

# **SPECIAL REPORT**

**(Displacement of Roma/Egyptian community established in  
the area of Artificial Lake, Tirana)**

**Tirana \_\_\_\_/\_\_\_\_/2015**

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## 1. Introduction:

The Romani are a unique ethnic group, officially known as an ethnic-linguistic minority, settled in Albanian territories a long time ago and who has managed to keep their language and culture. During the post-socialist transition period, as a result of collapse and close of public enterprises and because of their character and skills, and of low levels of education, not excluding discrimination, Romani have passed from a relatively good condition to extreme poverty. Actually they can be considered, the poorest ethnic group and ignored one in Albania.

The wellknown settlements of romani in country are in Tirana,<sup>1</sup> Lezhë, Mamurras, Fushë-Krujë, Nishtullë të Durrësit, Peqin, Rrogozhinë, Peqin, Cërrik, Rrapishta in Elbasan, Pogradec, Korçë Bilisht, Levan, Roma village in Fier, Grabian in Lushnjë, Kuçovë, Berat, etc. Meanwhile it has to be underlined that there are even other stable sites, recently created, after years '90, where we mention the settlements in Shkodër, Gjirokastër, Delvinë, Beltojë, Ura e Drojës, Kukës, Peshkopi, Shupenzë of Peshkopisë, Milot, Ura e Dajlanit, Vrion of Sarandës, Kthesa e Ariut in Durrës, Fushë Alie, etc. The interior immigration process happening with Romani because of economical conditions has made them live everywhere in Albania, changing so the map of their domiciles.

Despite the legal provisions in force, we are all aware of that there is too much to do, to guarantee the rights, the integration and social involvement of this minority. Today we are before a historical choice, where the formal equality provided by law can be turned to a real fundamental equality of this minority who in their ordinary peace but concerned for the eyes of a comprehensive democratic society remembers us that the other majority part of people has left them "in peace", in their social exclusion and segregation.

The everyday reality we see in our eyes has made us reflect deeply and understand that today the Rumanî are a vulnerable group and in risk, like some other social categories. The Institution of Ombudsman has treated since times the issues of this minority and in fact, today the crucial question raised based on our experience is if Romani are really part of our social system? And when I talk about this system, I mean the shelter, their registration in civil offices, the benefits of economical assistances, or the education, and the most key issues, considering here even employment, vocational formation, health care and any other benefits that our social system provides to its own citizens.

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<sup>1</sup> The wellknown sites in Tirana where distinct roma communities have been established are the roma site in the area of Breg i Lumit and the roma site in the area of Shkoze. As a result of forcible evictions from public or private properties in the territory of Municipality of Tirana, today the roma sites in the area of former Train Station, the one in vicinity of "Pallatit me shigjeta", Rruga e Kavajës, or that of Artificial Lake area are inexistent.

Effectively, we can say that our social system formally accepts such individuals but in fact leaves them out, turning to an impassable bureaucratic castle and a synonym of an unclaimed social refusal.

In this context the Ombudsman has made a series of recommendations, where it's worthy to mention:

- Involvement of individuals of Rumani minority to vocational formation programs and employment.
- For registration of members of Rumani minority in registers of civil status and the facilitation of procedures of civil status data transfer to the local units where they have their new domicile.
- Taking measures which will help for a better access in education of Rumani minority children in Albania;
- Meeting adequate living conditions in premises of former military units located in Sharrë, Tirana, where it was expected to shelter several families of Rumani minority.
- Taking measures to enable the registration of Rumani minority children, established near the former military unit, Sharrë, Tirana to 9-years schools beside their current residence.
- The amendment of Law no.9232/2004 "On social programs for sheltering inhabitants in urban areas", amended.
- Amendment of Decision of Council of Ministers no.787/2005, "For determination of criteria, procedures and extent of economical assistance"
- Taking measures to improve living conditions of ethnic linguistic Rumani minority.
- Some improvements in Law no. 69 date 21.06.2012 "For educational undergraduate educational system in Republic of Albania".
- Some improvements in Law no.10221 date 4.02.2010 "For protection from discrimination". We have suggested provision of measures to improve legal context of protection from discrimination, actually 10221/2010, including in this article the reasons for discrimination like nationality, the goal expressed of discrimination; the stimulation for discrimination and discrimination assistance and encouragement. (*According to ECRI report for year 2010 and to recommendation which we presented as institute on this purpose since April 2013*).
- The meeting of legal frame, about recognition and protection of minorities in our country, in conformity with provisions of Framework Convention of Council of Europe "For the protection of minorities".
- A group of recommendations for treating the shelter issues, for Rumani families affected from construction of New Roundabout, for the city of Tirana.
- Two recommendations for elimination of segregating situation towards Egyptian and rumani children, who learn at public 9-years school "Naim

Frashëri”, Korçë, and of rumani children who learn at depending school “Avdyl Avdia”, Moravë, Berat, on goal the avoidance and physical separation of rumani and Egyptian children from those non rumani and non Egyptian.

In addition to recommendations, the Ombudsman has submitted to Parliament three Special Reports regarding the issues of Rumani minority in Albania.

1. The Special Report sent to the Parliament about Rumani minority rights, according to issues ascertained during the Ombudsman activity, during the first semester of year 2012.
2. The Special Report submitted to the Parliament of Albania at the beginning of year 2014 about the situation of Rumani minority rights in the country after an inspection of all principal establishments of Rumani in Albania.
3. The Special Report submitted to the Parliament at the beginning of year 2015, about the situation of collective rights of minorities in Albania, where naturally included the situation of collective rights of Rumani minority.

The most essential elements in resolving issues which Albanian society is facing with today, including the issues of Rumani minority, are the constructive and ongoing dialogue, and the intercultural collaboration between public institutions, civil society and citizens, so that the addressing of issues and the process of their analysis is more comprehensive and overall accepted. Meeting obligations that Albania has in the context of respecting minorities’ rights, especially those of Rumani minority, intending that this community lives with standards of the other part of population in our country, demands the inter-institutions coordination, fundamentally underlining his effective rights protection.

A concerning issue is that of reestablishments of Rumani communities (but even Egyptian ones) from their domiciles established in public or private properties, as it has already happened with Rumani/Egyptian community established since years in the area beside the Artificial Lake, of Tirana.

There are some evidenced cases related to this issue by the Institution of Ombudsman, where the recent case related to the relocation of Rumani/Egyptian community, established for years in the area beside the Artificial Lake, of Tirana is dealt in this special report.

## **2. International Principles for protection of rights against forced eviction (forcible release of residence).**

The housing right was first mentioned in a significant international act in 1948, with its affirmation in Universal Declaration of Human Rights. Later, this right is reaffirmed in a series of other international instruments like:

- International Covenant on Economic, Social and Cultural rights (ICESCR), where member states are required to take all necessary measures to stimulate the realization of proper housing right.
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).
- Convention on Human Rights (*CRC*).
- Convention on Refugee Status, with provisions of housing right.

In General Committee no.4, for the right to adequate shelter, the Committee of United Nations for Economical Social and Cultural Rights, the structure of United Nations created for ICESCR monitoring and enforcement provides constituent elements to housing right. According to CESCR, the right to housing should not be limited to having a roof for head, but it should be considered as a right to live somewhere safe, in peace and with dignity. The Committee of United Nations for Economical Social and Cultural Rights also underlines that the right to shelter should be guaranteed to all people, regardless their incomes, and should be enforced in such way that to conform with their possibilities. It should mean that for example not only the rent, but even the costs related to shelter (like energy and water) should be determined in such way that the rest part of someone's incomes is sufficient to cover the other fundamental needs. According to this Committee, the right to shelter is a multilateral right, which consists in seven aspects that must be met in order to fully implement this right. These aspects are:

- a) Legal security of tenure;
- b) Availability (of services, materials, facilities and infrastructure);
- c) Affordability
- d) Habitability
- e) Accessibility
- f) Location, (which allows access to employment market, healthcare services, schools, child-care, and other social facilities) and
- g) Cultural Adequacy.

In this context the Committee has decided that the obligations for member countries are reciprocal. Firstly, the countries have to approve all the necessary legal, administrative, financial, educational and social measures which enable the realization of right to housing; secondly some obligations are immediately binding to countries, regarding their level of development; they include the prediction and prevention of discrimination, developing strategies and monitoring the level of implementation of the right to housing. In other words the lack of public funds cannot be used as excuse or justification for not taking any measures to implement this right. Even the countries facing big financial difficulties should approve adequate programs which are cost-efficient for the vulneral part of society. If a considerable number of individuals in a country is being negated the right to housing, then such country can be considered to

have failed in meeting obligations according to the Covenant of Economical, Social and Cultural Rights.

