

**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 Special Rapporteur on minority issues and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance**

REFERENCE:  
AL RUS 7/2019

10 October 2019

Excellency,

We have the honour to address you in our capacities 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; Special Rapporteur on minority issues; and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, pursuant to Human Rights Council resolutions 34/9, 34/6 and 34/35.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of **persecution, arrest and detention of persons belonging to the Roma minority, following inter-communal tensions between Roma and non-Roma residents taking place in Ust'-Abakan (Republic of Khakassia) and in Chemodanovka and Lopatki (Penza Oblast), in 2018 and 2019.**

According to the information received:

Ust'-Abakan

On 5 May 2018, a violent fight broke out between members of the Roma minority and three non-Roma local residents in Ust'-Abakan, Republic of Khakassia. The main reason for the fight was a suspicion that members of the Roma minority were stealing parts of the fence of a plot located near the Romani settlement. One of the non-Roma local residents involved in the fight died.

On 15 May 2018, masked men drove to the Romani settlement and threw funeral wreaths, while allegedly screaming "death for death" and firing shots in the direction of the settlement. Following the incident, all 500 Roma left their homes and the village. Following the Roma departure, the settlement was attacked and looted by local residents, and all Roma property, including 64 homes, was completely destroyed. The local police did not intervene to stop the looting and destruction, which lasted for five days. A number of those Roma fleeing the village found refuge in relatives' houses in nearby villages, whereas 300 of them kept on moving around the area of Ust'-Abakan as they could not find a place to settle.

By the end of the summer of 2018, a number of them decided to return to Ust'-Abakan and try to rebuild their homes, but upon their return they were informed by the village administration that their homes would be razed for being "unauthorized structures" and that a lawsuit against the legality of such structures had been filed with the Ust'-Abakan District Court in September 2018.

On 21 February 2019, the Ust'-Abakan District Court rejected the lawsuit. The Ust'-Abakan administration successfully appealed the District Court's decision before the Supreme Court of the Republic of Khakassia, and on 30 May 2019 the Supreme Court granted the appeal and ordered that 13 Roma homes were to be razed for being "unauthorized structures". At the time of this communication, Roma families continue to inhabit the homes, with the act of demolition still pending due to the filing of a cassation appeal against the Supreme Court's decision of 30 May 2019.

#### Chemodanovka and Lopatki villages

On 13 June 2019, a violent fight broke out in the village of Chemodanovka, Penza Oblast, between members of the Roma minority and non-Roma local residents. The fight led to the death of one non-Roma resident. The local police arrested three individuals; all three were Roma.

The following day, on 14 June 2019, approximately 1,500 residents of Chemodanovka participated in a gathering calling for the eviction of all Roma from the village. Fearing vengeful acts against them, 900 members of the Roma minority fled Chemodanovka and the neighboring village of Lopatki, during the night of 14 June.

Local police and Investigative Committee officers stopped and arrested 175 of the fleeing Roma, women and men. The majority of these individuals were released within several hours following interrogation; 27 of them, however, were kept in custody in the pre-trial detention facility of Penza. Some of those arrested suffered inhumane treatment in the hands of law enforcement officers during interrogation, including beatings and choking, and in one case torture by suffocation. In addition, DNA samples were taken from all those kept in custody and cases were opened against them under various articles of the Criminal Code, including Part 2 of Article 213 (collusion by a group of people to commit hooliganism), Part 3 of Article 30 and paragraphs a, h, and k of Part 2 of Article 105 (attempted murder of two or more people by a group in previous concert). Among the detained there are people who did not participate in the fight and who had an alibi, which could be confirmed by numerous witnesses.

In the days following the Roma departure, law enforcement reported acts of vandalism and theft in the abandoned homes in both Chemodanovka and Lopatki villages. Authorities in the Penza Oblast - where both Chemodanovka and Lopatki

are located – have reportedly initiated a procedure challenging the legality of the currently 90 abandoned Roma homes in both these villages.

We express serious concerns over the reported cases of inter-communal violence in Ust'-Abakan, Chemodanovka and Lopatki, and the intimidation and harassment suffered by members of the Roma minority at the hands of law-enforcement officers. We note with grave concern that the violent events were instigated by discrimination and prejudice against the Roma minority, fueled and brought to the surface by simple events of daily life, and ultimately led to human casualties and to the forced displacement of members of the Roma minority.

