

29.06.2016

## OPRE JOINT STATEMENT ON EVICTIONS OF ROMA AND TRAVELLERS<sup>1</sup> IN EUROPE

Throughout Europe, Roma and Travellers, particularly those living in informal settlements, slums or halting sites face a disproportionately high threat of eviction. With this joint statement, the partners of the **Operational Platform for Roma Equality (OPRE)**<sup>2</sup> would like to bring to the attention of national, regional and, in particular, local authorities the need to find sustainable solutions to the housing or accommodation problems many Roma and Travellers face, in order to avoid further evictions.

### The human cost of evictions

Evictions have long-term, deeply negative implications on the life situation of those concerned and would violate their human rights if not accompanied by the necessary safeguards recalled in this statement; they may also provoke serious social conflict. A constant threat of eviction can result in physical and psychological health problems, such as emotional trauma, as well as lasting social isolation affecting particularly those with vulnerabilities, such as older people, women or those with disabilities. Families and communities are torn apart by eviction, which may jeopardize the right to family life. Evictions without rehousing opportunities multiply homelessness and they perpetuate illegal settlements and slums. Evictions often stop access to health care and vaccination programmes, increasing the health risks for the entire society.

Evictions risk having a disproportionately negative effect on children. Housing, including mobile housing, plays a crucial role in children's growth and development. While evictions are traumatic for any individual, they can particularly traumatise children. Evictions ruin efforts of integration through education, heighten the risk of family separation and leave children and young adults vulnerable to trafficking and other abuses. Evictions of Travellers from unauthorised residential sites without offering alternatives, hinders their children's access to education and healthcare. International human rights standards, as well as national legislation, require public authorities to ensure that the best interests of the child remain a primary consideration in any decision, including decisions concerning evictions<sup>3</sup>.

### International legal standards

According to the UN Committee on Economic, Social and Cultural Rights<sup>4</sup>, all evictions must abide by international human rights norms. In particular, forced evictions must meet the conditions set out in General Comment No.7 of the UN Committee of Economic and Social Rights on the right to adequate housing based on the principles of international law<sup>5</sup>.

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<sup>1</sup> As per the explanatory footnote used by the Council of Europe, the term "Roma and Travellers" is used in this statement to encompass the wide diversity of the groups covered: on the one hand a) Roma, Sinti/Manush, Calé, Kaale, Romanichals, Boyash/Rudari; b) Balkan Egyptians (Egyptians and Ashkali); c) Eastern groups (Dom, Lom and Abdal); and, on the other hand, groups such as Travellers, Yenish, and the populations designated under the administrative term "*Gens du voyage*", as well as persons who identify themselves as Gypsies.

<sup>2</sup> The Operational Platform for Roma Equality (OPRE) consists of the European Network of National Human Rights Institutions (ENNHRI), the European Network of Equality Bodies (Equinet), the European Union Agency for Fundamental Rights (FRA) and the Council of Europe (CoE), as well as associate partners, including the OSCE's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the UN's Office of the High Commissioner for Human Rights (OHCHR), all signatories of this joint statement.

<sup>3</sup> See for example, Article 3, UN Convention on the Rights of the Child, 1989.

<sup>4</sup> General Comment No. 4: The Right to Adequate Housing: <http://www.refworld.org/docid/47a7079a1.html>.

<sup>5</sup> General comment No. 7: The Right to Adequate Housing (Art. 11 (1) of the Covenant: forced evictions <http://www.refworld.org/docid/47a70799d.html>.

While public and private owners have the right to enjoy their property, the enforcement of this right should not result in the violation of other rights, such as the right to private and family life (Art. 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and Art. 7 of the Charter of Fundamental Rights of the European Union (CFREU); the right to adequate housing (protected by Art. 31 of the Revised European Social Charter (ESC) and Art. 16 of the European Social Charter); and the rights to freedom of movement and to choose one's residence, recognised in many international instruments and national constitutions.

In the case of Roma and Travellers, evictions must respect the principle of non-discrimination (Art. 1 of Protocol No. 12 to the ECHR, Art. 14 of the ECHR and Art. E of the ESC and Art. 21 of the CFREU). The European Court of Human Rights and other international bodies have noted that the negative consequences of eviction on Roma and Travellers are exacerbated by their long history as targets of persecution and constant uprooting.

The procedures for legal eviction, which should be described in detail in national law, must always be implemented in compliance with international human rights standards and principles, including those articulated in General Comment No. 7 on forced evictions<sup>6</sup> of the United Nations Committee on Economic, Social and Cultural Rights, in Recommendation Rec(2005)4 of the Committee of Ministers of the Council of Europe to member states on improving the housing conditions of Roma and Travellers in Europe, in Paragraph 6 of the General Policy Recommendation No. 13 on combating anti-Gypsyism and discrimination of Roma of the European Commission against Racism and Intolerance (ECRI) and in the decisions on merits adopted by the European Committee of Social Rights within the framework of collective complaints procedure.