On such evaluation basis, it is known as an obligation of states the fact that, the approval of any measurements on aggravating effect must be totally justified. So, the negation of individuals, or providing them housing under conditions, at least not providing the same standard of housing might be considered as an aggravating measure. Another issue related to the housing right is making justice, that means if it can be defended before courts.

In any case it has to be underlined that all these principles are also reflected in the Recommendation of Committee of Council of Europe, Rec. (2005)4 “*For Improvement of Housing Conditions of Roma and Travellers in Europe*”.

**- The right to housing and protection from forced release of the apartment** One of law components to adequate housing, like the legal certainty of possession, aims legal protection of all persons against forced release, an obligation which member states must implement immediately regardless their financial situations.

Through its General Comment no. 7 on the right to adequate housing; forcible release, the United Nations Committee on Economic Social and Cultural Rights provides clear guidance on two issues related to each other: legal security of possession and forcible.

*“The Committee defines forcible release as “permanent or temporary release against the will of individual, family, community, of homes and/or land which they occupy, without offering and without providing legal ways and other ways of protection.”*

Whereas it is noted that expulsion is generally in objection with Covenant of Economical Social and Cultural Rights, at the same time it is also made aware that such actions may be justified (for instance in cases of not paying the rent constantly in case such person is proved to have sufficient incomes at his disposal to cover the rent costs if they meet some conditions (like the preliminary consulting with person to be expelled, the adequate and reasonable notification about time when the residence has to be released and provision of protecting measures for expulsion or compensation prevention). Such requirements are applied the same in cases of expulsions made by state authorities or expulsions made by private subjects. The releases of residences must not turn the person to homeless and make him vulnerable to other violations of human rights. They also must not be performed in bad weather or overnight.

The Committee of United Nations for Economical, Social and Cultural Rights expresses his concern that forcible release is usually accompanied by acts of violence (sometimes the release of shelter happens during inter-ethnic violence) and women, children and minorities are especially vulnerable. This implies that authorities must be consulted with those who are affected before moving them out, and offer them free legal assistance or offer them alternative jobs (in case of nomadic roma), or shelters. An ordinary misunderstanding is that protection from forcible release is applied only

for adequate shelters which serve as homes, which are built in conformity with construction and shelter requirements.

As continuously underlined by the European Court of Human Rights, the issue if some buildings may be classified as “home” is a question of fact, and it does not depend on possession legitimacy, according to domestic law.<sup>2</sup> On the other side, the General Comment No. 4, of Committee of United Nations for Economical, Social and Cultural rights, directs states to guarantee possession of all types and with a growing number of decisions given by international courts and “quasi” judicial organs, confirms that all types of shelter, despite if they coincide or not with viewpoint of society regarding what a house/shelter consists in, they must be offered protection from force eviction.

**-Principles in practice. Operational measures related to three phases of dwelling release.**

Making clearer the state obligations in cases of forcible release of dwelling from community and basing on General Committee no 7, of United Nations Committee for Economical Social and Cultural Rights, the Special Rapporteur of United Nations to housing has published a series of detailed guidelines which sum up general obligations of states related to housing and their obligation before, during and after dwelling release, named Basic Principles and Guidelines of United Nations and the Guidelines for evictions basing on developments and on displacement.

Such guidelines aim to offer clear addresses for officials and policy makers about measures they must take (legislative, operational) which guarantee that dwelling release is made in conformity with international law. According to these principles and guidelines related to various measures, for various phases of dwelling release, the affected people must be guaranteed an adequate protection.

**A. Before release of dwelling** According to basic principles of United Nations, dwelling release must be considered as the last instrument and after all alternatives have been examined (like the arrangement of dwelling) – in other words, the burden fall on authorities to prove that eviction is indispensable, for instance for purposes of public interest/public health. Constant consultations must be developed inviting all affected persons while authorities must stimulate participation of women.

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<sup>2</sup>In case *Connors v. GB*, the applicant, (roma), was evicted from a local camping offered for travelers, kept by municipality and where he and his family had stayed for many years and basing on an immediate eviction procedure, which did not need at least a judicial decision to authorize the eviction. The dwelling release was immediate and could not be appealed in court. Noting that the caravan was the only home of applicant and he and his family had not enjoyed any sort of tenure and they had not been allowed from domestic law to complain their eviction.

The European Court decided that release of object by applicant was not followed by protection of a fair process and so state was in violation of article 8 of Convention. Application No. 66746/01 decision of 27 May 2004. 25 See on [http://www.ohchr.org/Documents/Issues/Housing/Guidelines\\_en.pdf](http://www.ohchr.org/Documents/Issues/Housing/Guidelines_en.pdf) 26 Ibid, paragraphs 17, 22.

Furthermore, on goal to make these consultations efficacious, authorities must provide to the affected people all the necessary information, like the reasons regarding the dwelling release, work timetable to perform, and giving necessary time to those affected and to their lawyers to give alternatives, to make comments/suggestions, about plans of authorities. It would be ideal that the result of such attempts was the conclusion of an agreement between state authorities and those who are going to release dwelling, which arranges all aspects of dwelling release and offers alternatives to housing. If the parties are not capable to reach in such agreement then they must be offered protection in other institutions like courts or office of Ombudsman.

If release of dwelling is indispensable and no agreement is reached, then the decision which orders the release of dwelling must be addressed to all affected individuals, in a sufficient time before performance of dwelling release. The decision must include the reasons of dwelling release, the full details about alternatives and when no alternatives are offered, the details of measures that authorities will apply aiming to facilitate the effects of dwelling release. The decisions regarding the release of dwelling must be subject of a judicial control and release must be allowed when there is a case in court; the affected persons for dwelling release must be able to complain the dwelling release in court and must be guaranteed with a free legal protection if they are not able to take a defense lawyer. In addition the persons who release dwelling must be given sufficient time to make among others an inventory of their possessions to assess the value of property in case of loss/damage. In principle providing simply compensation of the victim who is obliged to release the dwelling is not considered sufficient if it is not accompanied with housing alternatives. Those who are evicted must be compensated even for losses, saving and transport of their objects, regardless they were holder or not of the ownership right; the proprietors of informal properties have the right of compensation as well. It is an obligation that dwelling release does not turn the individuals to homeless, vulnerable to violation of their other rights (for instance the right for food). They should be provided with immediate alternative housing after dwelling release and it must be as close as possible to the previous one/living means of left person. Moreover, providing of alternative housing must meet the criteria provide in General Committee no.4, referring to the above mentioned, actually regarding the accessibility, adequacy, habitability, security of tenure, of adequate culture, and of adequate location and of access to fundamental services.

According to revised Social Charter of Rights, the states must take all the necessary measures to guarantee that vulnerable groups like Roma/travelers must be provided with adequate possibilities to arrange their housing and not considering the level of their denial along years where necessary requirements for housing arrangement are compiled, can lead to an indirect discrimination. This is important not only to provide them shelter, but even to offer them additional legal certainty, for as long as the illegal houses are more subject to demolitions. So, the Charter underlines, that demolition of

illegal houses and creation of the city of barracks can be as a result of lack of effective housing policies. Therefore it is unacceptable, and unfair as well to penalize those persons who do not have any support by state and who have tried to resolve their housing problems in all ways they can, through practicing the right of “self-help”. According to the charter always: “...a person or a group of persons who cannot effectively benefit from the right provided in legislation, is obliged to adopt improper behavior on goal to meet his most indispensable needs. However this circumstance cannot justify any sanction or measure against these persons, and it cannot be considered to stop them benefiting from their rights”.<sup>3</sup>

An important issue related to family life, but with a strong housing element which underlines the need of authorities to help the ones who live in unsafe housing conditions to overcome their problem, versus simply penalizing them is that of *Wallová and Walla v. the Czech Republic* (not a case related to roma/travelers). In this case the court was critic with social authorities who took in custody the child of applicant, and sent them to a simple institution with the simple reason that their housing situation was problematic- a problem encountered by many roma, in Czech Republic. The court noted that authorities must have helped the applicant resolve the housing issue (for instance offering him an adequate housing or helping him to have access in other housing profits), but he was not supported and so he was faced with such drastic measure. Turning back to the defense issue against the authority’s decision to release dwelling, either the European Court of Human rights or the Committee of Human Rights of United Nations have underlined the need for a domestic, constant and effective protection of persons who are affected from release, protection which must be simply in assuring if the legal domestic procedures have been followed correctly, and the content of each of them will be reviewed. So in two cases of Roma eviction against Bulgaria, *Yordanova and others v. Bulgaria*<sup>4</sup> and *Liliana Assenova Naidenova et al v. Bulgaria*,<sup>5</sup> respectively before the European Court of Human Rights of United Nations, both institutions reached to the same conclusions.

