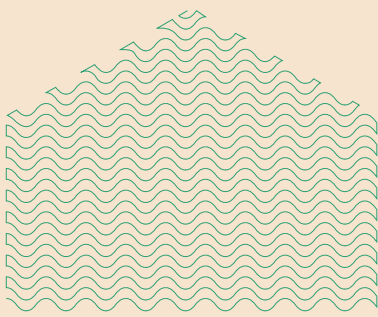
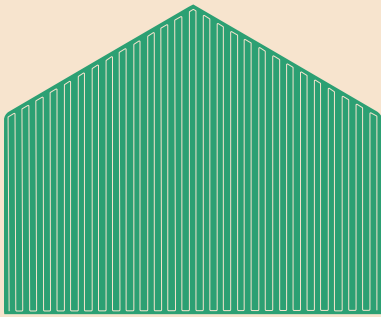
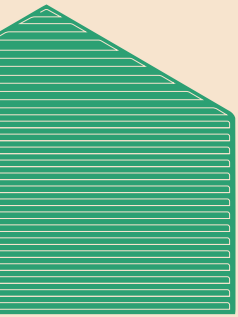
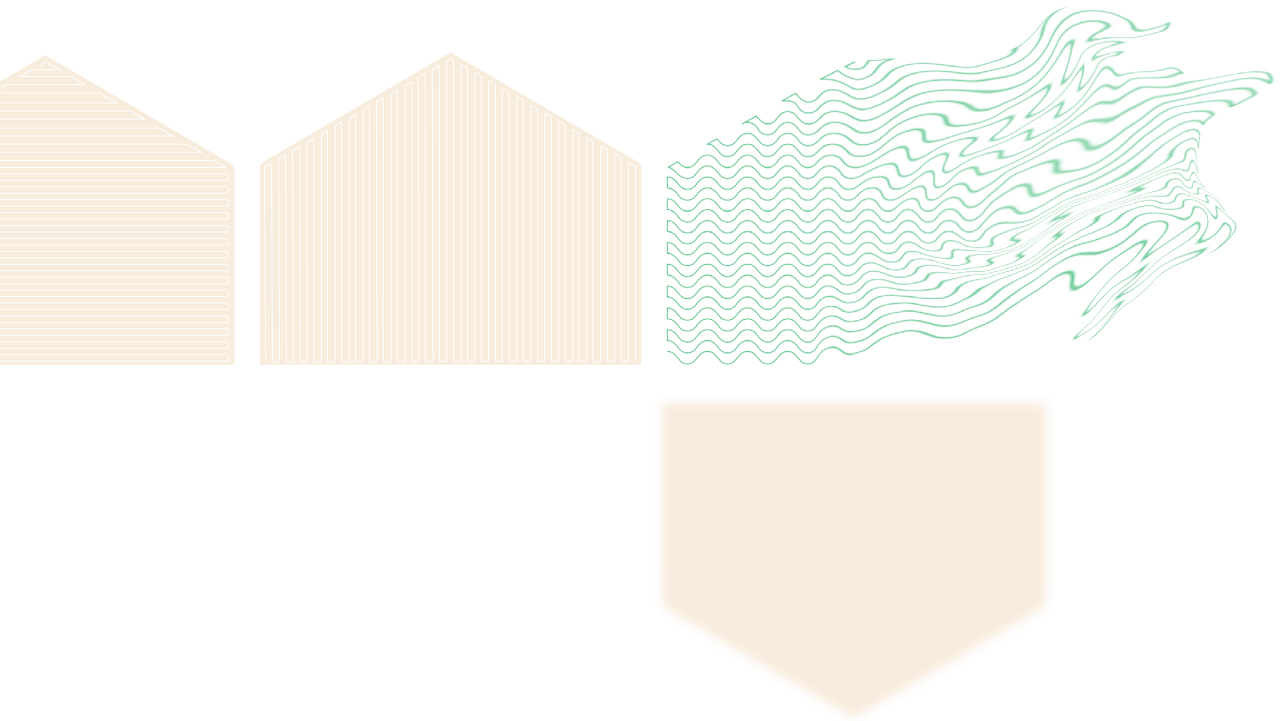




Guidelines for Activists in Addressing Situations of Evictions of Roma and Sinti



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Designed by Hugo Balandra



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INTRODUCTION

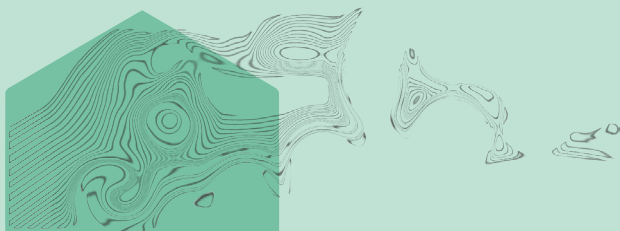
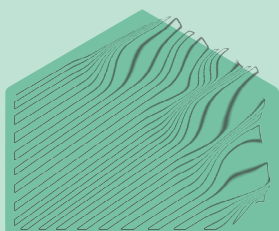
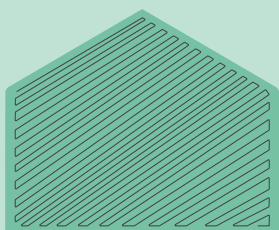
The purpose of this guide is twofold. First, it aims to give Roma and Sinti activists an easily accessible overview of the relevant international and regional human rights standards on forced evictions, with a particular focus on the findings of international and regional human rights tribunals in relation to Roma and Sinti evictions. Second, by including numerous references to the judgments and decisions of international human rights courts, Roma and Sinti activists can familiarize themselves with these decisions and draw them to the attention of the non-governmental organizations (NGOs) and human rights lawyers with whom they cooperate. These can then be incorporated into their legal advocacy and litigation, rendering them more effective.

This guide is divided into two parts. The first provides an overview of the right, under international law, to adequate housing and of its corollary, protection from forced eviction. The second part outlines the relevant obligations of state authorities and national courts and serves as an aide-memoire for Roma and Sinti activists, giving them a list of the principles to apply for collecting information when monitoring an eviction and deciding what actions to take. While each part of the guide is distinct and can be read in isolation, it is strongly recommended to study the full report.

Part A

1

***The right to
adequate
housing under
international
law***



United Nations standards

The right to housing has existed since 1948, when it appeared in Article 25(1) of the Universal Declaration of Human Rights¹ (UDHR), which sets out the right to an adequate standard of living. The right to housing has since been reaffirmed in an increasing number of international instruments. Article 11(1) of the United Nations International Covenant on Economic, Social and Cultural Rights² (ICESCR) makes it incumbent on States Parties to take appropriate steps to ensure the realization of the right to adequate housing. Other treaties, such as the Convention on the Elimination of all forms of Discrimination Against Women³ (CEDAW), the Convention on the Rights of the Child⁴ (CRC) and the Convention relating to the Status of Refugees⁵, also contain provisions on the right to housing.

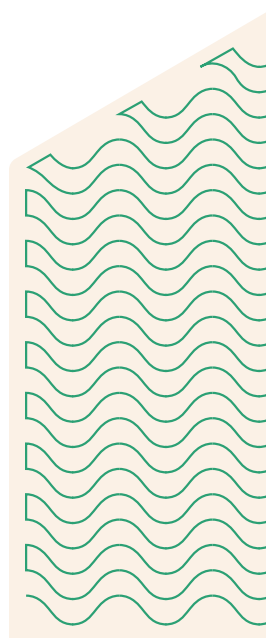
It is important to note here that the right to housing does not entail a right to property; in other words, the right to housing does not mean that each person should be provided with a house that they will own. A state can meet its international obligations on housing by providing its citizens with social housing owned by the state and/or by subsidising rents in the case of rented accommodation. What matters is that the housing provided should be adequate.

