

18 December 2012

To:

Prešov Municipality Office, JUDr. Pavel Hagyari, Mayor
Prešov Municipality Office, PhDr. Matúš Háber, Director of services for citizens
The Office of Ombudsman, JUDr. Jana Dubovcová, Ombudsman

Re: Planned eviction of Roma, Pod Hrádkom

The European Roma Rights Centre (ERRC)¹ is writing to express concern over the planned eviction of about 200 Roma from the Pod Hrádkom neighbourhood in Prešov, Slovakia and over the demolition of the three blocks of flats owned by the Prešov municipality which serve as their homes.

According to media reports² and information from employees of the Prešov Municipality Office, and local social field workers³ we understand that authorities are planning to evict about 200 Romani residents living in the Pod Hrádkom neighbourhood. According to our information, the municipality has been preparing a demolition order for the three blocks of flats in the neighbourhood. The flats are occupied almost entirely by Romani tenants. The first block of flat is due to be demolished in the upcoming months (as soon as the municipality earmarks funding for the demolition). The ERRC was told by municipality officers that the eviction and demolition of the flats is due to a planned enlargement of a car park for a neighbouring cemetery. The plans to enlarge are yet to be approved by the Prešov Building Office.⁴

The current situation raises serious doubts whether the municipality will act in conformity with national and international law. According to the Slovak Building Act (Act no. 50/1976 Coll.) a “building” is a construction steadily fixed to the land surface or a construction whose fixing requires modification of the sub-base. Buildings can only be demolished through a process that conforms with the Building Act – demolition proceedings. According to Article 97 of the Slovak Building Act, those whose rights and duties might be affected by a demolition order shall be parties to the demolition proceedings. However, the tenants have not received any notice on the commencement of the demolition proceedings yet.

The obligation of States to refrain from, and protect against, forced evictions from home(s) and land arises from several international legal instruments including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights (Art. 11(1)),

¹ The ERRC is an international public interest law organisation working to combat anti-Romani racism and human rights abuse of Roma. The approach of the ERRC involves strategic litigation, international advocacy, research and policy development and training of Romani activists. The ERRC has consultative status with the Council of Europe, as well as with the Economic and Social Council of the United Nations.

² See Viera Harbovská, “Rómovia chcú nové byty”, Prešovský večerník, 17 October 2012, available at: <http://povecernik.sk/clanok/romovia-chcu-nove-byty.html>

³ Telephone interview with employee of the Prešov Municipality Office: 07 December 2012; Email correspondence with local social worker: 05 December 2012.

⁴ See TASR, “V lokalite Pod Hrádkom vypratali ďalšie tri byty”, 16 October 2012, available at: <http://www.teraz.sk/regiony/v-lokalite-pod-hradkom-vypratali-dals/25590-clanok.html>

the European Convention on Human Rights (Art. 8), the Convention on the Rights of the Child (Arts. 16 and 27(3)). The fact that the residents in question are Roma also engages the non-discrimination provisions found in Article 14 of the European Convention on Human Rights and Article 5(e) of the International Convention on the Elimination of All Forms of Racial Discrimination. According to Article 7(5) of the Slovak Constitution, international treaties duly ratified by the Slovak Republic take precedence over national law.⁵

International human rights law requires that public authorities must ensure that forced evictions do not result in human rights violations. According to the General Comment No. 7 of the UN Committee on Economic Social and Cultural Rights requires for any eviction: to be legal, it must be conducted with the following procedural protections: “[A]n opportunity for genuine consultation with those affected; adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; [...] evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise [...] 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.”⁶

According to well-established principles of international law, authorities must consult with the people affected by the eviction in advance to inform them of the eviction, and above all to ensure that evictions do not result in the homelessness of any individual. The requirement not to carry out forced evictions in bad weather is especially important in the current period of year. It seems likely an eviction is planned for the winter months when temperatures are often far below zero.

The ERRC is calling on the Prešov municipality to act immediately to halt the planned eviction and to address the situation by offering sustainable solutions for this community. In particular the ERRC is asking authorities to:

- Refrain from the planned eviction;
- Ensure that no Romani individual is rendered homeless as a result of eviction;
- Provide sustainable, adequate integrated housing solutions for the Romani community affected;
- If any eviction/demolition does take place, to ensure it is in line with the relevant national and international standards; and
- To inform the ERRC about any and all the measures taken to provide a positive solution for the Romani community affected.

Sincerely,

Dezideriu Gergely
Executive Director

⁵ See Article 7(5) of the Constitution of the Slovak Republic (Act no. 460/1992 Coll.)

⁶ See: CESCR, General Comment No. 7, available at:

<http://www.unhcr.ch/tbs/doc.nsf/0/959f71e476284596802564c3005d8d50?Opendocument>.

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CC

European Commissioner for Justice, Fundamental Rights and Citizenship, Viviane Reding
Council of Europe Commissioner for Human Rights, Nils Muiznieks
OSCE/ODIHR Senior Advisor on Roma and Sinti Issues, Andrzej Mirga
European Commissioner for Justice, Fundamental Rights and Citizenship, Viviane Reding
Council of Europe, CAHROM Secretariat, Michael Guet
Council of Europe, Head of the Roma Support Team, Sixto Molina
MEP, Monika Flisikova Benova