Both cases broke the ice regarding the sense that they are the first cases when an international court takes interim decisions which ask authorities not to continue the eviction of roma community up to their case examination – in real the Committee of Human Rights took a second interim decision which asked authorities to re-link the water supply in their houses, which authorities had stopped on goal to threaten and force roma to release house. Such decisions are given only in special cases only when the damaged caused to persons is non recoverable. In other words both organs

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<sup>3</sup>Collective Complain No. 31/2005, *European Center of Roma Rights v. Bulgaria*, Decision in merits, approved on 18 October 2006, see on [http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC31Merits\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC31Merits_en.pdf), paragraph 53.

<sup>4</sup>Appl. no. 23848/04, Decision of 21 November 2006.

<sup>5</sup>Appl. no. 25446/06, Decision of 24 April 2012.

considered that if release happened then it would bring heavy and harmful consequences to applicants' life.

In their final decision none of the parties argued the fact that, roma were illegally established on public land and in principle, their eviction was not unfounded or in violation with domestic law. Moreover, the European Court was critic for the argument propounded that eviction was necessary to protect public health, and for protection of life and health of Roma themselves. Accepting that roma people did not live in hygienic conditions and their health had to be taken into consideration, the solution offered by authorities (which was their eviction) did not refer such cases properly, - sufficient reasons to make the problem more emergent.

Both authorities underlined the lack of offer of any alternative housing form for roma and their families while the eviction was allowed and the fact that authorities had allowed roma to live there for many years so they could not order them all of a sudden to release houses and suspend their usual family and community lives.

In addition both structures emphasized the lack of judicial defense which might permit applicants to raise such cases in domestic courts and so concluded that state did not reach to offer applicants any housing alternative before asking them to release property or should not have proceeded with their eviction.

In conclusion, an argument propounded by state authorities was related to lack of any type of compensation for illegitimate owners, as their houses were built without permission. The European Court caught this argument in air explaining that though the established one, for instance, is not always allowed to pretend his ownership on a public property, he/she can always pretend that the house he/she has built without permission creates a special possession on land where he/she has built and in case of its loss can be compensated. Deciding this way, the Court was focused on two following parameters: first, demolition of houses without permission was an issue recognized in Bulgaria, and that states continuously made laws to foresee them, in other words the illegal constructions were a structural problem which at least was tolerated by state, or better say encouraged by that. Secondly, in case of applicant, the authorities not only were aware of the fact that his house was built without permission but they had allowed him to be connected with public utility services.

***B. During dwelling release.*** In cases when release of dwelling is unavoidable, except as above, authorities must take several measures on goal to guarantee that the release is made in conformity with international law.

As a consequence dwelling release must not be made when it is bad weather, during religious celebrations, before elections, or during school exams, along night, or when dwellers are not there. Public officials clearly identified must take part whereas to media and to independent observers must be given access as well. People who have to release dwelling must be given sufficient time to gather their personal objects and they must not be forced to demolish house, though they might be allowed to do this if they ask to do that by themselves (in order to save the construction materials).

Authorities have also to protect any sort of properties left behind and to guarantee that it will not be taken by force or destroyed and take measures to protect wellbeing of vulnerable groups such as women and children.

Lastly, any use of force by authorities must be in full conformity with respective international standards. In each case, the sort and extent of administrative and operational measures to be taken will depend on circumstances and facts.

**C. After dwelling release.** Dwelling release not associated with housing alternative offers might be considered in conformity with international law only in exceptional cases.

In any other circumstances, authorities must guarantee that the evicted ones, have access in shelters and homes, in health services and schools, and forcible eviction must not turn them to homeless. Moreover, authorities must never ignore gender aspect and always must try to stimulate participation of women in all necessary procedures. A special attention should go to welfare of women and children.

The alternative housing must meet all requirements of General Committee no. 4, inter alia accessibility and habitability. Authorities must monitor and follow social and health conditions of the evicted ones (especially in cases of displacement of the entire community) and stimulate good relationships with receiving community. The wide jurisprudence suggests that victims of dwelling release might be right when they refuse the housing alternative offer if such housing does not meet basic requirements and as a result eviction from dwelling can still be considered illegal. So, in case *Kopnin and Others v. Russia*, the European Court of Human Rights had provided that the applicant was right when he had not accepted an alternative apartment offered, and that it was not habitable. In another case *Winterstein and Others v. France*, related to dwelling release by *Gens du Voyage* (Travellers), the European Court underlined the fact that though late, authorities made a social and urban survey intending to make evident the needs of some applicants who in the end of survey were provided with social dwelling. Nevertheless the European Court found violations of article 8 regarding those traveler French families, travelers who asked to be transferred to family properties concluding that authorities did not manage to provide them a cultural adequate dwelling conform to their way of living. As noted above, cultural adequacy is another element of housing right which state must take into consideration when providing housing policies.

**3. Recommendation addressed to the Municipality of Tirana and the media statement of 08.10.2015, on handling the case of Roma/Egyptian community, set in the area of the Artificial Lake, Tirana.**

Based on the information received from articles published in the press, but also from news broadcasted in the audio-visual medias, the institution of the Ombudsman is aware of the developments related to the intervention provided to be undertaken by the Municipality of Tirana, for the relocation of families of Roma/Egyptian community, located from several years in the area near the Artificial Lake, Tirana.

More specifically, on 02.10.2015, the website "Shqiptarja.com" published a column entitled "The Municipality of Tirana: an action plan to relocate Roma from the Lake". Under this article, accompanied with photos of barracks of Roma/Egyptian families living in the area, the Municipality of Tirana was involved with relevant staff to relocate these families, giving them 10 days, as this area is public property.

According to the same article, the Municipality of Tirana has concluded that the problems of abusive and illegal residence of Roma families are numerous, so it decided to remove them.

In these circumstances, the Ombudsman, in accordance with the third paragraph of Article 13 of the Law no. 8454, dated 04.02.1999, "On the Ombudsman", as amended, has started an initiative in examining this issue.

Due to the urgency of the treatment of this issue, we sought in advance explanations by the Municipality of Tirana, regarding the measures taken by this institution in resolving this issue. First of all, we wanted to made aware of whether the Municipality of Tirana had conducted a preliminary study on the situation of these families, on their composition, on their financial situation and on a potential treatment of housing for them. We also asked for information on how this problem of housing these families by the Municipality of Tirana was intended and will be solved and asked for a copy of the official warning which had been communicated to the families cited above, for leaving the territory where they lived within the announced 10-day deadline.

In parallel, the representatives of our institution had personally contacted the Roma/Egyptian families located in the area near the Artificial Lake of Tirana, as well as non-governmental organizations or Roma activists, who operate in the field of protection of Roma and Egyptian communities rights in Albania.

The preliminary data obtained in the field showed that there were about 50 Roma/Egyptian families located in the area near the Artificial Lake of Tirana, who lived roughly in the same number of barracks. The community consisted of about 200 individuals, among them women, children, old people, who lived from a period of about 5 years in the barracks that had built themselves.

Despite the announcement published in the media for their relocation from the Municipality of Tirana, the residents of this community said to us that they never had any official notification on this unexpected development for them. According to them, the direct contact of the representatives of the Municipality of Tirana with the residents of this community had begun only on Sunday, on 04.10.2015, when they had gone in the area and had begun collecting data on families settled there. According to the statements of this community, the families settled in the area were mainly from the cities of Elbasan, Berat, but there were also families settled there after the forced displacement occurred some years ago by the area of the former Train Station in Tirana, or from the area of "Pallati me shigjeta" in Kavaja Street, in Tirana. Their displacement from other cities of the country, or from other areas of Tirana, according to them, was due to the inability to provide sufficient incomes and in search of a better life for these families. The main activity of the family members able to work was the collection of plastic waste or cans in the waste disposal sites, to be sold later in the respective collection places.

Because of the speed of the occurrence of these events and the actual handling of this issue from the Municipality of Tirana<sup>6</sup>, the Ombudsman considered as necessary an imperative and urgent intervention through a recommendation addressed to the Municipality of Tirana.