We are particularly concerned by the reported conduct by the local police officers, who, following the forced departure of the Roma residents, did not intervene to stop the destruction of homes and property in the Romani settlements, and who allegedly mistreated and abused those Roma who were arrested and detained for presumably participating in the violent fights.

Finally, we are deeply concerned by the reported information that local administration authorities exploited the departure of Roma from Ust'-Abakan, Chemodanovka and Lopatki as an opportunity to initiate legal proceedings against regarding the legality of Roma settlements and homes and therefore to permanently prevent the return of members of the Roma minority.

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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide the details, and where available the results, of any investigation and/or inquiry undertaken on the violent incidents in Ust'-Abakan and Chemodanovka. If no investigation has been initiated or is inconclusive, please explain why.
3. Please provide the details, and where available the results, of any investigation and/or inquiry undertaken on allegations of destruction of property and looting following the departure of the members of the Roma minority of Ust'-Abakan, Chemodanovka and Lopatki. If no investigation has been initiated or is inconclusive, please explain why.

4. Please also provide the details, and where available the results, of any investigation and/or inquiry undertaken on the conduct of law enforcement during these incidents, including allegations of ill-treatment of members of Roma minority. Please indicate the specific measures undertaken for the identification of those responsible and their prosecution. If no investigation has been initiated or is inconclusive, please explain why.
5. Please provide updated information on the legal proceedings launched by the local administrations in Ust'-Abakan, Chemodanovka and Lopatki against the legality of Romani settlements and homes, and explain the legal grounds on which these legal actions were based.
6. Please indicate the measures undertaken to ensure security of tenure for all those members of the Roma minority living in Ust'-Abakan, Chemodanovka and Lopatki, and whether affordable and adequate housing alternatives were provided to all those Roma who were forced to leave these regions and who were prevented from going back.
7. Please indicate whether adequate compensation for the loss of home and property has been put in place for all Roma residents and provide information concerning all measures taken to ensure that no Roma in Ust'-Abakan and Chemodanovka is left homeless as a consequence of planned demolitions.
8. Please indicate what administrative or judicial mechanisms are in place, both at national and local levels, to ensure access to remedies and accountability of various actors so that persons belonging to the Roma minority can claim their right to adequate housing.
9. Please provide information on measures undertaken to ensure that persons belonging to the Roma minority in the Russian Federation are protected against hate speech, incitement to racial hatred, and any acts of racially motivated violence and incitement to such acts.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting website. 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.

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

Leilani Farha

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

Fernand de Varennes  
Special Rapporteur on minority issues

E. Tendayi Achiume  
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance



## **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 Civil and Political Rights (ICCPR), ratified by the Russian Federation on 16 October 1973, stipulates in its article 27 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 practice their own religion, or to use their own language." Furthermore, article 26 guarantees equality before the law without any discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by the Russian Federation on 16 October 1973, 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".

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).

The legal proceedings against the legality of the Romani settlement and homes in Ust'-Abakan, Chemodanovka and Lopatki initiated by the local authorities, without the opportunity for genuine consultation with those affected, without adequate reasonable notice and without the provision of alternative land or housing, are in breach of Russian Federation's obligations under ICESCR as per General Comment No. 7 of the Committee on Economic, Social and Cultural Rights on the right on forced evictions.

In its General Comment No.7, the Committee concluded that forced evictions, those 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", are "prima facie incompatible with the requirements of the Covenant" (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).

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).

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.

We would like to bring to the attention of your Excellency’s Government provisions of the International Convention on the Elimination of All Forms of Racial Discrimination (hereafter ICERD), ratified by the Russian Federation on 4 February 1969. Article 2(1) demands that States Parties prohibit and eliminate any act or practice of racial discrimination against persons and/or groups based on race, colour, descent, or national or ethnic origin. To this end, States must ensure that public authorities and institutions on the national and local level act in compliance with this obligation.

Article 5 (b) of ICERD guarantees the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution. Article 5 (e) (iii) requires States to ensure, without distinction as to race, colour, or national or ethnic origin, equality before the law and equal enjoyment of the right to housing.

We also refer your Excellency’s Government to the Committee on the Elimination of Racial Discrimination’s general recommendation 27, discussing discrimination against

Roma. In this general recommendation, the Committee elaborates that States' obligations to eradicate and refrain from engaging in any discriminatory practices affecting Roma populations, including in access to housing. The Committee also concludes that ICERD requires States "to act firmly against local measures denying residence to and unlawful expulsion of Roma".

We draw attention to the United Nations 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Declaration on Minorities), which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt measures to that end (article 1), as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination (article 4).