In its General Comment No. 4 on the right to adequate housing⁶, the UN Committee on Economic, Social and Cultural Rights (CESCR), which is the UN body tasked with monitoring the implementation of the ICESCR, set out the constituent elements

- ¹ Universal Declaration of Human Rights (UDHR), Paris, 10 December 1948, United Nations General Assembly (UNGA) resolution 217 A, <<https://www.un.org/en/about-us/universal-declaration-of-human-rights>>.
- ² International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted 16 December 1966, entry into force 3 January 1976, UNGA resolution 2200A (XXI), <<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>>.
- ³ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), UNGA, New York, adopted 18 December 1979, <<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>>.
- ⁴ Committee on the Rights of the Child (CRC), <<https://www.ohchr.org/en/treaty-bodies/crc>>.
- ⁵ Convention relating to the Status of Refugees, Geneva, 28 July 1951, Treaty Series , vol. 189, p. 137, <<https://www.unhcr.org/1951-refugee-convention.html>>.
- ⁶ General Comment No. 4 on the right to adequate housing, UN Committee on Economic, Social and Cultural Rights (CESCR), 1991, <https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/1_Global/INT_CESCR_GEC_4759_E.doc>.

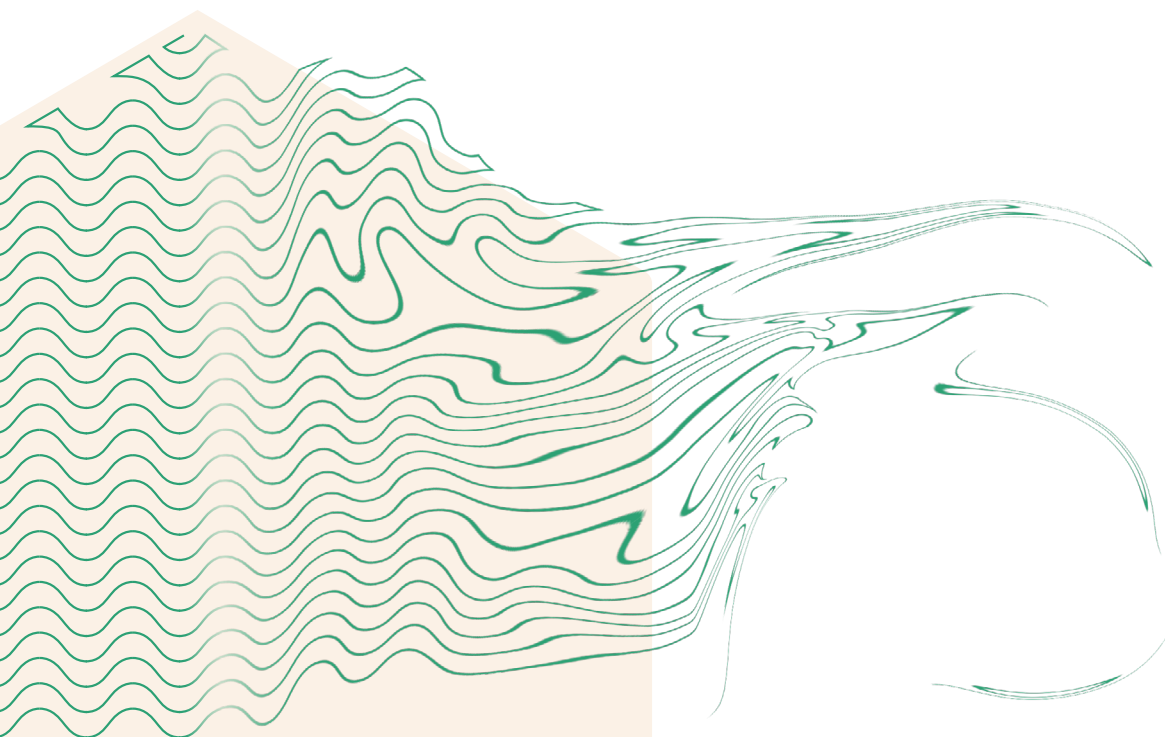
of the right to housing. According to the CESCR, the right to housing should not be equated to a roof over one's head but "should be seen as the right to live somewhere in security, peace and dignity." The CESCR also stressed that the right to housing should be ensured to all people, irrespective of their income and implemented in a manner corresponding to their resources. According to the CESCR, the right to adequate housing is a multifaceted right consisting of seven aspects.

Housing should be **AFFORDABLE**; people should not have to pay a substantial amount of their income in order to meet their housing needs. It should be **HABITABLE**; namely it should be structurally safe, with enough space for its occupants and protection from the weather. Housing should be **CONNECTED TO ALL PUBLIC SERVICES** — such as sewage, running water or electricity — that are necessary to allow occupants to live in dignity. Housing should also be **ACCESSIBLE**; when allocating suitable housing, the state authorities should grant priority to disadvantaged and marginalized social groups (such as children, the physically disabled and victims of natural disasters) because members of these groups cannot easily secure housing by themselves. The **LOCATION** of the housing is also important; housing should not be provided in remote areas or close to polluted sites but close to healthcare services, schools and places of employment. The housing should also be **CULTURALLY ADEQUATE**, and aspects of the occupants' cultural identity should be taken into consideration when building or renovating it.



From the perspective of this guide, which focuses on forced evictions, the most important aspect of the right to adequate housing is that of **LEGAL SECURITY OF TENURE**; this means that, regardless of the status of the property (privately owned, rented), its legal status (built with or without a construction permit) or indeed its very form (a mansion or shack built with impromptu materials, permanent or temporary accommodation), all people living in any form of housing should be provided with legal protection against forced eviction and harassment.

Another element of the legal security of tenure under the right to adequate housing is that it imposes **IMMEDIATE OBLIGATIONS** on a state, independent of its financial situation. Thus, while a state can legitimately contend that it cannot provide everybody with adequate housing within a short period of time due to lack of resources, it cannot claim that it is objectively impossible to provide all people with legal protection from forced eviction.



Council of Europe standards

Similar considerations can be found in the work of the Council of Europe's European Committee of Social Rights (ECSR), the body entrusted with supervising the implementation of the European and Revised European Social Charters⁷. The right to housing is protected under three articles of the Charters (Article 16, common to both versions of the Charter, and Article 31 of the Revised European Social Charter). Not all Member State signatories to the European Social Charter have agreed to be bound by Articles 16 and 31, nor have all joined the collective complaints mechanism. Despite this, the European Court of Human Rights has repeatedly turned to the work of the ECSR for guidance on interpreting the relevant provisions of the European Convention on Human Rights⁸ (ECHR), including those provisions not adopted by the respondent Member State. It should be noted, however, that all the principles laid down by the ECSR are also reflected in the Council of Europe Committee of Ministers Recommendation Rec(2005)4 on improving the housing conditions of Roma and Travellers in Europe.⁹

The ECSR has extensively addressed the right to housing in, among others, a series of collective complaints. For example, according to its decision regarding Collective Complaint no. 27/2004, *European Roma Rights Center v. Italy*, the ECSR interpreted Art 31(1) as follows:

⁷ European Social Charters, Council of Europe, <<https://www.coe.int/en/web/european-social-charter>>.