At first, we want to highlight the fact that, despite our institutional efforts in clarifying this situation and in taking the required information by the Municipality of Tirana in treating it, we did not have any official response and the Municipality of Tirana did not release to us any official document until the date of the delivery of this recommendation.

To understand the situation, we referred to this recommendation exactly the same international principles and standards, on the basis of which this issue should be dealt with.

According to the UN recommendations and interpretations given to the jurisprudence of the European Court of Human Rights, the state has an immediate and continuous obligation to ensure that all persons have reliance in owning their dwelling place, regardless of the disposition of the ownership title. Namely, the state must guarantee legal protection against forced eviction, harassment and other threats and provide a basis for the progressive realization of all aspects of the right for an adequate housing. There are some basic principles which should be reflected in the necessary measures to be taken in the processes (procedures) of the forced expulsion, and more specifically:

- The non-discrimination before the law,

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<sup>6</sup> On 10.07.2015, in violation of all international principles and standards in handling cases of forced eviction, pressure was exercised in relocating these families through the presence of a large number of employees of the Municipal Police, Tirana, in the area where this community lives.

- The obligation of progressive fulfillment of the obligation for housing by the state, using the maximum available resources, before carrying out the eviction and demolition of the dwelling places,
- The search and acceptance of international assistance and cooperation with international organizations or NGOs,
- The prioritization of most vulnerable and marginalized individuals,
- The creation of a full and timely access to information,
- The effective community participation in discussions and decision-making processes,
- The accountability of the responsible authorities.

In its General Comment no. 4, on the right to adequate housing, the Committee of the United Nations on Economic, Social and Cultural Rights, stipulates that the right to housing should not be equated with having a mere shelter, but it should be seen as a right to live somewhere in security, peace and dignity. Afterwards, the Committee determines that the right to housing is a multilateral right, consisting in seven aspects, which must be met in order to be fully implemented:

1. Legal security of possession/ownership,
2. Capacity (of services, materials and infrastructure),
3. Affordability,
4. Residuity,
5. Accessibility,
6. Location (which should allow access to the labor market, health, education, child care and other social facilities),
7. Cultural adaptability.

In any case, it should be stressed that all the predicted principles in this field are also reflected in the Recommendation of the Committee of the Council of Europe, Rec (2005) 4, "On improving the housing conditions of Roma and Travellers in Europe".<sup>7</sup> Based on these important international acts and in the General Comment No. 7 of the Committee, the Special Rapporteur of the United Nations for housing has published a number of detailed guidelines, known as the Basic Principles and Guidelines of the United Nations and the *Instructions on freeings based on developments and displacement*. These principles and guidelines further clarify the obligations of the state in cases of forced displacements.

The measures provided in these principles and guidelines are intended to offer a clear guidance for officials and policymakers on the procedures and measures to be taken to provide assurance that the release of the dwelling place is made in accordance with

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<sup>7</sup> Website: [wcd.coe.int/ViewDoc.jsp?id=825545](http://wcd.coe.int/ViewDoc.jsp?id=825545)

the international law. According to them, the release of the dwelling place in the conditions of forced eviction has three phases, as follows:

**a) *Before the release of the dwelling place:*** Based on the basic principles of the United Nations, the release of the dwelling place should be considered as a last resort and after all alternatives are examined. So, the public authorities have the burden to demonstrate that the eviction is inevitable for the public interests. Constant consultations should be made, inviting the participation of all those affected, while authorities should encourage the participation of women. In order for the consultations to be effective, the authorities should provide those affected all the necessary information related to the reasons for the release of the dwelling places, the timetable with the hours of work to be done, as well as giving the needed time to those affected and their attorneys, so that they can provide alternatives, comments, suggestions, on the plans of the authorities. The ideal outcome of these efforts would be the result of an agreement between the state authorities and the people who will release the dwelling places, after all aspects of the release of the dwelling place are regulated and an alternative housing is provided.

States should take all necessary measures to ensure that to vulnerable groups, as Roma/Travellers, an adequate access to repair their housing should be provided while failure to consider their level of denial over the years when the necessary requirements for the housing regulation are drawn, can lead to indirect discrimination. This is important not only to give them a shelter, but also in providing additional legal safety, as long as the illegal homes are more subject to demolition<sup>8</sup>.

The United Nations Committee on Economic, Social and Cultural Rights, states that the demolition of illegal houses and the creation of the city of barracks could be a result of lack of effective housing policies. It is therefore unacceptable, not to say unfair, to penalize those people who have no support from the state and are trying to fix their housing problems as they can, by exercising the right of "self-help".

Even the European Court of Human Rights, recognizes in its jurisprudence judicial examinations such as: Yordanova and Others against Bulgaria, or Liliana Assenova Naidenova and Others against Bulgaria, stating that, in these cases, the lack of offering any alternative form of housing for Roma and their families during the allowed expulsion is considered a violation of human rights, stressing the fact that authorities had allowed Roma to live there for many years and could not suddenly order them to leave and to cut off their family and community life, developed over the years.

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<sup>8</sup> Collective complaint no.31/2005, European Centre for Roma Rights against Bulgaria, basic decision adopted on October 18th, 2006.

***b) During the release of the dwelling place:*** It is emphasized that this happens when the release of the dwelling place is inevitable but it can not be done during bad weather periods, during the official celebrations, at night, or when tenants are absent. The use of force must occur in fully accordance with the basic principles of the United Nations for the use of force.

***c) After the release of the dwelling place:*** The release of the dwelling place unaccompanied with the provision of accommodation alternatives could be considered in accordance with international law only in very exceptional cases. In any other circumstances, the authorities must ensure that those being evicted have access to the other shelters and houses, as well as health services, education, etc. and that the forced eviction should not turn them into homeless. Moreover, the authorities should never ignore the gender aspect and should always strive to promote the participation of women in all the procedures. Special attention should be paid to the welfare of women and children. The authorities should monitor and follow the social and health conditions of those displaced, especially in cases of displacement of the entire community.

But what really happened with the situation created in the resettlement of the Roma/Egyptian families, located for several years in the area near the Artificial Lake of Tirana?

The Ombudsman, in his recommendation noticed that:

1. Relocation of Roma/Egyptian community was carried out without a basic administrative official act, as a product of a normal administrative proceeding of public administration bodies, where the Municipality of Tirana is included. This lack of expression of the will from the Municipality of Tirana, through the appropriate administrative act, created serious problems with the violation of the right for a fair judicial process for the members of the Roma/Egyptian community in the area near the Artificial Lake of Tirana. Likewise, this informal action denied them the right to oppose administratively, or even judicially, to this official act.
2. The displacement was being carried out in the absence of the necessary communication and consultation between the Municipality of Tirana and the affected community in defining alternative solutions. In these conditions, a complete information on what the citizens should expect afterward was lacking and this situation was likely to further exacerbate their difficult situation, creating another more acute social problem.
3. As evidenced by the theretofore treatment, but also from the information we had up to that time, the Municipality of Tirana did not have a well thought plan, based on a full knowledge of the typology of the community, the situation of each family, either in terms of their access to a safe shelter, their

access to social protection schemes, their economic situation and the consequences that will suffer each of those families, in case of displacement from the area of the Artificial Lake of Tirana.

4. In this case, it was not just the question of the right to housing, as unstudied displacement and the lack of consultation with the communities concerned could affect their right to family life, as well as their right to life.

5. This situation was followed by the Municipality of Tirana, as well as by some media, with a language that created the premise for inciting hatred and reinforces stereotypes, very harmful for a democratic society, or which feeded discriminatory attitudes against this community.

6. The relocation or the warned and forced expulsion of these families was a repeated event for the Roma of Egyptian communities, located in suburban areas in the largest cities of the country. Most of these events, according to the evaluating the Ombudsman, were noted as conducted in violation of the rights of the respective communities.

7. We have stressed the fact and have expressed our opinion that the resettlement (expulsion by force) of this community was not being made in accordance with the international principles and standards on forced evictions; did not respect the obligations provided under the relevant acts of the UN, the European Convention on Human Rights and the jurisprudence of the European Court of Human Rights.

The latest intervention of police officers of the Municipality of Tirana, dated on 10.7.2015 in the morning, who went in the area where the barracks of the community were, exercising pressure for the departure of Roma/Egyptian families, confirms once again the fact that the treatment of this issue was not respecting any of the basic international principles and standards on the treatment of cases of forced eviction.

As a matter of delicate legal and social aspects, the dislocation of Roma/Egyptian community located near the Artificial Lake of Tirana, should be treated with respect for the rights of this community by setting out concrete, effective, sustainable and long-term solutions, in order to guarantee a better life for them and not its deterioration.

