by local officials and police force.

Information received indicates that overall the evictions were carried out with due respect to the dignity and personal safety of the residents and that no damage was caused to the non-immovable property of the evicted persons.

**After the eviction:**

Concerns have been raised that the housing solutions provided to the evicted persons after the eviction do not conform to human rights standards. Reportedly, the City of Belgrade has committed to supply durable alternative housing for the evicted persons in the form of pre-fabricated housing and the current relocation sites are to serve as temporary housing solutions. However, allegedly there has been no information provided to the evicted persons about the permanent resettlement options, their location, the adequacy of the sites and housing there, as well as the timeframe envisaged to relocate people to these locations. Reportedly, no consultation has taken place with regard to these relocation sites, and no information has been made available to the evicted persons with regard to financial or material assistance during this interim period. The current situation is reportedly as follows:

**Belgrade resettlements sites:**

Reportedly, 119 families were relocated to four resettlement sites in Belgrade: Makis (65 families), Palilula-Jabucki Rit (24 families), Obrenovac-Dren (14 families) and Resnik (9 families).

It has been indicated that all relocation sites have access to drinking water (the Obrenovac-Dren site has no running water but water tanks). Sanitary containers are also available at all four sites, but are not accessible to persons with disabilities, and reportedly, in the Makis settlement the number of sanitary containers is not sufficient. It is reported that that water and electricity are being provided to the settlements without charges by the city of Belgrade (although some settlements have issues with unstable power supply).

Despite the above efforts made by the Government to ensure essential standard of living in the relocations sites, further concerns were raised with regard to the living conditions in the sites:

1. Reportedly, with regard to housing conditions - one 16 square meter metal container was provided to each family of up to five persons, and in some cases, six family members were placed in one container. The housing containers were empty with no furniture or equipment provided. The container's size is not adequate, and in fact is also below minimum humanitarian standards, which provide that the minimum covered floor area per person (without toilet and showers) is at 4.5m<sup>2</sup> to 5.5 m<sup>2</sup>.

2. Regarding the health and environmental concerns, it is reported that there are no refrigerators available and food is therefore stored under containers – which presents a health hazard. Allegedly, additional serious health hazards have been identified in two sites. The Obrenovac-Dren site is located between a swamp and a road; the Palilula- Jabucki Rit site is located on a former dump and the drinking facilities are located close to the remaining dump area. Waste piles are assessed to be too close to the settlement. In addition, the evicted persons' current

access to health services is limited as health records have yet to be transferred to the new locations.

Moreover, it is reported that in all four settlements there is a pressing issue of protection from heat and cold. The containers are not effectively isolated and there are no air-conditioning or heating facilities. It has been reported that the temperatures in the containers are very high and will most likely rise to uninhabitable level during the summer months.

3. Serious concerns have been raised with regard to the location of the sites and access to public services. Reportedly, three of the four sites have been established on the margins of Belgrade, isolated from other communities and public services. Access to services and employment opportunities involve high transportation costs, which the evicted residents cannot afford and transportation options are limited. Consequently, many evicted families have discontinued their economic activity due to the resettlement. Access to health services and food assistance is particularly limited in Obrenovac-Dren due to its remoteness.

Access to food has also been identified as problematic for some of the remote settlements, such as Obrenovac-Dren and Palilula. Reportedly, the residents of these sites cannot access public kitchens or food suppliers due to high transportation costs.

Concerns have been raised with regard to the situation of children's school enrolment, which is not clear yet. Reportedly some children have discontinued education because of the relocation and some have lost their enrolment slot for September 2012 because of the relocation. Reportedly, schools are far from all four settlements and no school transportation has been provided.

4. Concerns have also been raised as to the safety of the resettled persons, in light of violent protests from host communities in some of the relocation sites. According to information received, on 1 May 2012, the container settlement in Jabucki Rit was attacked and offensive graffiti sprayed on the containers.

#### **Resettlement sites outside Belgrade:**

According to information received, the remaining evicted families were relocated to six municipalities outside of Belgrade: Bojnik, Lebane, Bujanovac, Vranje, Leskovac and Prokuplje.

Reportedly, the City of Belgrade ensured an immediate financial assistance to these families, amounting to between 100,000 and 200,000 dinars, to be provided through cash transfers to the respective relocation municipalities. However, it is alleged that in many cases these funds were not provided to the evicted families.

Some of the evicted families were relocated to municipalities in which they own houses. However, reportedly several families who do not own housing were left effectively homeless and had to find temporary solutions either with relatives, at a

hostel or at a local shelter. Reportedly, the Government support to these families, both in the short-term and long-term, is still unclear.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer your Excellency's Government to the applicable international human rights norms and standards, including article 25 of the Universal Declaration of Human Rights (UDHR) recognizes the right of everyone "to a standard of living adequate for the health and well-being of himself and of his family", as well as article 11(1) of the International Covenant on Economic, Social and Cultural Rights, to which Serbia is a State 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". Furthermore, we wish to draw the attention of your Excellency's Government to article 27 of the Convention on the Rights of the Child also recognizes "the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development."