⁸ European Convention on Human Rights (ECHR), Council of Europe, Rome, 4 November 1950, <https://www.echr.coe.int/documents/convention_eng.pdf>.

⁹ Council of Europe Committee of Ministers Recommendation Rec(2005)4 on improving the housing conditions of Roma and Travellers in Europe, 23 February 2005, <https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805dad2c>.

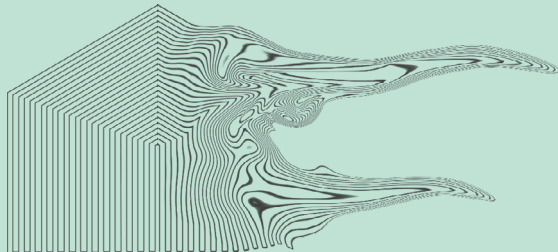
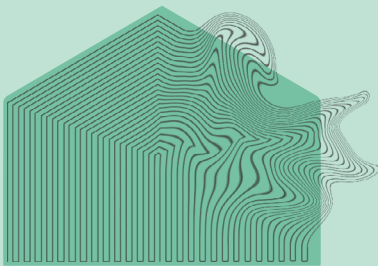
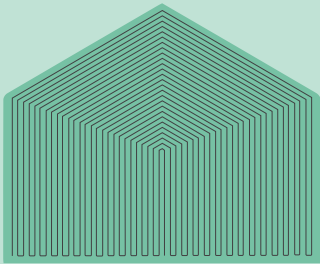
“Article 31§1 guarantees access to adequate housing, which means a dwelling which is structurally secure; safe from a sanitary and health point, i.e. it possesses all basic amenities, such as water, heating, waste disposal, sanitation facilities, electricity; not overcrowded and with secure tenure supported by law [...]. The temporary supply of shelter cannot be considered as adequate and individuals should be provided with adequate housing within a reasonable period...”¹⁰

In other instances, the ECSR has highlighted the need for housing to be affordable. This means that the housing-related costs (deposit, advance rent, rent and/or other costs such as utilities, maintenance and management charges) should be set at such a level that a family is able to meet these costs on a long-term basis and still maintain a minimum standard of living, as defined by the society in which the household is located.¹¹

¹⁰ Decision on the Merits, ECSR, adopted on 7 December 2005, para. 35, <[¹¹ ECSR, Conclusions 2003 on Article 31\(3\), Sweden, <<https://bit.ly/3mjmkqj>>.](https://hudoc.esc.coe.int/eng/#{%22sort%22:[%22ESCPublicationDate%20Descending%22],[%22ESCDcIdentifier%22:[%22cc-27-2004-dmerits-en%22]}>”.></p></div><div data-bbox=)

Part A

2 *The right to protection from forced eviction as part of the right to adequate housing*



United Nations standards

As noted above, the right to protection from forced eviction is a fundamental part of the right to housing. By its General Comment No. 7 on the right to adequate housing: forced evictions¹², the United Nations Committee on Economic, Social and Cultural Rights (CESCR) provided comprehensive guidance on the two, interrelated issues of legal security of tenure and forced evictions. The CESCR defined 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.” It should be noted here that the prohibition of forced evictions does not mean that force cannot be used when carrying out an eviction. As long as an eviction meets the relevant international legal standards, the use of (proportionate) force when executing an eviction order against people who refuse to abide by it will not be in violation of these standards.

While noting that evictions are, in general, incompatible with the ICESCR, it is also acknowledged that they can at times be justified (e.g., in cases of persistent non-payment of rent when it is established that the person in question has the means to cover the rent). However, the evictions must meet a number of conditions, such as prior consultation with those to be evicted, giving adequate and reasonable notice on the date of eviction and the availability of judicial remedies either to prevent the eviction or provide compensation. These requirements apply equally to evictions by state authorities or private individuals. Evictions should not make people homeless or leave them more vulnerable to other human rights violations. They should also not happen during bad weather or at night. The CESCR also expressed its concern that forced evictions are often accompanied by acts of violence and that women, children and minorities are particularly vulnerable to forced eviction.

¹² General Comment No. 7 on the right to adequate housing, UN Committee on Economic, Social and Cultural Rights (CESCR), 1997, <https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/1_Global/INT_CESCR_GEC_6430_E.doc>.

Elaborating further on the obligations of states over forced eviction of communities, and drawing on the Committee's General Comment No. 7, the UN Special Rapporteur on Housing has published two sets of detailed guidelines: the United Nations Basic Principles and Guidelines on development-based evictions and displacement¹³ and the United Nations Guiding Principles on security of tenure for the urban poor¹⁴. These outline states' general obligations regarding the right to housing as well as their obligations before, during and after evictions. While these guidelines have a wider scope (referring also to the need for broad housing policies that minimise the need for evictions and displacement of communities), they provide comprehensive guidance to officials, policymakers and state authorities about what legislative, operational and practical measures are needed to ensure an eviction does not violate international law. It should be noted that even though different measures concern different phases of an eviction, under the Guidelines appropriate remedies should always be available to people who are threatened with, or have undergone evictions.

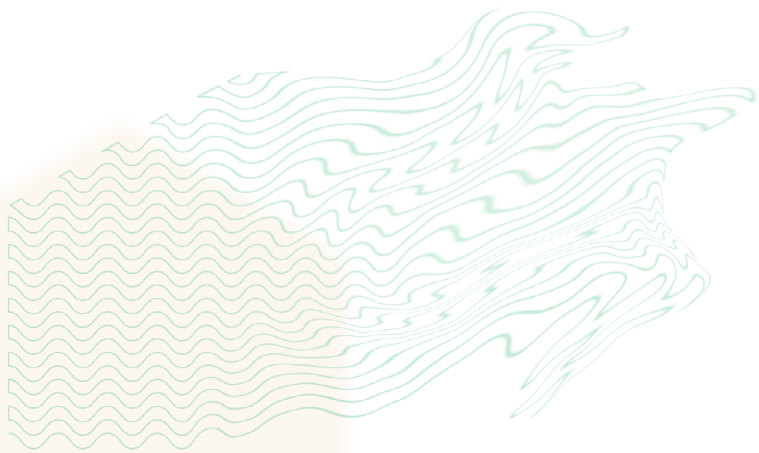


13 United Nations Basic Principles and Guidelines on development-based evictions and displacement, Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, 2007, A/HRC/4/18, <https://www.ohchr.org/sites/default/files/Documents/Issues/Housing/Guidelines_en.pdf>.

14 United Nations Guiding Principles on security of tenure for the urban poor, Special Rapporteur on Housing, 30 December 2013, <<https://www.ohchr.org/en/special-procedures/sr-housing/guiding-principles-security-tenure-urban-poor#:~:text=Underlying%20the%20guiding%20principles%20is,should%20be%20secured%20and%20protected>>.

Council of Europe standards

The standards laid down by the European Social Charter's European Committee of Social Rights (ECSR) regarding evictions are similar; indeed they often refer to the United Nations standards. Hence, the ECSR maintains that while the illegal occupation of a house might justify the eviction of the occupants, the criteria of what constitutes illegal occupation should not be unduly wide and the legal framework regarding evictions should also contain enough procedural safeguards to benefit the persons under eviction.¹⁵ This would mean, for example, that the authorities should consult with those affected before proceeding with their eviction, should provide them with information regarding the eviction and ensure the availability of alternative accommodation or sites (in the case of nomadic Roma and Sinti).¹⁶



¹⁵ Collective Complaint No. 15/2003, *European Roma Rights Centre v. Greece*, Decision on the Merits, adopted on 7 December 2005, para. 51, <<https://hudoc.esc.coe.int/eng/?i=cc-15-2003-dmerits-en>>.