Even the alternative offered by the Municipality of Tirana to accommodate some of these families in the premisses of the Civil Emergency Center in Tufina, Tirana, basically did not solve the problem of the families of this community. It was a superficial, temporary solution, while the institution of the Ombudsman recommended and appealed for long, stable and long-term solutions that would actually improve the living conditions of the Roma and Egyptian communities.

The issue in question was even more sensitive because there was in question the addressing of the issue of housing for families of Roma and Egyptian community, and that of respecting their rights, as an element clearly stated among the five priorities

our country needs to meet in the framework of the process of joining the European Union.

According to the Ombudsman judgement, the lack of minimal living conditions for the members of this minority is a serious problem, not only for them as individuals, but also for the way provided by the state and our society in fully integrating Roma people into the society. This situation makes this minority feel discriminated, unequal with the rest of the population and lacks the hope for the future.

This practice in handling the case, in our judgment, removed the Roma families the opportunity to seek out from an impartial tribunal to assess the case, if the act of the public administration was restricting their right to housing, taking into account all obligations the state has under the requirements of the European Convention on Human Rights (ECHR)<sup>9</sup>.

Regarding the above case, we recommended to the Tirana Mayor and to the Head of the Municipal Council of Tirana:

1. A careful and rapid analysis of the situation and the suspension of further actions by the Municipality of Tirana on the issue of relocation of Roma/Egyptian community located near the Artificial Lake of Tirana.

2. Resolving the situation in accordance with international legal standards applicable in our country, so that this community be provided with stable and long-term solutions, aiming a significant improving of the living conditions of the Roma and Egyptian communities in the country.

This recommendation has been sent with our letter no. K1 / I118-4 dated 08.10.2015. Until this day, there is no official response by the Municipality of Tirana, to state its position on this recommendation.

#### **- Media Statement (dated 10.08.2015).**

In close cooperation with the civil society, on October 8<sup>th</sup>, 2015, a meeting was organized with some of the associations and centers of civil society, with outstanding contribution in the defense of human rights, to discuss the situation created after the declaration announced in the media for the relocation of the Roma/Egyptian community in the area of the Artificial Lake of Tirana, by the Municipality of Tirana, and on the concrete situation observed every day at this community.

After the meeting, the Ombudsman and other participants in the meeting expressed their will to release a joint media statement, (published on 10.08.2015), stating that:

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<sup>9</sup> If the courts do not have the opportunity to consider the fact that the plaintiffs risk to become homeless and therefore to consider this danger as imminent, serious and irreparable, in cases where individuals may be in terms of financial incapability to provide alternative housing (rent), then effectively we have a violation of Article 8 of the ECHR, through a disproportionate interference. More severe is the case of vulnerable groups, as that of Roma and Egyptian communities.

"The Ombudsman, pursuant to efforts to avoid the situation of forced eviction of Roma/Egyptian community from the Park of the Lake and in view of finding a stable dignified and long-term solution for these citizens, held a meeting yesterday with representatives of the Municipality of Tirana. The meeting was also attended by representatives of civil society, as part of the joint action of institutional aiming the respecting and guaranteeing of the rights of this community.

During the meeting, among others, the Municipality of Tirana made known to the representatives of the Ombudsman the existence of an action plan for the relocation of the Roma/Egyptian community living near the Artificial Lake, but this plan has not been made available to them. We take this opportunity to thank the Municipality of Tirana for the readiness in hearing our concerns. We appreciate the contribution and the support of the civil society in this effort to help these people in extremely difficult living conditions, and a special thanks goes to the media and its role in presenting informations on the situation.

Based on the international principles and standards for the treatment of cases of displacement or forced expulsion as a possible situation for this community, the Ombudsman wants to emphasize its firm stance, which consists of:

1. Provision and finding a sustainable, acceptable, long-term solution for these people.
2. No action should be undertaken in displacing them without first ensuring a sustainable, decent, officially documented and physically verifiable solution.
3. Any action by local authorities must be undertaken in cooperation and with the full consent of the members of the Roma/Egyptian community in the Park of the Lake.
4. The situations of forced eviction and violence against these people should be avoided, otherwise we will face a situation of lawlessness, with a serious violation of the rights and freedoms of the individual.

The Ombudsman remains consistent to the position that any other option provided beyond these principles and international standards can not be considered as a long-term, sustainable and appropriate solution for this community.

The relocation of Roma/Egyptian families from the Park of the Lake, which does not respect the principles cited above and which excludes the community from the communication, information and acceptance of the offered and agreed solution from the members of this community, constitutes just and only a situation of forced expulsion that severely violates their rights."

#### **4. Developments after the presentation of the Ombudsman recommendation. Complaints of the Roma community residents.**

After starting the investigation with the Ombudsman's initiative on the issue of resettlement of the Roma/Egyptian community inhabitants from the area of the Artificial Lake in Tirana, the Ombudsman contacted directly with the inhabitants of the community in this area and administered on 06.10.2015, individual complaints on the problem and the serious concern they expressed, specifically associated with the displacement, the lack of information about the actions being undertaken by the Municipality of Tirana, as well as the alternatives to be offered to them after the expected displacement.

Preliminary reports showed that in this area were located about 50 Roma/Egyptian families, with a number of approximately 200 inhabitants. These residents have testified that they were located more than 5 years ago in this area and that they had not previously had any problems with the residents of the surrounding area, or with the public administration. They said they have built their lives on the basis of self-employment and the provision of living resources through the collection and trading of recyclable materials.

Problematic in these circumstances has been the unclear situation of ownership of the land where this community was settled because the Municipality of Tirana claimed that it was a state-owned land, while the community, several people claiming it as a private land, or even a quick verification by our office in the Office of Real Estate Registration in Tirana, revealed that in that zone existed private property too.

Meanwhile, the residents of the community in question had established a relationship with a person pretending to be the land owner of the zone where they were located, giving him a symbolic rental payment, due to the use of this property by them. We emphasize the fact that the first inhabitants of the Roma/Egyptian community were placed in this land with the consent of this person, despite the fact that, several years later, the number of families was augmented. Based on this development, this person who pretended to be the owner of the land, asked a few years ago to the administration of the Municipality of Tirana to take action in removing these families from his private land, where they were originally settled with his approval. His demands were rejected by the former Chief Inspector of the Municipal Police of Tirana, while in the case being analyzed in this report, were the municipal police officers themselves, who were the most active in the efforts of releasing this land.

The title of ownership of the land where this community was settled, was investigated in advance and was confirmed by experts of the institution of the Ombudsman, at the Local Office of Real Estate Registration in Tirana, documenting for this purpose a fragment of the indicative map of registration of this real estate, where the inhabitants of Roma/Egyptian were settled. This map reflected the property borders too, which constitute of private entities too.

In this context, we emphasize the fact that after monitoring the situation on 14.10.2015, experts of the institution of Ombudsman communicated with the media on the situation in this community and have noticed debates and verbal clashes

between private land owners and employees of the Municipality of Tirana. The land owners have sought clarification and information on this case, based on administrative acts legitimizing the intervention of the Municipality of Tirana aiming to release their private owned land. Parts of the land where the Roma/Egyptian community was settled, some days after their departure, were planted with trees, while it is noted that no other works has been done on the other surface of the land (owned by the citizen F.B.) on which the largest number of displaced families was living.

This ambiguity of claimed ownership on the land where the families of Roma/Egyptian community were placed in the area of Artificial Lake of Tirana, calls into question the legal competence on handling the case and the procedures followed, including the position and the public statements of the Municipality of Tirana on the need and urgency of releasing and cleaning the public spaces in this matter.

Meanwhile, on 10.27.2015, in the institution of the Ombudsman were presented 9 Roma families representatives, parts of the above-mentioned community, which raised their concern saying that the Municipality of Tirana had not taken any steps to accommodate them, according to the proposed options before moving them from the area where they had lived previously. More specifically, these citizens filed complaints:

- XH.K (with two family members)
- P. N (with six family members)
- M. Z (with five family members)
- M. N (with three family members)
- K. Z (with seven family members)
- H. Z (with six family members)
- G. Z (with four family members)
- E. N (with four family members)
- B. Z (with four family members).

All these citizens figure as registered as inhabitants in the civil status office of Elbasan Municipality and, at the time of filing the complaints, were placed in a private owned land, near the area where it was located before being displaced the Roma/Egyptian community, near the Artificial Lake of Tirana. It should be noted that they had been part of the Roma/Egyptian community, settled in the area of the Artificial Lake of Tirana, then they were displaced to return there again.

