

**“Forced Evictions and the Right to Housing of Roma in Russia”**  
Update to the FIDH/ADC Memorial 2008 Report<sup>1</sup>

March 2011

On the occasion of the 48th Session of the Committee on Economic, Social and Cultural Rights of May 2011, the International Federation for Human Rights (FIDH) and the Anti-Discrimination Center (ADC) "Memorial" present an update, covering the period from 2008 to December 2010, to the joint report "Forced Evictions and the Right to Housing of Roma in Russia" published in July 2008.

The threat of forced evictions remains a reality for all Roma communities whose houses and land are completely or partially unregistered. ADC Memorial continues to encounter situations such as those presented in the 2008 FIDH/ADC Memorial Report.

The recommendations regarding a ban on evictions have not been heeded. As before there is no legal prohibition on evictions and local authorities continue to rely upon the principle of “formal legality” in performing evictions and destroying unregistered houses. Roma settlements continue to be completely dependent on the local authorities. The unregistered status of houses in Roma settlements is used as one of the administrative “pressure points” on members of the community. Specifically, it is used as a means of preventing appeals to law enforcement agencies and thus functions as one of the elements of systemic discrimination against the Roma population.

Positive legal changes can be noted, including decisions rendered by the Constitutional Court of the Russian Federation that protect the right of children to housing. Additionally, in several regions laws were adopted regarding the provision of parcels of land to families with many children (although their implementation with regard to Roma families has been hindered by the discriminatory attitude of the administrative system as a whole).

On the international level, the problem of forced evictions has been acknowledged as urgent and the recommendations previously developed to improve the situation have been affirmed. In the recent Strasbourg Declaration on Roma (adopted on 20 October 2010), the Council of Europe once again emphasized the importance of implementing the rights of Roma to housing and the adoption by the state of adequate measures to improve the implementation of the right to housing and effective protection from forced evictions.

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<sup>1</sup>This report is available at: <http://www.fidh.org/Forced-Evictions-and-the-Right-to-Housing-of-Roma>

**Threats of evictions against the Roma settlement in the village of Shagol, District of Chelyabinsk, July 2010**

The situation that occurred in July, 2010 in Chelyabinsk (*at the Roma settlement in the village of Shagol, in the Kurchatov District of Chelyabinsk*) provides a new example of the **threat of forced eviction by the city administration** and of a timely and successful human rights response.

On 5 July ADC Memorial became aware of the possible initiation of forced evictions of Roma living in the village of Shagol in the Kurchatov District of Chelyabinsk. Memorial was contacted by representatives of the Roma settlement, who had learned from the media that the head of the administration of the city of Chelyabinsk, S. V. Davydov, had charged the head of the Ministry of Internal Affairs (MID) to “sort out” and verify the legitimacy of the Roma population (“cardboard houses”) in the village of Shagol. This information was confirmed by the staff of the administration’s press service, who explained that the Roma settlement was illegal and that the head of the MID had been ordered to “take steps” regarding the trespassers in the very near future. Since officials had previously made many threats regarding possible “evictions” and “deportations,” and considering the generally known negative attitude toward Roma on the part of city law enforcement officials, as well as the methods usually used (intimidation, threats, violence), the Roma residents were extremely alarmed and frightened by the situation, and requested that ADC Memorial defend them from a possible forced eviction.

ADC Memorial staff had visited the Roma settlement of Chelyabinsk earlier and had learned that the Roma had lived within the city since 1994 and that many children had been born in Chelyabinsk who had certificates from the municipal maternity hospitals, but who could not obtain birth certificates due to their parents’ lack of documents. Many times the residents of the village had requested state agencies (the district administration and the Federal Migration Service) to provide assistance in obtaining identity documents. Written evidence exists of complaints to the governor of Chelyabinsk Province regarding the FMS of Kurchatov District and delays in obtaining documents. The residents also requested legal assistance in registering their houses and parcels of land. They submitted applications to the agencies responsible for registrations, but encountered opposition from officials. The administration’s claim that it was unaware of the settlement, which had existed for fifteen years, therefore seem quite strange.