¹⁶ Collective Complaint No. 49/2008, *International Center for the Legal Protection of Human Rights (INTERIGHTS) v. Greece*, Decision on the Merits, adopted on 11 December 2009, paras. 59 & 63, <<https://rm.coe.int/no-49-2008-international-centre-for-the-legal-protection-of-human-righ/1680740ae1>>. Note that the ECSR refers explicitly to UN General Comment 7.

Part A

3 *The jurisprudence of international courts on forced evictions: a growing focus on prevention*



AS FORCED EVICTIONS CAN HAVE A SIGNIFICANTLY ADVERSE IMPACT ON PEOPLE, IT IS CLEARLY PREFERABLE TO PREVENT AN EVICTION FROM HAPPENING RATHER THAN TRYING TO PROVIDE ACCOMMODATION FOR PEOPLE WHO ALREADY HAVE BEEN EVICTED.

For many years, international tribunals were reluctant to issue injunctions and prevent a forced eviction ordered by a domestic court. The shift in approach occurred in the context of two Roma eviction cases in Bulgaria. The cases of *Yordanova and Others v. Bulgaria*¹⁷ and *Liliana Assenova Naidenova and Others v. Bulgaria*,¹⁸ were brought before the European Court of Human Rights and the United Nations Human Rights Committee respectively. These two bodies reached essentially identical conclusions.

Both cases were groundbreaking in that they were the first cases where international tribunals issued interim decisions requesting the authorities not to proceed with the eviction of Roma communities pending a review of their respective complaints. Indeed, the Human Rights Committee issued a second interim decision asking the authorities to restore the water supply to the settlement. The authorities had resorted to cutting the water supply presumably in order to harass the Roma and force them to leave the settlement. Such decisions are issued only in very exceptional cases and only when the harm to the people in question is believed to be grave. In other words, both bodies considered that, were the evictions allowed to take place, they would have severe and harmful repercussions on the applicants' lives.

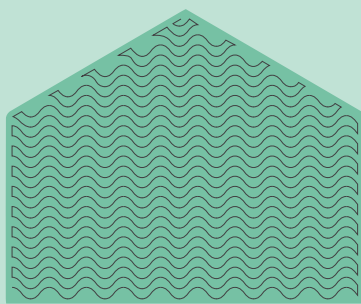
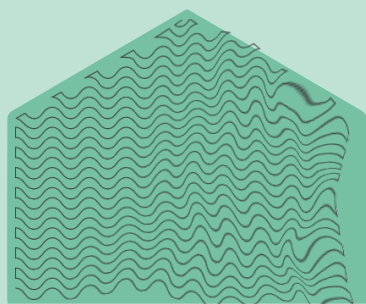
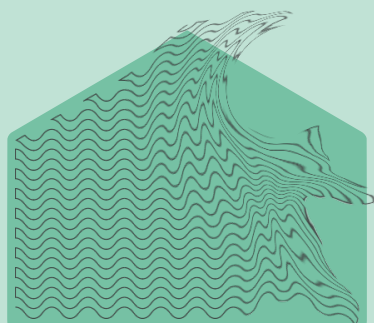
Both these international tribunals, joined recently by the United Nations Committee on Economic, Social and Cultural Rights, are not only finding forced evictions to be in violation of the relevant legal standards but they are also granting requests for interim measures to suspend the eviction of Roma and Sinti and other individuals threatened with forced eviction.

¹⁷ *Yordanova and Others v. Bulgaria*, No. 25446/06, European Court of Human Rights, 24 April 2012, <<https://hudoc.echr.coe.int/fre?i=002-2155>>.

¹⁸ *Liliana Assenova Naidenova and Others v. Bulgaria*, No. 2073/2011, European Court of Human Rights, 30 October 2012, <<https://juris.ohchr.org/Search/Details/1464>>.

Part B

Decoding the obligations of state authorities concerning forced evictions



The international legal standards on forced evictions set out the obligations of state authorities towards all three stages of eviction: before, during and after an eviction has taken place. Flowing from these standards is a checklist of dos and don'ts for the authorities to ensure that any forced eviction does not violate international law. In parallel, this checklist can help activists fighting against forced evictions to ascertain quickly whether a planned or ongoing eviction violates the standards. Where possible, each principle in the checklist is accompanied by a reference to a relevant international tribunal judgment. This gives both human rights activists and lawyers quick access to legal arguments reinforcing their claims. Lastly, each section provides a list of recommendations and suggestions for human rights activists on how better to monitor and collect important information on potential cases of forced eviction.

Before a forced eviction takes place

The authorities should only resort to forced evictions after looking for alternative solutions such as legalisation of irregular settlements, in consultation with the people who will be affected. In other words, when faced with a difficult situation (e.g., a settlement where houses have been built in violation of town planning regulations), the first response should not be to evict the occupants and demolish the houses. Rather the authorities should examine whether the settlement can be regularized and whether relevant infrastructure can be built with a view to providing the inhabitants with adequate housing.¹⁹ Therefore, according to the Vienna Declaration on Informal Settlements in South Eastern Europe²⁰, states should undertake the regularization of existing informal settlements provided that such action would not undermine other rights (such as environmental protection). In 2014, **OSCE ODIHR** published a comprehensive report on the relevant methodology and good practices on that subject.²¹ It is worth remembering that, in a recent case, the European Court of Human Rights was critical of Roma applicants who had not filed a request to regularize the house they had built without a permit,²² noting that had they regularized their home, they would not risk being forcibly evicted.

¹⁹ *Yordanova and Others v. Bulgaria*, op. cit., note 17, para. 125.

²⁰ Vienna Declaration on Informal Settlements in South Eastern Europe, OSCE, Vienna, 28th September 2004, <<https://locuireinformala.ro/wp-content/uploads/2019/12/Declaratia-de-la-Viena-privind-asezarile-informale-2004.pdf>>.

²¹ See in this respect, "Best Practices for Integration – Regional Report on Housing Legalization, Settlement upgrading and Social Housing for Roma in the Western Balkans", OSCE/ODIHR, February 2014, <<https://www.osce.org/files/f/documents/4/c/115737.pdf>>.

²² *Salay and Zemanová v. Slovakia* (dec), No. 43225/19, European Court of Human Rights, 28 September 2021, paras. 41–42, 45, <<https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-212875%22%5D%7D%3E>>. See also *Raji and Others v. Spain* (dec), No. 3537/13, European Court of Human Rights, 16 December 2014, paras. 18 & 24, where the European Court turned down the application on the basis of the Spanish Government's undertaking to not enforce demolition and eviction orders and examine ways of, among others, regularizing the applicants' home. <<https://hudoc.echr.coe.int/eng?i=001-150560>>.