#### **Signatories therefore urge governments and competent regional and local authorities:**

- To ensure that everyone subject to eviction is adequately informed of their rights and proposed adequate alternative accommodation, if necessary with the help of interpreters;
- To make effective legal remedies and free or low-cost legal assistance available to those concerned;
- To ensure that evictions are carried out in a reasonable manner, without discrimination, harassment or violence, and in a way that does not threaten the evictees' health, life or wellbeing, in particular during winter or in cold weather, at night or very early in the morning, or when families are unlikely to be together;
- To ensure that evictees are not coerced into destroying their dwellings, and are given the opportunity of salvaging as many of their belongings as possible;
- To ensure that nobody is evicted without reasonable notice;
- To ensure that evictions are well planned and carried out only as a last resort after consultation and negotiation efforts have failed; these efforts must include consideration of the impact of evictions on children's schooling and proposals for rehousing in decent, adequate, alternative, and sustainable accommodation or fully functional and equipped halting sites, in accordance with international human rights standards, in particular the right to adequate housing<sup>7</sup>;
- To ensure that evictions respect the principles of the best interests of the child and are thus always accompanied by a guarantee of continued equal access to education and health care;
- To ensure that proposals for alternative housing or accommodation do not perpetuate residential segregation. In this context, any alternative housing or accommodation proposed must not include housing that is segregated, in particular located far away from urban centres or in environmentally

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<sup>6</sup> The UN defines the terms 'forced eviction' as "the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection".

<sup>7</sup> General comment No. 7: The right to adequate housing (Art. 11 (1) of the Covenant): Forced evictions <http://www.refworld.org/docid/47a70799d.html>.

dangerous areas; it must not include housing in substandard forms of accommodation (e.g. containers) and which is not connected to public utilities or public transport infrastructure;

- To ensure that evictions are not triggered or justified by anti-Gypsyism and hate speech;
- To address the systemic factors that prevent Roma and Travellers from legalising their housing status and put them at risk of eviction.

**In a broader context, signatories urge governments and competent regional and local authorities:**

- To ensure that relevant international standards on evictions are reflected in national legislative frameworks, in particular as regards adequate procedural safeguards against illegal evictions;
- To ensure that national legislation recognises and protects the right to adequate housing and, where applicable, the right to live in mobile housing. Such legislation should be rigorously enforced;
- To ensure that evictions are not carried out until adequate alternative sites, accommodation or halting sites have been identified;
- To design and enforce legislative or other measures to prevent and sanction evictions conducted by individual owners or public authorities without the safeguards provided by law;
- To adopt legislation providing the greatest possible security of tenure to occupiers of houses and land, in compliance with the relevant human rights instruments and in accordance with the principle of strict control of the circumstances under which evictions may be carried out;
- To find sustainable solutions to the occupation of Roma and Traveller sites or dwellings built in breach of planning regulations, as guided by ECRI General Policy Recommendation no. 13<sup>8</sup>;
- To ensure that comprehensive anti-discrimination legislation is in place and that acts of discrimination against Roma and Travellers in respect of housing and accommodation are effectively sanctioned;
- To work with and consult local communities, involving civil society representatives and other relevant stakeholders, to improve mutual understanding and trust.

The signatories wish to recall that evictions are justifiable only in the most exceptional circumstances, for example if substantial and legitimate security and environmental risks exist. If these apply, evictions must meet the following conditions based on the principles of international law:

- They must be carried out for the purpose of promoting general welfare in a democratic society;<sup>9</sup>
- They must meet the general principles of proportionality and sound judgment;
- They must be non-discriminatory;
- They must take into account the need for progressive realisation of the right to adequate housing.

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<sup>8</sup> See Article 6.e of ECRI General Policy Recommendation no. 13 on combating anti-Gypsyism and discrimination against Roma (June 2011).

<sup>9</sup> General comment No. 7: The right to adequate housing (Art. 11 (1) of the Covenant): Forced evictions <http://www.refworld.org/docid/47a70799d.html>.

SIGNATORIES OF THE JOINT OPRE STATEMENT ON EVICTIONS OF ROMA AND TRAVELLERS IN EUROPE



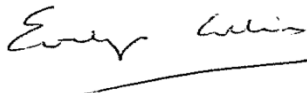
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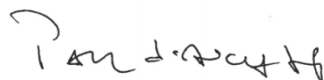
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