The petitioners were particularly disturbed by the fate of the *children of the village (around 200 of them)*, many of whom suffer from serious forms of various illnesses and according to their parents may not survive a forced eviction from houses that are the only place they have to live. Yet the *right to housing*, as the Constitutional Court of the Russian Federation noted in its Decree of 8 June 2010, is *essential for the creation of adequate living standards and the development of the child*. Without implementation of the right to housing it is impossible to implement most of the socio-economic rights of children, above all the right to health protection and the right to education. Still more impermissible is the destruction of houses that are the only place the children have to live without providing alternative housing. The decision to destroy unauthorized structures where children live should never be made without carefully studying the children’s standard of living, involving social agencies and services, and striving to find the regulatory option that will be the least detrimental to the fundamental rights of children. Otherwise even a decision that is technically legal may infringe upon the rights of children, and such decisions cannot be considered legal in a state that has recognized the right and freedom of the individual as a paramount value.

In addition, when threats of forced deprivation of housing concern a societal group with specific ethnic, social, and material characteristics, a discriminatory approach is apparent, which is prohibited particularly with regard to children by the Convention on the Rights of the Child (Article 2) and which is clearly illegal, as is any form of discrimination. Although the decision is officially made for other reasons, in point of fact a group of people is being subjected to forced eviction specifically on an ethnic and socio-material basis (it is the poorest Roma settlements that cannot afford to buy or to register their houses and parcels of land). Moreover, negative measures are imposed on individuals who need social support the most due to their circumstances.

With regard to the adult Roma population, forced deprivation of housing and forced relocation also violate international standards — primarily as regards the right to adequate housing guaranteed by the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Elimination of All Forms of Racial Discrimination — and the recommendations of international agencies that amplify these standards. The Russian Federation must consider this in the activities of its state agencies. Moreover, in applying international norms, the fact that “unauthorized structures” are not recognized as housing under Russian law does not deprive an individual of protection either of the right to housing or of the right to inviolability of housing and the procedural safeguards of administrative and judicial procedures for confiscation. In international practice the right to adequate housing includes a state’s affirmative obligation to take all possible steps to create safe and adequate living conditions and the impermissibility of arbitrary eviction, as has been noted many times by the Committee on Social, Economic, and Cultural Rights.

To defend against the immediate threat of eviction, ADC Memorial sent letters interceding on the behalf of the Roma of Shagol, calling the attention of the decision-makers to the illegality of forced evictions, which violate international standards (first and foremost with regard to the right to adequate housing guaranteed by the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Elimination of All Forms of Racial Discrimination) as well as the recommendations of international agencies that reinforce these standards. Petitions to the Plenipotentiary for Human Rights, the Plenipotentiary for Children’s Rights, and the Presidential Council for Civil Society Institutions were submitted in order to avert the violation of the rights of the villagers, including children. ADC Memorial also contacted international organizations (FIDH and ERRC), who actively participated in protecting the Roma population and submitted petitions to Russian state agencies and officials. As a result of human rights petitions and public involvement, the eviction of Roma by the city administration and law enforcement agencies was halted. Additionally, according to representatives of the Roma settlement, the administration offered to review the issue of providing the Roma with land on which they have been living since 1994, for the subsequent registration of the village’s houses. The administration’s answer contained information on the creation of a special commission “to resolve the problems of the Roma population.”

#### **The Administrative Procedure for Providing Land: Conducting an Auction**

According to the results of the commission’s work, “a decision was made to review the possibility of providing parcels of land for resettling” the residents of the *tabor*. The administration explained that an auction would be arranged at which the Roma could purchase their parcels (at an acceptable price agreed-upon with the community) and the parcels that were owned by the *tabor*’s “neighbors” could be exchanged for others of equivalent size.

The land auction was scheduled for 17 December 2010, but did not take place. It was rescheduled to January 2010. Due to legislative rules for providing parcels of land, the administration cannot provide land without holding an auction. However, this does not take into consideration the unique

position of Roma communities, which live on land parcels that had been previously provided officially but that were not registered in time.

### **The Connection Between Violations of the Right to Housing and the Enjoyment By Roma of Social and Economic Rights**

Other problems connected with the unregistered status of Roma houses remain pressing, such as the impossibility of obtaining permanent or temporary registration for adults and children. Under existing Russian administrative practice, a lack of registration in turn hinders the enjoyment of almost all socio-economic rights (to medical service, aid, pensions, and labor rights), including the right of children to education, although this is acknowledged as contradictory to human rights and the Constitution.