Should eviction nevertheless be deemed necessary — for example because the settlement cannot be regularized as it is located next to a polluting activity or because the land on which the settlement is located is necessary for an important infrastructure project — then the authorities must provide information to those to be evicted on the eviction and its purpose. After holding effective consultations with them,²³ the authorities must provide alternative accommodation. This does not necessarily have to be free accommodation but should take into consideration the financial means of the people in question.²⁴ The burden lies with the authorities to prove that the eviction is necessary in order, for example, to implement an infrastructure project.²⁵

The authorities should inform people about their eviction in due time to allow them to challenge the eviction before the competent court, and provide them with free legal aid if necessary. The court should:

- **Review the formal lawfulness of the eviction order** (i.e., whether it was adopted in accordance with the criteria set out in law) as well as its substantive lawfulness, by carrying out a comprehensive examination of all aspects of the eviction;
- **Consider whether the eviction is really necessary;**²⁶
- **Assess whether the people facing eviction belong to a vulnerable social group;**
- **Examine whether they have been living there for a long time;**
- **Evaluate the outcome of relevant housing initiatives/projects in the past;**

²³ *Winterstein and Others v. France*, No. 27013/07, European Court of Human Rights, 17 October 2013, paras, 33–37, <<https://hudoc.echr.coe.int/eng?i=001-127539>>.

²⁴ *Bagdonavicius and Others v. Russia*, No. 19841/06, European Court of Human Rights, 11 October 2016, para. 106, legal summary in English: <<https://hudoc.echr.coe.int/eng?i=002-11374>>. For full judgement see French, Czech, Slovenian and Ukrainian language versions at <<https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22no.%2019841%2F06%22%7D%7E%3E>>.

²⁵ *Yordanova and Others v. Bulgaria*, op. cit., note 19, para. 118.

²⁶ *Volchkova and Mironov v. Russia*, European Court of Human Rights, Nos 45668/05 and 2292/06, 28 March 2017, para. 118, <<https://hudoc.echr.coe.int/eng?i=001-172314>>.

- **Establish whether the authorities have taken measures to provide alternative accommodation;**
- **Assess whether the eviction is proportionate to the objective it purportedly serves;²⁷**
- **Consider the identity of the person or entity requesting the eviction.** A request for an eviction from a bank against a tenant for falling into rent arrears should not be treated with the same urgency as a request for eviction filed by a private person whose rental income constitutes their only source of income; the former seeks to increase its profits rather than secure its livelihood.²⁸ At the same time, this does not mean that requests for eviction filed by private individuals should be granted immediately. The court should suspend an eviction from private property to allow social welfare services to take the necessary steps towards finding alternative accommodation for the people being evicted;²⁹ **and**
- **Establish whether alternative accommodation will be available at the time of the eviction and review the quality of the alternative accommodation being offered.** While temporary shelter cannot be considered alternative accommodation, it may be deemed acceptable if it is strictly temporary and meets certain basic criteria.

²⁷ *Yordanova and Others v. Bulgaria*, op. cit., note 19, paras. 126, 128-129.

²⁸ *Goumari and Tidli v Spain*, No. 85/2018, United Nations Committee on Economic, Social and Cultural Rights, 16 March 2021, para. 8.3, <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f69%2fD%2f85%2f2018&Lang=en>.

²⁹ *Djazia and Bellili v. Spain*, No. 5/2015, United Nations Committee on Economic, Social and Cultural Rights, 21 July 2017, para. 16.4, <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f61%2fD%2f5%2f2015&Lang=en>. See also *Goumari and Tidli v Spain*, op. cit., note 28, para. 10.4.

While examining the adequacy of alternative accommodation/shelter, the court should examine, among others, its adequacy and its location. As a rule, the alternative accommodation should meet all the requirements for adequate housing set out above; it should be habitable and in a location that allows the relocated people to continue their everyday lives with minimum disruption.³⁰

Temporary or emergency accommodation might also be considered acceptable, provided it allows people to live with dignity and is strictly temporary, with the authorities taking all necessary measures to provide people with adequate alternative accommodation as swiftly as possible (see the section “Following a forced eviction” below).

The above should not be taken to mean that it is only the authorities that have obligations in the context of forced evictions. Under international law, people threatened with forced eviction are expected to take all reasonable measures to secure alternative accommodation for themselves. In most cases, this will entail full cooperation with the social welfare services and reasonable attempts to find alternative accommodation by e.g., filing properly completed applications for social housing³¹, particularly if they have been given social benefits for that purpose.³²

30 *Goumari and Tidli v Spain*, op. cit., note 28. para. 11.2; see also *Krasavin v. Russia* (dec), No. 26792/04, European Court of Human Rights, 9 September 2008, <<https://hudoc.echr.coe.int/eng?i=001-88638>>.

31 *Winterstein and Others v. France*, op. cit., note 23. para. 13; *Salay and Zemanová v. Slovakia* op. cit., note 22. para. 47.

32 *A.M.O and J.M.U. v Spain*, No. 45/2018, United Nations Committee on Economic, Social and Cultural Rights, 3 November 2020, para. 10.3, <<https://juris.ohchr.org/Search/Details/2766>>.

It should be noted here that not all eviction attempts will entail a court order. Authorities might harass and pressurize Roma and Sinti to leave their settlements by, for example, cutting off the supply of running water.³³ In this case, the principle of legal security of tenure protects occupants not just from actual forced evictions but also from threats or harassment to that end. Therefore, if the authorities receive information that private parties are planning to attack a settlement they should take all necessary measures to prevent the attack and protect the inhabitants.³⁴

33 *Liliana Assenova Naidenova and Others v. Bulgaria*, No. 2073/2011, United Nations Human Rights Committee, 27 November 2012, paras. 9-10, <<https://juris.ohchr.org/Search/Details/1464>>.

34 *Burlya and Others v. Ukraine*, No. 3289/10, European Court of Human Rights, 6 November 2018, para. 131, <<https://hudoc.echr.coe.int/eng?i=001-187508>>.

Recommendations to Roma and Sinti activists

Act proactively and map out potential cases of forced eviction.

This can be done by monitoring the local/national press for any information about potential infrastructure projects which could affect Roma and Sinti informal settlements. Settlements located in areas where land prices are rising are likely to face the threat of eviction sooner or later, whether from the state or private people/entities.

Collect information about Roma and Sinti settlements that might face the threat of eviction, such as how long the settlement has existed, the legal status of the land it is on, who owns the land, whether it is possible to regularize some or all of the settlement, whether the local authorities have undertaken any housing initiatives regarding Roma and Sinti in the past and, if yes, their outcomes. (For more suggestions regarding the information that should be collected please consult and use **ANNEXE 1 – ROMA AND SINTI INFORMAL SETTLEMENT PROFILE**). This information will be particularly useful to lawyers in challenging eviction orders and/or requesting interim orders from domestic or international courts.

Try to identify the institution financing the public infrastructure project or the private construction project in order to inform them about the presence of the Roma and Sinti settlement and the need to provide the inhabitants with alternative accommodation before their eviction. It is worth noting that large-scale infrastructure projects are often funded by international financial institutions such as the European Bank for Reconstruction and Development (EBRD), the European Investment Bank (EIB) or the World Bank. All three institutions have adopted policies which require that the social impact of projects they finance and any forced eviction (called ‘involuntary resettlement’ in their terminology) should be assessed in consultation with the social groups/populations affected and remedial measures undertaken. The findings of these assessments are set out in reports called Environmental Social Impact Assessments (ESIAs). The EBRD has adopted a “Resettlement Guidance and Good Practice”³⁵ guide that sets out the standards that should be upheld for the infrastructure projects it finances, stressing

³⁵ “Resettlement Guidance and Good Practice”, EBRD, April 2017, <<http://www.ebrd.com/publications/resettlement-guidance-good-practice.pdf>>.

the importance of real and effective consultation, the implementation of special measures regarding vulnerable groups and the provision of compensation and resettlement. Similarly, one of the issues that the European Investment Bank (EIB) examines in its “Standard 6, Involuntary Resettlement” and “Standard 7, Rights and Interests of Vulnerable Groups”³⁶ is whether a given project it is financing can lead to evictions and how this can be mitigated through informed and meaningful consultation with the people affected. The World Bank has adopted an “Operational Policy on involuntary resettlement (OP 4.12)”³⁷ that contains similar provisions. It should also be noted that all three financial institutions publish relevant materials (including the ESIA) and have robust access to information mechanisms.³⁸ Moreover, all have adopted internal complaints mechanisms. Therefore, if you think that a project financed by one of these three institutions might lead, or has led to the forced eviction of Roma and Sinti you can bring it to their attention.³⁹ The procedures for filing complaints are very straightforward and do not require legal expertise.

