

Mandates of 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 and the Special Rapporteur on the human rights to safe drinking water and sanitation

REFERENCE:
AL ITA 5/2019

27 May 2019

Excellency,

We have the honour to address you in our capacity as 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; and Special Rapporteur on the human rights to safe drinking water and sanitation, pursuant to Human Rights Council resolutions 33/9, 34/9, 34/6 and 33/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **eviction of the Roma community living in Località Ponte Riccio, via Vicinale Viaticale, in the town of Giugliano in Campania, near Naples, on 10 May 2019. We are concerned that the eviction of approximately 450 people belonging to the Roma minority was carried out in a manner not conforming with Italy's obligations under international law, specifically with regard to the rights to adequate housing, water, sanitation and health.**

This eviction appears not to be an isolated case, as several of us have pointed out in a recent communication (AL ITA 3/2019, dated 3 May 2019). The living conditions of the families living in Località Ponte Riccio and their prior eviction from Masseria del Pozzo in June 2016 have already been the subject of a complaint before the European Committee of Social Rights (Complaint No. 178/2019, Amnesty International v. Italy, dated 18 March 2019) currently under consideration for admissibility. After the most recent eviction on 10 May 2019, three residents of the informal settlement Località Ponte Riccio filed on 16 May 2019 a request for an urgent measure with the European Court of Human Rights (P.H. and Others v. Italy, application no. 25838/19) to provide them with adequate accommodation.¹

According to the information received:

¹ See <https://rm.coe.int/cc178casedoc1-en/168093aac2> and <http://hudoc.echr.coe.int/eng-press?i=003-6409461-8418048>.

The families living in/at Località Ponte Riccio have been the victims of a catalogue of violations by national and local authorities. The community was forcibly evicted in June 2016, from an authorized camp in Masseria del Pozzo, which the local administration of Giugliano had created in an area unsuitable for human habitation due to the proximity to the toxic landfill. Following a judicial order to remove the families from Masseria del Pozzo, the authorities allegedly failed to find adequate housing alternatives and proceeded to forcibly evict them, offering as the only alternative to homelessness the site in Località Ponte Riccio.

The eviction on 10 May 2019 was carried out based on the Order no. 29 of 5 April 2019 issued by the Mayor of Guigliano. According to local media reports, a large number of police and army personnel cordoned off the area of the settlement, an abandoned fireworks factory, to remove approximately 450 Romani people, many of them children. Order no. 29 appear to have justified the eviction of the settlement in Località Ponte Riccio on grounds of public health and safety due to the unhygienic and unsafe conditions of the camp. These include infestation with rats and risk of fire due to the precarious connections to electricity and to the presence of gas canisters for cooking and heating. Furthermore, the presence of large quantities of rubbish allegedly generated by the settlement near the high-speed road which flanks the settlement was described as a risk to the safety of traffic on the road.

However, these sub-standard living conditions and risks these Roma families were enduring in Località Ponte Riccio were, according to the information received, largely the result of failures by the authorities to protect the right to adequate housing of the community, and ensure the provision of safe electricity supply, inadequate access to safe drinking water and rubbish removal. For example access to water at the settlement was reportedly provided through four taps, which were insufficient for the approximately 300 people initially transferred there.

Allegedly, the municipality did not provide any structures or facilities to shelter the families therefore the only housing available was dilapidated caravans and shacks, with limited access to electricity, water and sanitation facilities. At the beginning of 2018 the community experienced extreme weather conditions with torrential rains flooding vast areas of the settlement and protracted periods of very low temperatures and snowfalls. In September 2018, there were reports that children in the camp in Località Ponte Riccio had fallen ill to the virus beta-haemolytic streptococcus. In October 2018, the camp was flooded again, with water reaching the floors of caravans and mobile homes.

Reportedly little to no genuine consultation with the affected Roma community was undertaken prior to the forced eviction on 10 May 2019. After the eviction the affected families have reportedly been driven away by local authorities to prevent them from resting and settling anywhere in the area. The concerned families have allegedly not been provided with any emergency accommodation

and were forced to sleep inside the cars or outdoors, despite the difficult weather conditions, without electricity, drinking water and toilets. The eviction has effectively rendered approximately 450 people homeless, including about 150 children, several elderly people and pregnant women who are now exposed to further violations and abuse. Reportedly the eviction resulted also in interruption of school attendance of 105 children at school age.