More specifically, the citizen (the complainant) H.Z., testified in front of the experts of the institution of the Ombudsman that about two weeks before they were sent with cars of Municipality of Tirana to the town of Elbasan, in the outskirts of the city, to the neighborhood "5 Maji". They stayed about a week in the open. On 21.10.2015, they were back to Tirana, at their own expenses, and were placed in Sauk. After their returning, they had noticed no action was undertaken by the Municipality of Tirana related to their housing, or providing alternative housing opportunities. Rather, they

even have had problems since the first day of return and settling themselves in an other private land in the vicinity of the area where they had stayed before, with employees of the Municipal Police of Tirana and the State Police, who clashed also with the land owners, to prevent the placement of Roma families there.

Experts of the institution of Ombudsman uninterruptedly monitored and inspected the situation of the Roma community inhabitants. In this context, their testimonies on threats and pressure by the employees of the Municipality of Tirana, mainly by the municipal police, are documented. According to the testimony of citizen E.S., documented on 10.13.2015, it turns out that on 03.10.2015, around 09:00-10:00 o'clock, near the area where the Roma/Egyptian families were settled, arrived a van and two cars of the Municipal Police, with about 10 police officers, who verbally warned the families of this community to leave until the next day, otherwise they will displace them by force.

This event was also communicated to the Ombudsman experts who went to the scene immediately after receiving notification from the Roma residents and activists on the ground. When communicating with an employee of the Municipality of Tirana, who was presented as the Director of Housing in the municipality, Mr. Elton Kacidhja, he said the event is considered as an accident and it would not happen again.

Meanwhile, it has been shown that this citizen had not yet taken the oath mentioned above and could not legally exercise those functional competencies, according to the official position introduced by him to the experts of the institution of Ombudsman.

It should be noted that many of the residents of the Roma/Egyptian community, settled in the area of the Artificial Lake of Tirana, did not accept their accommodation at the National Civil Emergency Center in Tufina, having problems and personal conflicts with people and families already accommodated there.

## **5. Correspondence with other institutions involved in the matter**

After starting the examination of the issue by his initiative, in accordance with the third paragraph of Article 13 of Law No. 8454 dated 4.02.1999 "On the Ombudsman", as amended, the Ombudsman, by his letter no. K3/I118-2 dated 05.10.2015, requested explanations and to be supplied with copies of official documents by the Municipality of Tirana.

The required explanations are related to the identification of measures taken by the Municipality of Tirana to resolve this issue, the existence of a preliminary study on the situation of the families of Roma/Egyptian community, settled in the area of the Artificial Lake of Tirana, their composition, their financial opportunities, and their potential treatment with housing. Explanations were also required regarding the plans on how the problem of housing of these families will be resolved by the Municipality of Tirana, asking at the same time available copies of the official announcement, communicating to the above mentioned families their displacement

from the territory where they lived within 10 days, as made public by the media. The Municipality of Tirana has not responded to this request directed by the Ombudsman institution, despite the fact that our request stressed the urgency and necessity of sending it in the fastest way.

Due to the tense, uncertain and without perspective situation of the Roma/Egyptian community, settled in the area of the Artificial Lake of Tirana, we addressed our recommendation cited above, sent by the letter no. K1/I18-4 dated 10.08.2015, to the Tirana Mayor and to the Head of the Municipal Council of Tirana, informing at the same time on this recommendation the Prime Minister of the Republic of Albania, the Minister of Youth and Social Welfare, the Minister of Internal Affairs and Minister of Urban Development.

Since there was no institutional reaction and no official response by the Municipality of Tirana, the institution of Ombudsman addressed the letter no. K3/I18-5, dated 12.10.2015 to that institution, asking repeatedly official explanations and official information, as cited above, in the requirements of our previous letter to no. K3/I18-2, dated 05.10.2015.

In response to our requests, the Municipality of Tirana, with its letter no. 14399/1 dated 16.10.2015, notified us on its undertaken actions in the framework of the plan of measures for the development of a combined system of social welfare at the local level, part of which was the housing of families living in inadequate conditions in the area of the Park of the Artificial Lake of Tirana. The Municipality of Tirana, in the answer, states that based on a detailed intervention plan, the process of intervention has enabled and in the future will enable:

1. Social assessment of children and families,
2. Drafting of individual plans for each family,
3. Implementation of individual plans of intervention, referral and following,
4. Transfer of the families from current dwelling places in their cities of origin, or in the alternative settlements in the Municipality of Tirana.

As resulted from the consistent monitoring of the situation of these families by the experts of the Ombudsman, none of these measures described in the Municipality of Tirana's official response was not fulfilled and was not conducted toward any member of the relevant Roma/Egyptian community.

On the other hand, the Municipality of Tirana emphasized that they had entered into cooperation relationships with other municipalities where these families were registered and that the social departments of these municipalities were engaged to assist them in all needed procedures, logistics and finances during this process, while expecting their return.

The return of many of these families in Tirana after deplating them from the area of the Artificial Lake, shows clearly that the municipalities in question offered no relief for their reception and in creating the appropriate conditions in housing those families

who were displaced from the area of the Artificial Lake and sent to the cities where they had lived before.

In these conditions, starting from this generalized and vague attitude of the Municipality of Tirana, which did not address at all the concerns and requirements from our side in an institutional way, the Ombudsman addressed again by the letter no. K3/I91-8 dated 29.10.2015 to the Municipality of Tirana, looking for specific information concerning:

1. The preliminary study preceding this process and related to the definition of the situation of these families, their composition, financial opportunities, their possible treatment with housing by the Municipality of Tirana, which was performed in this case. We asked a copy of the official document to be attached in the response of the municipality.
2. Copy of official acts on basis of which was started and was completed the process of resettlement of Roma/Egyptian families from the area of the Artificial Lake of Tirana. Despite we had asked in previous letters a copy of the official notification which was communicated to the abovementioned families, for their displacement within 10 days from the territory where they lived, this copy of the official document was not sent by the Municipality of Tirana.
3. A copy of the agreements or documents of official communication with the municipalities of Elbasan, Pogradec, Berat and Devoll, related to the transfer of families from the existing settlements in the cities of their origins, providing all relevant measures for each family, according to the criteria confirmed in the document of the Municipality of Tirana.
4. The number and names of the heads of the remaining families, who had not come from other municipalities, for whom was formally requested the opportunity of housing in the Emergency Transitional Centre, as well as in private residences according to the Housing Programs of the Municipality of Tirana, respectively the Housing Bonus, where the main part of the rent will be subsidized from the budget of the Municipality of Tirana itself. This information must be accompanied by copies of official documents, confirming the demand for housing at the Emergency Transitional Centre and decision-making process for the treatment with alternative housing, according to the Housing Programs of the Municipality of Tirana, namely the Housing Bonus for these families.

Until this day, there is no official response by the Municipality of Tirana to this request of ours. This fact proves the lack of transparency in the actions taken by the Municipality of Tirana in the situation created with the displacement of Roma/Egyptian families settled in area of the Artificial Lake of Tirana, but also the

absence and the refusal to cooperate with the independent institution, explicitly provided in the Constitution for the protection of human rights and fundamental freedoms, the institution of the Ombudsman.

- ***Official communication with Municipal Police, Tirana.***

The inhabitants of Roma/Egyptian community in the area of Artificial Lake, Tirana have continuously complained and witnessed to experts of Ombudsman, about pressures and threatening during all the eviction period from this area exercised by Municipal Police of Tirana, (like in case mentioned above related to the presence of a large group of policemen on 03.10.2015).

After displacement of roma/Egyptian community from this area to other places or to other dwelling centers in which civil status offices they had been already registered, it resulted that a part of displaced roma families have returned living anew near the area where they lived. This has happened because in cities returned to, they did not have or have not been provided with minimum living or housing conditions. Actually it resulted that six roma families were established in a private land, in ownership of citizens Brahja. Meanwhile after inspection of living conditions of such families by experts of Ombudsman on 28.10.2015, members of these families have stated that they had been pressured, and they were given an ultimatum by municipal police to release the private object where established through comprehension and approval of one of co-owners (citizen H.B).

In this context, the Ombudsman was addressed to Chief Inspector of Municipal Police of Tirana, by document No. K3/I91-14 date 29.10.2015, asking specifically for explanations and information about the following issues:

- a) If verifications were made by Municipal Police of Tirana about situation of roma families established in a private land, in vicinity of camp where they lived before;
- b) Which were the acts and legal basis of performed verification, and of requests for release of object;
- c) Any other information related to this case, aiming a fast and final explanation of raised concerns.