Officially registration is a notification of where a citizen resides, but in practice it is impossible to register at a house that is not itself registered, which compounds the negative impact of violation of the Roma's right to housing. Residents attempt to register in one of the few houses in the village that are registered, which also cannot be done due to the restrictions set by registration rules, according to which more residents than provided for by legislation and instructions cannot be registered at a particular place. This situation continues unchanged, despite legislative attempts to simplify the procedure for residence registration.

### **Preventive Measures: “Legalizing” Houses and Parcels of Land**

Since the threat of eviction and destruction of houses, which entail serious socio-economic consequences for those residing in Roma settlements, continues and can occur at any moment, depending entirely on the will of particular local or regional officials and their attitude toward the Roma settlement, ADC Memorial continues to provide active assistance in registering houses and land parcels of Roma communities as a “preventive measure” against forced evictions.

Attorneys who represent the interests of the community in court and before state agencies provide help in registering houses and land parcels. It should be noted that registering houses and land parcels almost always involves a difficult and extensive process of collecting documents and filing court petitions. Moreover, the size of the state fees (for conducting land surveys, for court petitions, and for registration certificates) are beyond the capacity of Roma families. The local authorities and competent agencies provide no assistance in legalizing Roma settlements, as required by the recommendations of international agencies for the purpose of integrating the Roma.

Such “preventive measures” have been and continue to be adopted by ADC Memorial in many regions (Lipetsk Province, Volgograd, Leningrad Province, and Krasnoyarsk Territory) and require large expenditures of time and money.

Additionally, in particular instances letters requesting assistance in implementing the rights of the residents of Roma settlement are submitted to the appropriate authorities. For example, in Lipetsk a letter requesting a gas-supply pipe be brought into a Roma village was sent to an organization that provides gas service, although according to the rules gas may only be brought to registered houses; and a letter requesting assistance in implementing the right to housing for Roma families with many children was sent to the district administration of Omsk.

### **The Threat of Eviction Used As Leverage by Local Authorities**

Recently ADC Memorial has encountered the problem of local authorities using the “illegal” status of Roma houses and parcels of land as a means of pressure, which in several instances explains the reluctance and opposition to the registration of houses and parcels (which is carried out within the same administrative system).

For example, during a court case regarding the protection of the right to education of Roma children from the Roma settlement of Kalinin (Kalinichi, in Tambov Province), ADC Memorial attorneys witnessed the active intimidation of Roma plaintiffs and the use of the community’s internal structure. The administration approached the most influential members of the community and let them know that, if the women did not drop their suit to protect their children, the residents whose houses were not registered (most of the village) would be evicted.<sup>2</sup> Realizing the actual possibility of these consequences, the Roma of the settlement were forced to accept these conditions and drop their suit.

Thus the violation of the right to housing and the continual threat of forced eviction deprived children and parents from the Roma village of the right to judicial defense, illustrating the depth of the structural discrimination against the Roma population, one of the most effective elements of which is the threat of destroying houses and forced eviction.

### **ADC Memorial and FIDH call the Committee on Economic and Social Rights to urge the Russian authorities to:**

Generally,

- Immediately abandon the practice of forced evictions of Kelderari Roma;
- Adopt legal provisions against forced evictions in conformity with international law;
- Where persons have been expelled from their house, due remedy including restitution, alternative housing and/or compensation should be provided in the best timeframe;
- Persons or entities responsible for violations of law and for violence during evictions should be prosecuted.

Concerning the right to housing of Roma and subsequent access to ESC rights,

- Adopt a law on the regulation of housing and land simplifying the privatization process and strengthening security of tenure;
- Register Roma settlements lacking recognized tenure and upgrade living conditions to ensure the dignity of the inhabitants;
- Enable registration of Roma people in the house wherethey live, even if their house is not duly registered, to enable them to enjoy economic, social and cultural rights, including access to education, healthcare, employment etc.;
- Adopt a comprehensive federal plan for the Roma community aiming at promoting and respecting their cultural identity and at eradicating social and economic marginalization, caused in particular by poor housing conditions, lack of documents, the high level of dropouts of Roma children at school and the difficulties of the Roma to access employment. The plan should also aim at sensitizing Russian society to Roma history and traditions, in order to eliminate the negative stigma and stereotypes Roma are recurrently associated with;
- Address a standing invitation to all UN Special Procedures.

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<sup>2</sup> A recording of testimony by representatives of the community is in the ADC Memorial Archive.