The Order no. 29 mentioned above specified that the municipal police should notify those affected about the eviction of the settlement, however no individual notifications were reportedly issued on the basis that the protection of health and safety required evictions to be undertaken rapidly. Furthermore, Order no. 29 makes no reference to a genuine consultation regarding possible adequate housing alternatives to be carried out prior to the eviction.

The Order no. 29 states that those due to be transferred from the settlement will be assisted by the municipality's social services as described in the Decision of the municipal executive committee (Deliberazione della Giunta Comunale) no. 54 of 3 April 2019. According to Decision no. 54, the municipality will offer individualized "paths" to support access to housing for the families of Località Ponte Riccio who have been identified through monitoring activities carried out in person by social services and the state police, and whose names are available to the municipal police and to the municipality's social and educational services. Decision no. 54 includes the possibility to offer, as part of the individualized paths, one-off financial payments to support access to housing and sets aside for this purpose an overall budget of Euro 150.000, and a further Euro 50.000 to provide for minors in a situation of great risk for their physical and mental integrity to be placed in protected housing.

However, according to our information none of the evicted persons received such support prior to the eviction and it is unclear how the above mentioned procedures will enable the evicted persons to access alternative long-term housing that is affordable to them. Many of the Roma minority who have been evicted are stateless or do not have documents allowing them to be regularly employed and have stable jobs, making it impossible for them to rent a home on the private market. Therefore, any requirement to be employed or to have found an available private accommodation in order to access housing benefits would be unrealistic.

On 16 May 2019, three residents who had lived with their children at the settlement in Località Ponto Ricco filed an application with the European Court of Human Rights requesting the Italian State to provide them and their family members with adequate accommodation and to suspend any further eviction from the place to which they had relocated. On 20 May 2019, the European Court of Human Rights decided to apply an interim measure indicating to the Italian Government that it should provide temporary accommodation for the minors

involved and their parents, without separating them (P.H. and Others v. Italy (application no. 25838/19)).²

While we do not wish to prejudge the accuracy of these allegations, we would like to appeal to the Government to take all necessary measures to respect all applicable international human rights standards and provisions of national law. The decision to proceed with their eviction from Località Ponte Riccio on 10 May 2019 raises numerous concerns as to its compatibility with international law and standards as the alleged forced eviction appears to violate not only the right to adequate housing, but as well the rights to water and sanitation, the right to health, education and the right to integrity of the person.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 any comment you may have on the above-mentioned allegations.
2. Please describe whether prior to the evictions any attempt to undertake genuine consultation with the residents of Località Ponte Riccio were initiated with a view to ensuring provision of adequate housing alternatives for the affected persons.
3. Please specify, if, how, when and in which form a written notification of the eviction indicating a precise date when the evictions would be carried out, was given to all individuals affected.
4. Please specify if any temporary housing has been provided for the 450 Roma minority evicted from the settlement, including their children, in the immediate aftermath of the eviction, if so, how many individuals have been accommodated in emergency accommodation and for how long? Please describe how Italy has implemented the interim measures ordered by the European Court of Human Rights on 20 May 2019? Please specify if in this context temporary accommodation was also provided to other evicted families that have not filed an application before the European Court of Human Rights?

² See press release by the ECHR available at: <http://hudoc.echr.coe.int/eng-press?i=003-6409461-8418048>

5. Please describe what concrete housing alternatives are currently available to the families evicted on 10 May 2019, as well as the provision of water and sanitation facilities, to ensure that no one remains homeless or lives in substandard conditions as a result of the eviction.
6. Kindly describe the conditions to access the financial assistance mentioned in Decision no. 54 and whether this has already been made available to some residents. If yes, how many families/households have accessed such support prior the eviction, or after it?
7. Please explain what measures have been put in place to ensure that children at school age can continue to attend their school.
8. Kindly explain in which way the residents of the Località Ponte Riccio were able to appeal against the decision to evict them on 10 May 2019 before a national court of law? Please also explain the avenues available to them to access justice in relation to their right to housing.
9. Was a risk assessment conducted by the Giugliano Municipality and by the Committee for Public Security and the Prefect of Naples to ensure that the planned eviction would not enhance risks for the affected population and further undermine their rights to water, sanitation, health, physical integrity due to homelessness, continuity of life-threatening substandard living conditions, and enhanced likelihood to be exposed to xenophobic or racially motivated attacks?

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

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Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we wish to remind your Excellency's Government that the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Italy in 1978, stipulates in its article 11.1 that States "recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions" and requires them to "take appropriate steps to ensure the realization of this right". We are concerned that the eviction has been implemented in breach of Italy's obligations under ICESCR, the , as per General Comments No. 4: and No. 7 of the Committee on Economic, Social and Cultural rights on the right to adequate housing and on forced evictions.