There is still no response by Chief Inspector of Municipal Police of Tirana, and no official reply, despite the constitutional and legal obligation to give the required explanations and information. On the contrary, constant pressures and threatening of Municipal Police were finalized in the evening of 07.11.2015, when remained families and sheltered in an abandoned private building were evicted and dispersed to their possibilities.

The Ombudsman in collaboration with various organizations of civil society which operate in protection of roma and Egyptian minorities' rights has documented the fact of such families' eviction. Regardless they were established in an abandoned private building to be protected from atmospheric conditions the municipality officers of Tirana have intervened to evict them out of it.

So it results that on 07.11.2015 at about 15:50, the activists of civil society went there after receiving a notice from such families to go there and see. They have ascertained that roma families lived in a building under construction in the area between the motorway and Liqeni i Thatë, (part of Artificial Lake of Tirana). The families were established in this building since 2 weeks. When activists of civil society arrived they found there representatives of Municipal Police of Tirana, of State Police and representatives of Administrative Unit of Farke, who were disputing with roma families. From first contact they had with Municipality Police of Tirana, the activists were communicated that roma families had to leave the building where they were staying because of submitted complaints.

In continue they were asked to show the legal basis and the real order according to which they were acting. The Municipal Police officers of Tirana have stated that, the order had been issued verbally. According to what the respective employee of Municipal Police of Tirana declared, it was not the owner of building who had complained. Later in the scene came officers of Environment Protection Inspectorate, some from Municipality of Tirana, and a truck which was planned to transfer the families.

After some moments of tension and being frightened especially by the pressure of Municipal Police of Tirana, the families started to pack their clothes, object and some home facilities they had there like mattresses etc. and left leaving the building and dispersing in various directions.

We ascertain that the actions performed by Municipal Police of Tirana were unfounded, committed in difficult atmospheric conditions and in an inconvenient time. As a result of such actions, from information gathered it resulted that the majority of these families have slept outside, on the road.

- ***Communication with other receiving municipalities.***

The Ombudsman, basing on confirmation given by the side of Municipality of Tirana about collaboration and agreement he had entered into with municipal units where roma/egyption families would be established in, after eviction from the area of Artificial Lake, of Tirana, has asked for formal information addressed on 29.10.2015 through respective official requests, to Municipality of Elbasan, Municipality of Berat, Municipality of Pogradec and to Municipality of Devoll. These were the local governing units identified as sites, where a considerable part of above mentioned families have their civil status registered. For this reason it was requested to them to give information about the following:

- a) If there had been prior agreement between the respective Municipal Units and the Municipality of Tirana regarding the displacement of such roma/Egyptian families from the area of Artificial Lake;
- b) If there were roma/Egyptian families displaced by the area of Artificial Lake of Tirana and already established in the jurisdictional territory of such municipal units;
- c) Which measures were taken by the side of such municipal units to ensure and guarantee adequate and stable housing conditions for such roma/Egyptian families;
  - ç) Which procedures and actions were being followed by social structures of such municipal units, regarding integration and providing of suitable living conditions on places where such families were already established in, including the education of children, providing work places, involving them to various social housing programs or to economical assistance;
  - d) if structures of social service of such municipal units had done any prior survey of such families conditions and if noted the real number and conditions of families established in these municipal units;
  - dh) any other information related to this issue, aiming the fast and final explanation of raised concerns.

In response of our formal documents, the replies have come from Mayors of Municipalities of Devoll, Elbasan and Berat.

We were informed by the Mayor of Municipality of Devoll by document no. 690 date 02.11.2015, that this local governing unit disposed the civil status documentation of only one family, which had never been resident in the territory of that municipality and had never applied to benefit from social housing programs. In reply it was not mentioned if there had been an agreement with Municipality of Tirana about facilities and providing adequate housing conditions for returned families.

By the Mayor of Municipality of Berat we were informed by document no. 3188/1 date 06.11.2015, that such municipality was informed through an e-mail by the side of Municipality of Tirana about the number and full list of families. From forwarded information 19 families resulted to have the housing right in Municipality of Berat, but 4 of them had never lived in Berat. It was particularly underlined the fact that there was no prior agreement made between the Municipality of Berat and Municipality of Tirana about return of these families, rejecting so the attitude of Municipality of Tirana regarding the agreements entered with receiving municipal units about facilitating and providing adequate housing conditions for families in return. After this, the Mayor of Municipality of Berat, has informed us that after verifications made for families returned, it resulted that 10 families had places

where to live, but not in good conditions, two families lived in tents, while five families had no dwelling at all in territory of Municipality of Berat.

We were informed by Mayor of Municipality of Elbasan through document no. 6040/1 of date 09.11.2015, that:

- The Municipality of Elbasan did not have any formal communication and as a result had no prior agreement with Municipality of Tirana, for such roma/Egyptian families.
- According to the verifications made to six administrative units of Municipality of Elbasan, it resulted that no family was presented at such units for further treatment.
- The Municipality of Elbasan had no plan or strategy about treatment of housing issues of roma/Egyptian families who had lived in the area of Artificial Lake of Tirana.

This approach proves again the fact that the Municipality of Tirana had not planned and provided conditions for an adequate displacement and had not provided conditions to live with dignity of these roma/Egyptian families in new dwelling.

On the other side it has to be underlined the fact that many of returned families in the city of Tirana, established in vicinity of the area where they lived before (area of Artificial Lake) and expelled by Municipal officers in the evening of 7<sup>th</sup> November 2015, have witnessed the fact to have received by the side of receiving municipal units of only an attestation certifying to have applied in social housing programs. Meanwhile they have asserted the fact that no real measures were taken by the side of structures of Municipalities of Elbasan, Berat, Pogradec and Devoll, for their living conditions after been displaced, considering their actual situation and circumstances.

**- *Communication with Public Social Service.***

Basing on claim of Municipality of Tirana according to which one of accommodation variants of roma/Egyptian families was also the accommodation at National Center of Emergencies in Tufine, the Ombudsman addressed to General Directorate of Public Social Service expressively asking for information and formal explanation regarding the following facts:

- c) If there was any family of ex-roma community established in the area of Artificial Lake of Tirana, who was already accommodated at National Emergency Center in Tufine;
- d) What was their number and which were the real measures taken by structures of Social Public Service, for their social treatment, and for ensuring and guaranteeing adequate and stable conditions for housing of these families;
- e) If there had been a prior agreement between the Municipality of Tirana and Social Public Service regarding the displacement of such

roma/Egyptian families and their accommodation at National Emergency Center;

ç) which were the procedures and actions followed by the structures of Social Public Service regarding the admittance at National Emergency Center, for accommodation, integration and creating of adequate living conditions. How long was the period of stay of such families in this Center, and which were the social initiatives for their integration in society, considering the fact that the Center has a transitory status and cannot provide a permanent stay;

d) if Social Public Service had made a prior survey of these families conditions who had lived in the area of Artificial Lake of Tirana, and which were the issues mainly noted by respective structures;

dh) any other information relatd to the case, aiming a fast and final explanation of raised concerns.

In response of our formal request, the General Directorate of State Social Service informed us by document no. 2233/1 date 10.11.2015, that only one roma family composed of three members (mother and her two minor kids) was accommodated in the National Emergency Center in Tufine. There was no prior written agreement entered with Municipality of Tirana for treatment of roma/Egyptian community situation of the area of Artificial Lake, but there was an institutional communication regarding management of created situation, within the competences of each party. At the same time, it is underlined the fact that no prior survey had been made by ad-hoc structures of Social State Services for situation of families of such community of dwellers.

Lastly, it must be underlined the fact that dwellers of roma/Egyptian community near the area of Artificial Lake have witnessed to experts of Ombudsman institution, to have received pressures and threatening among others even by an individual, member of roma community, actually on duty, employee of Social Public Service, a custodian at National Emergency Center in Tufine.

Though the Director of Social Public Service has attached to formal reply a verbal report kept by the side of some employees of such institution, in the area of Artificial Lake, where among others the employees of Social Public Service had received threats themselves by the side of dwellers, the inhabitants of such community have witnessed that it was exactly an employee of Social Public Service and a member of roma community himself the one who had made pressure and threats to dwellers to accept the offered version of displacement and to later be accommodated at National Emergency Center.

- ***Communication with State Police Directorate, Tirana.***

From contacts with dwellers of this community, to Ombudsman experts have been submitted the claim that they had been offered monetary sums by officers of Municipality of Tirana which varied from 1000-2000 albanian leke in order to leave

their temporary dwelling in that area. We could not find and we do not have any information about resources of such sums, method of payment, and the legal reason for which these sums have been given.

