

Mandates of the Special Rapporteur on the rights of persons with disabilities; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; 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; the Independent Expert on the enjoyment of all human rights by older persons; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Working Group on the issue of discrimination against women in law and in practice.

REFERENCE: UA
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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights of persons with disabilities; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; 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; Special Rapporteur on minority issues; Independent Expert on the enjoyment of all human rights by older persons; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Working Group on the issue of discrimination against women in law and in practice pursuant to Human Rights Council resolutions 26/20, 33/9, 31/9, 25/5, 24/20, 25/32 and 15/23.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the alleged discriminatory billing against the Roma residents of Crvena Zvezda in Nis by an electricity company "Elektroprivreda Srbije", and the continued withdrawal of electricity supply to the community since 22 August 2016.**

According to the information received:

Crvena Zvezda is a Roma settlement located in the city of Nis, in the municipality of Palilula.

On 22 August 2016, the electricity serving the settlement was disconnected, a situation which continues to the present day. The disconnection, which occurred before the due date of the monthly payment, and without prior warning, has affected all of the households in the settlement, with the exception of four houses along the street at the edge of the settlement, two of which allegedly belong to ethnic Serbs, as well as a small kiosk.

It is alleged that the residents of this settlement have been billed by the state-owned electricity company, "Elektroprivreda Srbije", in a discriminatory manner. This community has been historically billed collectively, at a higher billing rate (the most expensive "red" billing band since rates are determined by usage, with

lower usage being awarded with lower rates), by the electricity company than they would have been if billed individually.

In 2014, the community also suffered disconnection for four months after they contested the collective billing by the company. The matter was found to be discriminatory by the Serbian Commissioner for Protection of Equality, which recommended that electricity be provided to the inhabitants of the settlement “on an equal basis with other persons in Serbia” i.e. with individual meters and individual billing. Following the 2014 disconnection, community members and leadership reportedly reached an oral agreement with the company to pay a monthly sum totaling 100,000 RSD (circa 850 euros) per month, which they continued to honour by making collective monthly payments.

27 inhabitants of the settlement subsequently managed to obtain individual connections to the electricity and receive individual electricity bills in their name. They are individually billed for a moderate amount, in the range between 3000-7000 RSD (circa 24-56 euros) per month. Owing to the aforesaid oral agreement dating from 2014, however, they also remain under obligation to contribute to the collective electricity bill. This essentially means that these persons are required to pay for their electricity on dual basis – both individually and collectively. When some of them attempted to settle the individual bill in order to have their electricity reconnected, they were informed that they are also required to pay a portion of the collective debt, amounting to thousands of euros per family. Dual payment for electricity could indicate the existence of grounds to investigate potential unlawful profiteering by the power company. The rest of the inhabitants continue to be billed collectively, contrary to their wish to have individual connections and the recommendation of the Commissioner for Protection of Equality.

There are an estimated 100 dwellings with approximately 550 Roma people in the Crvena Zvezda community, including children, older persons, pregnant women, persons with disabilities, and persons with various health conditions. The settlement is also home to 13 pregnant women, three of whom are expected to give birth within the next two weeks. Living conditions in the community are already poor, with a majority of the residents unemployed and dependent on social security benefits. Housing infrastructure is old and sub-standard, and the settlement has no paving or surfacing.

The ongoing electricity disconnection has seriously exacerbated existing living conditions in most households. The heating season started on 15 October, and the continued disconnection goes against the legal requirement for the electricity to be turned on, in accordance with the Serbian Law on the Protection of Consumers. The residents are unable to prepare food stores for the winter, and can only perform household chores for just a few hours a day while there is natural light. They are also having to wash their laundry manually and using cold water.