In its General Comment No. 4, the Committee on Economic, Social and Cultural Rights has stated that the right to housing should not be interpreted in a narrow or restrictive sense by assigning to it a meaning of "merely having a roof over one's head", but it should rather be seen as the right to live somewhere in security, peace and dignity. The Committee has also underscored the State's obligation to ensure security of tenure and legal protection against forced eviction, harassment and other threats, "notwithstanding the type of tenure", including (as the Committee has stated) "owner-occupation, emergency housing and informal settlements, including occupation of land or property" (paragraphs 7 and 8).

In its General Comment No.7, the Committee concluded that forced evictions are "prima facie incompatible with the requirements of the Covenant" and are performed "against the will of individuals, families and/or communities" and "without the provision of, and access to, appropriate forms of legal or other protection" (General Comment No. 7, paragraphs 1 and 3). States shall furthermore ensure, prior to carrying out any evictions that all feasible alternatives are explored in consultation with the affected persons (paragraph 13). In cases where eviction is considered to be justified, it should be carried out in strict compliance with the relevant provisions of international human rights law and in accordance with general principles of reasonableness and proportionality (paragraph 14).

In addition, it appears to us that required procedural protections, such as an opportunity for genuine consultation with those affected; adequate and reasonable notice for all affected persons prior to the eviction; and the provision of alternative land or housing for all affected persons have not been respected (General Comment No. 7, paragraph 15). We are also concerned that the eviction has rendered individuals "homeless or vulnerable to the violation of other human rights" (paragraph 16)

While evictions may be justified to ensure the protection of individuals related to their health and safety, it is our view that the above mentioned eviction as reported to us

does neither meet basic standards of reasonableness and proportionality, as the eviction has left the concerned rights holders in a state of homelessness and more unprotected than before.

The United Nations Basic Principles and Guidelines for Development Based Evictions and Displacement (A/HRC/4/18) also provide, that “all persons, groups and communities have the right to resettlement, which includes the right to alternative land of better or equal quality, and housing that must satisfy the following criteria for adequacy: accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location, and access to essential services such as health and education” (paragraph 16). They also require “effective dissemination by the authorities of relevant information in advance, including land records and proposed comprehensive resettlement plans specifically addressing efforts to protect vulnerable groups; and a reasonable time period for public review of, comment on, and/or objection to the proposed plan” (paragraph 37). The Basic Principles furthermore specify that evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights and that the State must make provision for the adoption of all appropriate measures especially for those who are unable to provide for themselves, to ensure that adequate alternative housing is available and provided. Alternative housing should be situated as close as possible to the original place of residence and source of livelihood of those evicted (paragraph 43).

Furthermore, we also wish to draw the attention of your Excellency’s Government to article 12 of ICESCR, which enshrines the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. General Comment No. 14 (2000) of the Committee on Economic, Social and Cultural Rights interprets the right to health as an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information. (General Comment 14, paragraph.4)

We recall the explicit recognition of the human rights to safe drinking water by the UN General Assembly (resolution 64/292) and the Human Rights Council (resolution 15/9), which derives from the right to an adequate standard of living, protected under, inter alia, article 25 of the Universal Declaration of Human Rights, and article 11 of ICESCR. In its General Comment No. 15, the Committee on Economic, Social and Cultural Rights clarified that the human right to water means that everyone is entitled to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.

Furthermore, the UN General Assembly (resolution 70/169) and the Human Rights Council (resolution 33/10) recognized that water and sanitation are two distinct but interrelated human rights. In particular, we recall explicit recognition that “the human right to sanitation entitles everyone, without discrimination, to have physical and

affordable access to sanitation, in all spheres of life, that is safe, hygienic, secure, socially and culturally acceptable and that provides privacy and ensures dignity, while reaffirming that both rights are components of the right to an adequate standard of living”.

Moreover, article 27 of the International Covenant on Civil and Political Rights, ratified by Italy in 1978, states that: “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language”.

Forced evictions that result in homelessness are a particular severe violation of the right to adequate housing and violate also other human rights, such as the right to health, to personal integrity and to life (see as well the report of the Special Rapporteur on the right to adequate housing, A/HRC/31/54). They are therefore considered as a gross violation of human rights and should be addressed immediately. We remain concerned about the ongoing nature of these violations as long as no alternative accommodation is provided to the individuals evicted.