In this context, the Ombudsman addressed to the Director of Police of Tirana County, by document no. K3/I118-6 Date 16.10.2015, informing the above mentioned and asking from ad-hoc police structures of Police Directorate of Tirana County, to inform us about real procedures and actions to be followed to investigate such case.

Attached to the aforementioned document, a photocopy of verbal report kept by Ombudsman experts was sent by one of inhabitants of Roma/Egyptian dwellers in order to make the further verifications by the side of Police Directorate Structures of County of Tirana.

There is still no formal answer by the side of Director of Police Directorate of Tirana County.

#### **6.Situation after total displacement from the area of Artificial Lake of Tirana.**

From information taken by affected dwellers from this displacement, but even from constant communications in terrain with activists of roma case, it results to us that a considerable part of displaced families have not been moved and established in the cities where they have their civil status registration, because of lack of minimal housing conditions and lack of employing conditions. Actually they are established in the area of Breg i Lumit, Tirana which results an area with roma population. However, the risk of a new displacement still exists because Municipality of Tirana can undertake performance of public works there.

The same way, from communication we have had with a large number of civil society organizations it has resulted that a part of families including here even the families expelled from private property on 07.11.2015, have been sheltered and accommodated in private houses, with logistic and financial support of such organizations. This is the opposite of attitude kept by Municipality of Tirana for not offering alternative housing possibilities and avoidance of displacement, till providing an alternative housing according to variants previously offered verbally by the employees of Tirana Municipality.

Actually from data we have received by “Daily Center for Children in street situations”, it results that 11 families have actually been sheltered in rented houses, while it is trying to find dwelling for 5 other families. A big support has been provided to such no easy process by the organization of “Save the Children”.

#### **7.Conclusions:**

Basing on treatment of such case by the side of Municipality of Tirana, but even by the ascertainment made by the side of Ombudsman Institution it is ascertained that:

- Along with all the other issues noted in activity of Ombudsman, which are sensitive for normal life of Roma community in Albania, the concerning problematic stays on issue of displacement of roma/Egyptian communities from their sites established on public/private properties. This situation has effectively happened even with roma/Egyptian community established since in the area near the Artificial Lake of Tirana for years.
- From the data taken in terrain, because the formal detailed data have not been sent to us yet from Municipality of Tirana, it results to us that the community established in the area beside the Artificial Lake of Tirana had nearly 50 roma/Egyptian families, who lived almost in the same number of barracks. This community consisted in about 200 individuals, among them women, children and old people, who lived there for more than 5 years in barracks built by them.
- According to ONU recommendations and to interpretations given in the jurisprudence of European Court of Human Rights, state has the immediate and constant obligation to provide all people with certainty in possession of a dwelling, despite the fact of property title possession. So, state must guarantee legal protection against forcible expulsions, to other harassments and threats and offer a basis for progressive realization of all law aspects for adequate housing.
- Basing on ONU's important international acts and those of other organisms which deal the housing right, in the Recommendation of Committee of Council of Europe Rec (2005) 4, "For improvement of housing conditions of Roma and travelers in Europe", and on General Comment no. 7 of the Committee, the Special Rapporteur of United Nations for housing has published a series of detailed guidelines, acknowledged as Basic Principles and Guidelines of United Nations and Instructions for releases basing on developments and Displacement. These principles and guidelines have made clearer the state obligations in cases of forcible evictions from dwelling.  
The measures given in such principles and guidelines aim to offer clear guidelines for officials and policy makers for procedures and measures to be taken, to give certainty that the release of dwelling is made in conformity with international law.
- As we have previously noted even in our recommendation, sent to the Municipality of Tirana, by document no. K1/I118-4 date 08.10.2015, in dealing this case it has resulted that:
  - a) Displacement of roma/Egyptian community is made without a basic formal administrative act, product of a normal administrative

proceeding for organs of public administration where included the Municipality of Tirana. This lack of willpower of Municipality of Tirana, through respective administrative act has created serious problems with law violation for a due law process, towards members of roma/Egyptian community in the area near the Artificial Lake of Tirana. The same way, this informal way of action has effectively removed them the right to object such official act in administrative way or judicially.

- b) Displacement has been performed in absence of an indispensable communication or consulting between the Municipality of Tirana and the affected community, regarding the determination of possible solutions. In such circumstances the full information about what expected these citizens ahead was lacked and such situation has further aggravated their serious conditions, creating another social problem.
- c) The Municipality of Tirana has not disposed a thoughtful plan basing on a full acknowledgment of typology of community, of situation of each family, either in aspect of access for a secure shelter, or of access to schemes of social protection, their economical situation and the consequences that each of them would suffer in case of displacement, from the area of Artificial Lake of Tirana. Such situation entwines not only the violation of housing right of roma/Egyptian community established in the area of Artificial Lake of Tirana, but even violation of the right to live for family life, and of their right for life..
- d) Development of such community displacement situation is forwarded by the side of Municipality of Tirana, and by some media, in a language which created the premises for hatred stimulation and enforced stereotypes completely harmful for a democratic society, who nourish discriminatory attitudes towards the community.
- e) Displacement or warning forcible eviction of such families was a repetitive phenomena for communities of Roma ethnicity, or Egyptian one established in suburbs in bigger cities of the country. Displacement of roma/Egyptian families from Lake's park which beyond disrespecting above mentioned international principles, has excluded this community, the information and acceptance of solution offered through agreement by member of such community is simply only a situation of forcible eviction which seriously violates their rights. This is not a sole case where it is evident the forcible eviction of roma communities, because in years there have been similar situations, like in case of roma community near the ex-Train Station, in Tirana, in the area near "Pallatit me shigjeta", in Rruga e Kavajes, Tirana, etc.

- f) In assessment of Ombudsman, displacement (forcible eviction) of this community has not been performed in conformity with international principles and standards of compulsory evictions and has not respected the obligations provided in significant ONU's acts, in European convention of Human Rights, and in jurisprudence of European Court of Human Rights.
- g) Displacement of Roma/Egyptian Community established in the area of Artificial Lake of Tirana as a case with delicate dimensions in legal and social context had to be treated respecting the rights of such community and proposing real solutions, effective, stable and long term ones for a better life and not for its aggravation.  
The alternatives offered by the side of Municipality of Tirana for the lack of their coherence, lack of real collaboration with Municipalities of Elbasan, Pogradec, Berat dhe Devoll, and the impossibility of their treatment in Civil Emergencies Center in Tufine, Tirana were no essential solutions of problematic of such community families. This way of treatment has happened when the institution of Ombudsman appealed and recommended with force for stable and long term solutions which really improve living conditions of roma/Egyptian communities.
- h) Problematic in this issue has been the unclear situation of property ownership where this community was established, because the Municipality of Tirana claimed that it was a public land, while the community itself and the person who pretended to be the private owners talked that was private property. From an immediate verification by the side of our office, in the Office of Real Estate Registration of Tirana it resulted that in this area there also was a private ownership. The ownership on land where the roma/Egyptian community where established was related even with legitimacy of acts performed by the side of Municipality of Tirana.
- i) The lack of information and of official documentation in the context of administrative investigation of the case, it still notes the lack of transparency of acts performed by Municipality of Tirana in the situation created after displacement of roma/Egyptian community families established in the area of Artificial Lake of Tirana. At the same time this lack is a refusal for collaboration with independent institution, as expressively provided in Constitution for protection of fundamental rights and freedoms of individual, Ombudsman. In the same conditions it can be stated even the lack of required information by the side of Municipality of Pogradec.

- j) As it later results the condition of roma/Egyptian community families who were established there and then expelled from the area of Artificial Lake of Tirana, has not been improved after eviction from this area, but the contrary it has been aggravated. The return of some families near the same area, their dispersion in the other roma communities in Tirana, and the lack of a real plan for improvement of their living conditions after eviction demonstrates that such move did not solve the concerning problematic of this community but it aggravated them creating a vicious repetitive circle and finally did not resolve it.
- k) The Ombudsman by his proactive attitude ascertained that this is a repetitive case which except the lack of the necessary specific domestic legislation, for treatment of forcible evictions cases makes evident the immediate need of implementing the best international principles and standards which arrange this issue and which are binding for Albanian state.
- l) Speaking with the language of the weak party, we underline that today is the time to find solutions which naturally integrate roma minority into Albanian society, a minority who has still not found the deserved social peace.