36 “Environmental and Social Standards”, European Investment Bank (EIB), 8 October 2018, chapters 6 and 7, <https://www.eib.org/attachments/strategies/environmental_and_social_practices_handbook_en.pdf>.

37 “Operational Policy on involuntary resettlement (OP 4.12)”, World Bank, December 2001, <https://web.worldbank.org/archive/website01541/WEB/0_C-126.HTM>.

38 The EBRD’s registry of public documents is available at <<https://www.ebrd.com/project-finder>>, while information on how to file a request for information can be found at <<https://www.ebrd.com/what-we-do/strategies-and-policies/access-to-information-policy.html>>. The EIB’s public register of documents is available at <<https://www.eib.org/en/registers/index.htm>>, while for information on how to file a request for information see <<https://www.eib.org/en/registers/request-document/index.htm>>. The World Bank’s Register of public documents is available at <<https://pubdocs.worldbank.org/>>, while for information on how to file a request for information see <<https://www.worldbank.org/en/access-to-information/request-submission>>.

39 Information on the two EBRD complaints mechanisms is available at <<https://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/pcm-register.html>>. Information on the EIB complaints mechanism is available at <<https://www.eib.org/en/about/accountability/complaints/index.htm>>. Information on the World Bank Complaints Mechanism is available at <<https://consultations.worldbank.org/consultation/operational-procedures-world-banks-grievance-redress-service-grs>>.

It is also very likely that similar Impact Assessment reports are required under national legislation; in this case, it is strongly advised to take part in the relevant consultation process with a view to providing information about the Roma and Sinti community in question, the impact the infrastructure work will have on their community and suggestions on how to mitigate this impact.

Find out if any wider consultation is planned and try to take part, either directly or indirectly (i.e., by empowering Roma and Sinti inhabitants and educating them on what questions they should be asking). You should insist that, at the very least, the eviction should not leave anyone homeless. To that end, you should try and secure concrete commitments from the local authorities on alternative accommodation and voice any concerns you might have over them (for example that they do not provide Roma and Sinti with housing or shelter on the day of eviction).

Be alert for any instances of harassment or intimidation of Roma and Sinti inhabitants living in informal settlements. This can take numerous forms and ranges from increased police operations without any obvious purpose, to cutting off utilities such as electricity and water. Random attacks (e.g., arson attacks) by third parties are also harassment which aims to force the settlement's inhabitants to leave. Be sure to inform the Ombudsman's Office or the national anti-discrimination body and the Prosecutor's office of any such incidents.

Try to find out whether the Roma and Sinti settlement can be regularized. This can be done by filing a request for information with the competent authority (such as the local town planning office) or, preferably, by helping Roma and Sinti inhabitants to apply themselves for the regularization of their residence. Even if this is not possible, it is crucial to have an official document setting out the reasons why regularization is not possible (e.g., because the settlement is located in an environmentally degraded area).

Establish relationships with NGOs active in promoting Roma and Sinti rights, as well as lawyers, journalists and civil engineers sensitive to human rights. You will almost certainly need their assistance at some point to challenge forced evictions. Moreover, when time is of the essence (for example, when filing a request with the European Court of Human Rights for an interim measure to suspend an eviction just before it is due to happen), it is good to know who you can turn to for help.

Try to explore adequate forms of alternative accommodation together with the people affected and the state authorities (where possible). Try to ensure long-term accommodation is provided, or at least dignified temporary accommodation followed by guarantees to arrange permanent accommodation. Do not reject outright, nor immediately accept such proposals, even if they are inadequate, as they can serve as a starting point for negotiations. In any case, it is important that you and the people facing eviction are able to show that you have tried to cooperate fully with the authorities (e.g., social services or the local municipality) to find a mutually-acceptable solution that also conforms to international and national standards. Ensure sure that any agreement is drawn up in a legally binding document.

Become familiar with your country's legislative and regulatory frameworks on protection from forced eviction and how these are applied in practice. The reports filed by states to the competent United Nations and Council of Europe bodies, as well as the assessments given by these bodies on the adequacy and effectiveness of the relevant frameworks, are a good source of information. For United Nations bodies, visit the site of the Office of the High Commissioner for Human Rights⁴⁰ and choose your country. Here you will find the reports filed by your country to the different monitoring mechanisms along with their assessments (usually set out in a document called Concluding Observations). The most relevant are those issued by the United Nations Human Rights Committee (HRC) and the Committee on Economic, Social and Cultural Rights (CESCR). For Council of Europe bodies, you can consult country reports and the recommendations of the European Commission against Racism and Intolerance⁴¹

⁴⁰ <https://www.ohchr.org/en/ohchr_homepage>.

⁴¹ <<https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/country-monitoring>>.

(ECRI), the conclusions under Articles 16 and 31 of the (Revised) European Social Charter, and decisions on the merits in collective complaints brought against your country adopted by the European Social Charter's European Committee of Social Rights⁴². Use what you find in your advocacy work and recommend that the NGOs/lawyers/journalists you are working with refer to these findings in their work.

Familiarize yourself with the decisions and judgments made by the various United Nations bodies and the European Court of Human Rights on forced evictions in general and of Roma and Sinti in particular. If any decision or judgment has been adopted against your country, then there is probably an official translation available in your language. Study it carefully and share with your contacts. Please also note that when the European Court of Human Rights delivers a judgment finding a violation, that judgment is forwarded to the Council of Europe's Committee of Ministers which supervises its execution. When monitoring the execution, states often inform the Committee of Ministers about the measures taken (e.g., the enactment of new laws) or of developments (such as domestic court judgments). The Committee of Ministers has a website⁴³ to which all relevant information and material is uploaded. You can search by entering the name of the case or its application number in the search box. Use your findings in your advocacy work.

Make sure you follow closely the administrative/judicial proceedings for ordering the eviction and get copies of documents such as court decisions. Depending on your assessment (and that of your lawyer) of the information (e.g., the rationale for the eviction judgment, the adequacy of the alternative accommodation etc.), you might recommend that the inhabitants challenge the eviction order via an interlocutory (a type of interim decree) for stay of eviction before a national or international court. Be aware that, in principle, only remedies with suspensive effect (i.e. procedures that can lead to the staying of the eviction) can be considered effective in this context.

⁴² <<https://www.coe.int/en/web/european-social-charter/country-profiles>>.

⁴³ <[25](https://hudoc.exec.coe.int/eng#{%22EXECDocumentTypeCollection%22:[%22CEC%22]}>.</p></div><div data-bbox=)

During a forced eviction

If an eviction is authorised, the state authorities still have to comply with a number of conditions. They must allow those being evicted a reasonable amount of time to take their belongings and salvage any materials they want from their homes.