It is reported that the lack of electricity presents a particular health hazard to residents with existing health conditions. These include 31 older persons and severely ill persons, who, because of the lack of electricity, are unable to: keep their medications refrigerated as required; use electrically powered medical inhaler devices, administer prescribed injections to themselves or their family members due to the lack of light. Four older and ill persons are currently compelled to remain in hospital indefinitely, simply because, given the situation, there is absolutely no possibility to care for them at home. There are also two persons with epilepsy to whom it is almost impossible to deliver adequate care in case of a seizure occurring at night, under the conditions of total darkness. The older persons and severely ill persons are also prone to falling in the dark and thus risk sustaining potentially serious injuries. The fact that they have to carry a light, which is typically a candle, also raises a serious concern of potential fire risk. Furthermore, the lack of electricity in the settlement also has severe consequences on the well-being of persons with disabilities who are disproportionately likely to experience additional challenges as a result of the electricity cut.

There are 42 children aged from several months to seven years in the settlement. Eight of these children are very ill and staying in such conditions is severely jeopardizing their health, as well as their growth and development, and even placing their lives in danger. Most of these children suffer from severe asthma and, not being able to use electrically powered inhalers, their parents are compelled to take them to hospital every time they experience breathing difficulties. In addition, three children are recovering from surgical removal of tumors and they need to undergo special maintenance therapy that is impossible to administer in the current settings. The already precarious health situation is significantly worsened by the fact that all households in the settlement are using wood-burning stoves or furnaces for heating, causing their living space to be perpetually filled with smoke and severely reducing the quality of air they breathe.

There are 83 school-age children, aged from 7 up to 14 years living in the settlement. In addition to not being able to study due to insufficient light, these children complain that they have no access to the amenities of basic hygiene. An increasing number of them are infested with lice, and they are unable to bath regularly and take good care of personal hygiene.

Due to the darkness reigning in the settlement, there are also concerns relating to the safety of children, particularly girls. Many of them return from afternoon classes escorted by their parents or relatives, and miss the classes whenever such escort is not available. After sunset, children are compelled to stay in their homes, deprived of light, prevented from any mode of play, which is detrimental to their psychosocial development. There are approximately 200 women and girls in the settlement who are also suffering from the situation. These women are fearful for their safety and are virtually confined to their homes after sunset.

The extremely difficult living conditions and absence of prerequisites for basic hygiene also pose a significant risk of emergence and epidemic spread of several infectious diseases, with potentially devastating effects on the community, as well as on public health in general.

In addition to the extremely difficult living conditions as described above, there are also concerns that there are urban development plans that may have a negative impact on the Crvena Zvezda Roma community. An urban development plan for 2017 allegedly exists, which will involve removing a series of railroad tracks situated next to the settlement, currently separating the settlement from the centre of the City of Nis. The area including the settlement is to be developed, including the creation of a new “boulevard”. It is reported that there are plans to forcibly evict the Crvena Zvezda Roma community from their current settlement and move them to a location on Ivana Milutinovica Street, which is currently inhabited by another Roma community. While certain members of the Crvena Zvezda Roma community have been provided with “confidential information” on the possible move, there has been no consultation with the community, heightening anxiety and anger among the rest of the inhabitants.

While we do not wish to prejudge the accuracy of these allegations, we wish to express grave concern at the negative impact of the continued disconnection of electricity on the human rights of the Crvena Zvezda Roma residents, including the right to an adequate standard of living. We are particularly concerned by the disproportionate impact of the disconnection on the living conditions of certain members of the community, including women, children and older persons, as well as persons with disabilities and those with health conditions.

We are also concerned by the allegation that the members of the Crvena Zvezda Roma community have been subject to discriminatory billing by the electricity company through its refusal to provide individual meters to all members of the community and billing them accordingly, as well as through double billing of the 27 residents.

Furthermore, we express concern about the possible urban development plans which may result in forced evictions of the residents from the area. Such measures may reinforce the exclusion and marginalized position of this Roma community and may have serious implications on the enjoyment of their human rights, particularly their right to adequate housing, and to live in dignity. We are particularly concerned about the lack of information about the plans and appropriate consultations with the affected residents.

In connection with above alleged facts and concerns, we 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 health and housing.