We deem it appropriate to refer to the comments made by the Committee on Economic, Social and Cultural Rights on the right to adequate housing in its General Comment No. 4, which stressed 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". In its comments the Committee also highlighted that "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 noted that "the right to housing should be ensured to all persons irrespective of income or access to economic resources."

It has been repeatedly stated, including in resolutions 1993/77 and 2004/28 of the Commission on Human Rights, that 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 view of this, we wish to refer to the Basic principles and guidelines on development-based evictions and displacement (contained in document A/HRC/4/18), aimed at assisting States in developing policies and legislations to prevent forced evictions at the domestic level. In this regard, we would like to draw the attention of your Excellency’s Government to the relevant sections of the Guidelines, which focus on State obligations prior to, during and after evictions. In particular, Section V of the Basic principles and guidelines outline minimum conditions that must be ensured at resettlement sites, such as adequate housing, essential food, water and sanitation, access to health care and other services, and education.

We would also like to draw the attention of your Excellency’s Government to the provisions of article 2(1) of the ICESCR, which states that States parties must devote the “maximum available resources” to ensure the “progressive realization” of all economic, social and cultural rights. In General Comment 3 (para. 9), the Committee on Economic, Social and Culture Rights stressed the existence of a strong presumption that deliberately retrogressive measures that affect the level of enjoyment of economic, social and cultural rights are in violation of the State’s obligation under article 2(1). In adopting retrogressive measures, States must demonstrate that they have been introduced after “the most careful consideration” of all alternatives and that they are “fully justified by reference to the totality of the rights provided for in the Covenant”.

Furthermore, article 2(1) obligates each member State to ensure the immediate satisfaction of, the very least, minimum essential levels of all economic, social and cultural rights, including: basic sustenance, essential primary health care, basic shelter and housing and basic forms of education, for all members of society (General Comment 3, para. 10).

In this connection, 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, 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 to the General Recommendation No. 27 of the Committee on the Elimination of Racial Discrimination, which recommends that States “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”.

In this connection, we would also like to draw your Excellency’s Government’s attention to the Concluding Observations of the Committee on the Elimination of All Forms of Racial Discrimination, in which the Committee expressed concern with regard to forced evictions of Roma and segregation of Roma communities (CERD/C/SRB/CO/1) and urged “the State party to ensure that any resettlements do not involve further forced evictions and that procedural protections which respect due process and human dignity be put in place”. It further recommended that “the State party strengthen the measures aimed at improving the housing conditions of the Roma, and in this regard, recommends that it accelerate the implementation of the National Plan for Housing of Roma adopted in 2009”. Moreover, in light of the Committee’s General Recommendations No. 27, paragraphs 30-31 (2000), on discrimination against Roma, and No. 32 (2009) on the meaning and scope of special measures, the Committee also recommends that “the State party intensify efforts to avoid residential segregation of minorities and encourages it to consider developing social housing programmes for the Roma.”

We would also like to draw your Excellency’s Governments attention to the recommendations it accepted during the Universal Periodic Review on 5 December 2008 that: “From June 2008-February 2009, the RS will be presiding over the Decade of Roma Inclusion 2005-2015. The priorities of the program of the presidency of the RS over this initiative are housing improvements....” (A/HRC/10/78/Add 1)

It is our responsibility, according to the respective 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 situation 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 case accurate?
2. Please indicate the reason and the legal basis for the evictions.
3. What were the legal recourses available to the affected residents to contest the evictions? Was legal aid made available to the affected persons?
4. What measures were taken to ensure that the evictions were in accordance with Serbia’s obligations under international human rights law? In particular, please provide information on the following issues:

a. Did any meaningful consultations take place with the affected community in addition to the meeting which took place in April 2011? If yes, please provide details, date and outcome of these consultations;

b. Was information provided to the affected persons with regard to the evictions and the relocation options?

c. Did the relevant authorities consider possible alternatives for the evictions?

d. Please provide information on measures foreseen by the authorities to ensure that the forced evictions do not result in homelessness of the affected persons.

5. To what extent have measures of compensation been put in place for all affected persons, with a due assessment of the loss of their housing and livelihood opportunities?

6. Please provide detailed information on the current situation of all those who were evicted, and in particular:

- Please refer to the specific concerns raised above as to the location, habitability, adequacy and availability of public services, employment opportunities, facilities and infrastructure of the current relocation options.

- Please provide detailed information on the current situation of the evicted families that were relocated to municipalities outside of Belgrade. Was financial or material assistance provided?

7. Please provide details about the long-term comprehensive resettlement plan for the evicted persons, and whether consultations with the community will take place with regard to the location of resettlement sites and the housing and services to be provided.

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.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible for alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

Raquel Rolnik

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