Journalists should be allowed to cover the eviction.

Competent state officials should be present and clearly identifiable at the eviction. Given the stress that eviction may cause, the authorities must make sure the emergency services are present to offer assistance such as accommodation, clothing or food.⁴⁴

Evictions should not take place during bad weather, during festivals or religious holidays, nor before elections or before and during school examinations. They should also not happen when the occupants are unlikely to be at home.

Particular attention should be paid to people with heightened vulnerability such as pregnant women.⁴⁵

⁴⁴ *Ghailan and Others v. Spain*, No. 36366/14, European Court of Human Rights, 23 March 2021, paras. 30 & 79, <<https://hudoc.echr.coe.int/fre?i=001-208751>>.

⁴⁵ United Nations Committee on the Elimination of Discrimination against Women, L.A. and Others v. North Macedonia, No. 110/2016, 18 March 2020, para. 9.4, <<https://ednoopstestvo.vlada.mk/wp-content/uploads/2021/01/%D0%9B.%D0%90.-%D0%B8-%D0%B4%D1%80%D1%83%D0%B3%D0%B8-%D0%BF%D1%80%D0%BE%D1%82%D0%B8%D0%B2-%D0%A1%D0%B5%D0%B2%D0%B5%D1%80%D0%BD%D0%B0-%D0%9C%D0%B0%D0%BA%D0%B5%D0%B4%D0%BE%D0%BD%D0%B8%D1%98%D0%B0.pdf>>.

Recommendations to Roma and Sinti activists

Collect information and monitor all aspects of the eviction. For example, find out as soon as possible that an eviction order has been served so that those being evicted can remove their belongings. Note the time the eviction order was executed and assess whether any measures were taken to protect people such as pregnant women, whether social services were present and whether any inhabitants were left homeless following the eviction. Use **ANNEXE 2 – EVICTION DUE PROCESS ASSESSMENT FORM** to help you.

If possible, contact journalists and ask them to cover the eviction. The presence of TV crews during an eviction might deter violent incidents (the authorities will know that they are being filmed) or make investigating any incidents easier.

Following a forced eviction

Within the limits of their financial means the authorities should make sure that people who have been evicted and cannot find housing for themselves are offered adequate alternative accommodation and are not left homeless. This obligation applies regardless of whether the eviction took place following a request by a state authority or a private person. Where homelessness does result, it is up to the state to prove that, despite taking all reasonable measures within its financial limitations, it was unable to provide alternative accommodation, taking into consideration the particular vulnerability of those evicted.⁴⁶ In practice, it will be almost impossible for a state, even one that is not very wealthy, to successfully defend such a justification.

Alternative accommodation has to conform to the seven aspects of the right to adequate housing as set out above: habitable, affordable, accessible, in a location allowing access to social services and facilities, connected to public utilities, culturally adequate and with legal security of tenure.⁴⁷

At times however, it might be impossible to provide evicted people with suitable alternative accommodation immediately. In this case, it is acceptable to give them temporary accommodation that might not comply with all the adequate housing requirements. Still, this alternative accommodation must meet certain basic standards. First, it must allow occupants to live in dignity, safety and security and, second, strictly be only a temporary solution pending adequate alternative accommodation.⁴⁸

⁴⁶ *Goumari and Tidli v Spain*, op. cit., note 28. paras. 9.1 & 9.2.

⁴⁷ *Ibid.*,

⁴⁸ *Ibid.*, 9.3–9.4.

A hostel where an evicted family was accommodated in overcrowded conditions, with poor sanitation and lack of privacy, far away from the children's school while facing the threat of another eviction and where the authorities made no real effort to find them adequate alternative accommodation, was not considered to constitute adequate temporary housing.⁴⁹ On the other hand, temporary accommodation consisting of one or more rooms with access to a communal toilet and kitchen facilities for a maximum period of six months following which the authorities would make arrangements for provision of more permanent accommodation, has been considered as adequate.⁵⁰ In such cases, the burden would fall on the applicant to demonstrate that the temporary accommodation is not adequate, by showing evidence, for example, of the unsanitary facilities.⁵¹

Temporary accommodation should respect the principle of family unity and should not result in the separation of its members.⁵² It is important to note that refusing to take up inadequate temporary accommodation will not be construed as a refusal to cooperate with the relevant authorities and thus will not be held against the applicant.⁵³

Where the eviction was the result of a violent attack on the settlement by unknown parties, the authorities are obliged to conduct an effective criminal investigation to try to identify and punish the perpetrators.⁵⁴

⁴⁹ *Ibid.*,

⁵⁰ *Romero v. Spain*, No. 48/2018, United Nations Committee on Economic, Social and Cultural Rights, 12 April 2021, paras 4 & 12.6, <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2F69%2FD%2F48%2F2018&Lang=en>.

⁵¹ *L.A. and Others v. North Macedonia*, op. cit., note 45. para. 9.3.

⁵² *Djazia and Bellili v. Spain*, op. cit., note 29. para. 17.7.

⁵³ *Ibid.*

⁵⁴ *Pastrama v. Ukraine*, No. 54476/14, European Court of Human Rights, 1 April 2021, para. 87, <<https://hudoc.echr.coe.int/fre?i=001-208889>>.

Recommendations to Roma and Sinti activists

The more effort you make to secure adequate alternative accommodation before the eviction, the less work you will have to do after the eviction.

That said, it is important to monitor the implementation of any alternative accommodation agreement reached before eviction. Local authorities might 'forget' their part of the agreement and, for example, not take measures to provide those evicted with permanent accommodation but leave them in temporary accommodation.

If an agreement has not been reached before eviction, then it will be important to gather information on the living conditions of those evicted with a view to alerting the competent state services and ultimately filing an interlocutory request for the provision of accommodation. Once again, it will be important to establish that those evicted were rendered homeless not through their own fault (e.g., because they failed to contact the competent state agencies) but because the relevant authorities have not taken the necessary measures.

If the eviction was brought about by acts of violence (e.g., arson attacks) by private persons, you should alert the competent authorities and closely monitor their actions (e.g., whether they are carrying out a criminal investigation and whether they have invited Roma and Sinti victims of the attack to testify).

Useful resources

Office of the United Nations High Commissioner for Human Rights, UN HABITAT, “The Right to Adequate Housing, Fact Sheet No. 21/Rev.1”, November 2009, <<https://unhabitat.org/the-right-to-adequate-housing-fact-sheet-no-21rev-1>>.

Office of the United Nations High Commissioner for Human Rights, UN HABITAT, “Forced Evictions, Fact Sheet No. 25/Rev.1”, <https://www.ohchr.org/sites/default/files/Documents/Publications/FS25_Rev.1.pdf>.

Council of Europe, Commissioner for Human Rights, “Housing Rights: The Duty to Ensure Housing for All”, 2008, <<https://rm.coe.int/16806da793>>.

European Court of Human Rights, “Roma and Travellers Factsheet”, 2021, pp 21–24), <https://www.echr.coe.int/Documents/FS_Roma_ENG.pdf>.





Annexe 1: Roma and Sinti informal settlement profile

INFORMATION ABOUT THE SETTLEMENT

1. City

.....

2. Name / locality where the settlement is located

.....

3. Ownership and legal status of the land where the settlement is located

Please indicate whether the land belongs to the state or a private person/entity, identifying the owner if possible and the status of the land (e.g., building land, farm land)

.....

.....