We would like to refer to the International Covenant on Economic, Social and Cultural Rights to which Serbia is a party since 12 March 2001, 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; and article 12 on the right to the enjoyment of the highest attainable standard of physical and mental health. These articles 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 should not be interpreted narrowly or restrictively, but rather as the “right to live somewhere in security, peace and dignity”. In this regard, the Committee specifically underlined that an adequate house “must contain certain facilities essential for health, security, comfort and nutrition”, such as access to “...energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services”, many of which appear to be unavailable in the Crvena Zvezda community due to the ongoing disconnection of electricity. According to the Committee, legal security of tenure to protect against forced evictions and other threats is another critical aspect of the right to adequate housing. 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. We reiterate that any urban development plans must be implemented in conformity with international human rights law and standards and must include meaningful consultation with the affected community and full transparency. In this regard, we 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, as well as her thematic report on the obligations of subnational and local governments in the implementation of the right to adequate housing (A/HRC/28/62).

Furthermore, we 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 Serbia is a party since 12 March 2001 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.

More specifically, we 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. We would also like to refer to General Recommendation XXVII on discrimination against Roma, in which the Committee recommended:

“31. To 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; to act firmly against local measures denying residence to and unlawful expulsion of Roma, and to refrain from placing Roma in camps outside populated areas that are isolated and without access to health care and other facilities.”

We also refer to the Study of the Special Rapporteur on minority issues on the Global Situation of Roma (A/HRC/29/24) which notes that 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.

We would like also to refer to the Convention on the Elimination of All Forms of Discrimination against Women, which stipulates that States Parties shall take all appropriate measures to eliminate discrimination against women to ensure to women’s access to appropriate services in connection with pregnancy, confinement and the post-natal period and adequate nutrition during pregnancy and lactation (art.12), as well as to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications (art.14).

Furthermore, the Convention on the Rights of Persons with Disabilities, to which Serbia is a State party since 31 July 2009, reaffirms all the standards mentioned above as they relate to persons with disabilities.

We would also like to recall the United Nations Principles for Older Persons adopted by General Assembly resolution 46/91 of 16 December 1991, according to which older persons should be able to enjoy human rights and fundamental freedoms when residing in any shelter, including full respect for their dignity, beliefs, needs and privacy and for the right to make decisions about their care and the quality of their lives. Older persons should also have access to adequate food, water, shelter, clothing and health care and be able to live in dignity and security and be free of exploitation and physical or mental abuse.

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

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 above-mentioned person(s) in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.

2. Please explain any measures taken with respect to the implementation of the 2014 recommendation of the Serbian Commissioner for Protection of Equality to provide electricity to the inhabitants of the settlement on an equal basis with other persons in Serbia. If no measures have been taken, please explain why.
3. Please provide information on any legal grounds that justify the double billing of the 27 residents in Crvena Zvezda who own individual electricity accounts. If there are no legal grounds, please explain why these residents have been billed individually and collectively, and whether there has been any investigation into the billing practice of “Elektroprivreda Srbije”.
4. Please explain the reasons why the electricity in Crvena Zvezda was disconnected on 22 August 2016 and continues to be unavailable to date, contrary to the requirement under the Law on the Protection of Consumers.
5. Please provide any information regarding an urban development plan for 2017 and how it would impact the Crvena Zvezda community. Please provide details on the measures envisaged to guarantee the rights of the affected persons, including through appropriate consultations and provision of remedies.
6. Please provide all details as to whether any decision been made with regard to a possible relocation of the Crvena Zvezda community. 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; and if the community has been provided all relevant information and has been consulted on plans for their relocation.
7. Please indicate if any alternatives to relocation, including in first instance in situ rehabilitation and upgrading, have been explored in consultation with the residents and if so, please provide details of the process and results of those consultations.
8. Please provide information on the measures taken to promptly address the health-related impact of the situation on those Roma residents particularly affected by the disconnection of electricity to the Crvena Zvezda settlement in Nis, in particular children, older persons, pregnant women, persons with disabilities, and those with severe illnesses.
9. Please confirm whether the community has been provided with the opportunity to access administrative or judicial mechanisms to file

complaints about and seek remedies for the electricity disconnections and the alleged violations of their human rights.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

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 our highest consideration.

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