.....



4. Settlement population

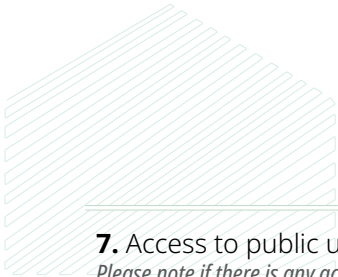
Break down approximately by age and gender

5. When was it formed

Please gather relevant information (e.g., newspaper articles) attesting to the date the settlement was formed

6. Short description of the type of housing in the settlement

Please indicate whether it consists mostly of impromptu dwellings/shacks or low quality housing



7. Access to public utilities

Please note if there is any access to running water (e.g., number of taps with running water), electricity, sewerage, waste disposal services. Also please indicate whether they are paying for it or whether it is provided for free

.....

.....

.....

8. Is there any possibility of the settlement / houses being regularized?

Please indicate, after seeking authoritative information, whether the settlement or part of it can be regularized. Ideally an attempt should be made to regularize some dwellings with a view to seeing in practice whether this is possible.

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HOUSING PROJECTS / INITIATIVES REGARDING THE COMMUNITY IN QUESTION

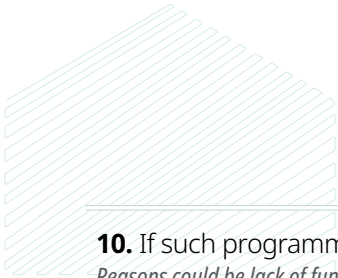
9. Have any housing programmes been proposed for the inhabitants of the settlement?

Please briefly describe these projects/initiatives (if applicable)

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.....

.....



10. If such programmes / initiatives have been adopted and implemented in the past, please explain why they were not successful.

Reasons could be lack of funds, reactions by non-Roma residents

11. Is there an ongoing housing programme for the inhabitants of the settlement?

Please indicate the current status of any housing programme/initiative (if applicable)

EVICTON RISK FACTORS

12. Is the settlement located in an area where the price of land is high / increasing?

The higher the land prices in the area, the more likely it is that the inhabitants of the settlement will be at risk of forced eviction



13. Do you have information on whether the settlement land will be necessary for a public infrastructure/ private construction project?

Please indicate the current status of any housing programme/initiative (if applicable)

14. Have the inhabitants reported any harassment/intimidation by state officials or private people in recent months?

Harassment can take many forms (e.g., more frequent police I.D. checks, sudden cutting off of public utilities). A sudden increase in such actions might indicate an imminent eviction.



ALTERNATIVES TO EVICTION

15. If a construction project is planned, please identify its source of funding and assess whether you can obtain information from the funding institution(s).

Examine whether those funding the project have an information policy which you can access to find out if community resettlement is being considered.

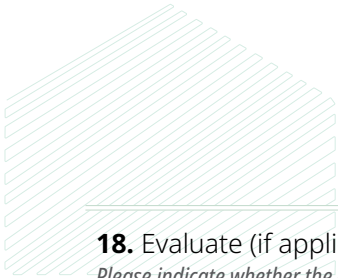
16. Have alternatives to eviction been explored?

Eviction should only be the last resort

17. Describe and evaluate the adequacy of the consultation process (if any).

Please collect information on the number of consultation sessions, the dates they were held, the number of people who took part, the issues discussed and outcomes reached.

Please get copies of the official minutes of these meetings. You may share your assessment of the effectiveness of the consultation process with the funding institution(s).



18. Evaluate (if applicable) the alternative accommodation and the conditions for accessing it.

Please indicate whether the authorities are offering temporary or permanent accommodation and any relevant conditions.

19. Have the parties reached an agreement in writing regarding the provision of alternative accommodation following the eviction?

If yes, please get a copy of the signed agreement

LEGAL REMEDIES

20. Have the authorities informed the inhabitants of their right to challenge their eviction and their right to free legal aid to that end?

21. If yes, have the inhabitants challenged their eviction? If not, why not?

Annexe 2: Eviction due process assessment form

INFORMATION ABOUT THE SETTLEMENT

If recent, you can use relevant information from Annexe 1

1. City

2. Name / locality where the settlement is located

3. Ownership and legal status of the land where the settlement is located

Please indicate whether the land belongs to the state or a private person/entity, identifying the owner if possible and the status of the land (e.g., building land, farm land)

4. Settlement population

Broken down (approximately) by age and gender



INFORMATION ABOUT THE EVICTION

5. Date and time of the eviction

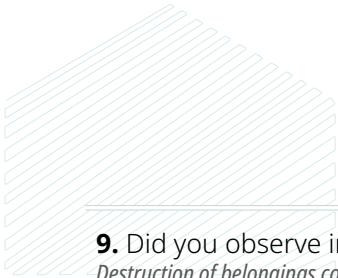
6. Number of people affected

Broken down (approximately) by age and gender. Note that the eviction might affect only some inhabitants of the settlement

7. Weather conditions during the eviction

8. Was the eviction order made available in due time to the inhabitants of the settlement?

You should ideally secure as many copies of the eviction order that was served (if applicable) and check the date it was served to inhabitants.



9. Did you observe inhabitants' belongings being destroyed?

Destruction of belongings could be an indication that the inhabitants were not provided with adequate time to recover them from their dwellings.

.....

10. Were social services officials present?

Social services staff should be present with a view to providing all necessary assistance to the inhabitants of the settlement

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11. Was priority treatment/special consideration given to vulnerable members of the community (e.g., the elderly, pregnant women, children)?

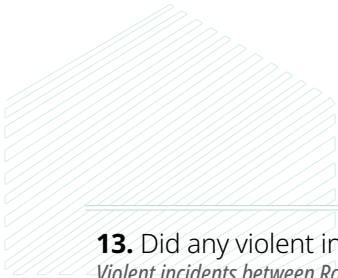
State officials, and social services staff in particular, should give priority to vulnerable members of the community during eviction.

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12. Were properly identified state officials present?

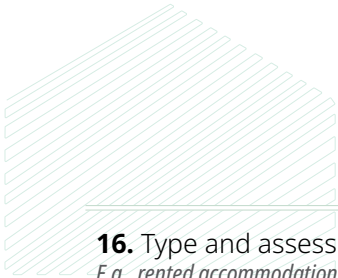
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13. Did any violent incident break out during the eviction? If yes, please describe the parties involved/the cause of the incident.
Violent incidents between Roma and Sinti and state agents can be a sign that their concerns about the provision of alternative accommodation have been left unaddressed. An eviction that fully conforms to international standards would almost never turn violent.

14. Were journalists and activists respectively allowed to cover and monitor the eviction?
The presence or not of journalists and NGO monitors can be another indication of whether the eviction is lawful and in compliance with international standards .

15. Will all those evicted be provided at least with emergency/temporary accommodation?
This is probably the most crucial test of whether the eviction is lawful under international law. The authorities should have ensured that no person is left homeless following an eviction.



16. Type and assessment of temporary/permanent accommodation

E.g., rented accommodation (in which case please indicate whether the rent is subsidised), social housing, etc. You should try to assess the adequacy of the permanent accommodation by reference to the seven aspects of the right to adequate housing. The relevant criteria for temporary accommodation are not so stringent but, in any case, should allow occupants to live in dignity and safety, pending provision of permanent accommodation.

17. Will those people given temporary accommodation be provided permanent accommodation in good time?

Please indicate whether the authorities have a short and concrete timeframe to that end.

