

Mandate of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

REFERENCE:
AL BGR 2/2019

28 November 2019

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, pursuant to Human Rights Council resolution 34/9.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning **homelessness, discrimination with respect to housing, and the practice of forced evictions in Bulgaria.**

According to the information received:

No official statistics on the number of persons living in situation of homelessness are currently being collected in Bulgaria. The Social Assistance Agency operating under the Ministry of Labour and Social Policy keeps statistics only on persons benefiting from social support programs who have an ID card or other identification documents, therefore excluding the majority of homeless persons.¹ According to unofficial statistics quoted by the European Commission, there are about 500,000 homeless persons in Bulgaria, however, this figure appears to be a rough estimate.² Despite the lack of official data, managers of crisis centers and shelters feel that the number of homeless persons increases every year and there is a general consensus among experts that homelessness is a serious issue in Bulgaria with those at highest risk being migrants and refugees, Roma, older persons and young persons coming out of foster care.

Beyond the lack of data on numbers of persons in homelessness, there is a lack of analyses by government bodies on trends and factors that lead to homelessness, or of the demographic profile of homeless people. While the Social and Solidarity Economy Act of 2018 included for the first time a definition of a homeless person in national law, a recent study published by the European Commission claimed that “in Bulgaria, the problems of homeless people are very low down the priorities for social inclusion and are essentially not recognised and addressed by the state.”³

Because of the lack of official statistics on homelessness, including lack of research about its causes, Bulgaria has not been in a position to design

¹ European Commission, ESPN Thematic Report on National Strategies to fight homelessness and housing exclusion, Country Report Bulgaria, 2019, p. 5

² Ibid

³ European Commission, ESPN Thematic Report on National Strategies to fight homelessness and housing exclusion, Country Report Bulgaria, 2019, p. 4.

effective policies to prevent and eliminate homelessness. There are 13 temporary accommodation centers with a total accommodation capacity of 617 places and two shelters for homeless persons, with a total capacity of 70 places, which reportedly do not meet the required capacity during the winter season.

In March 2019, the Committee on Economic, Social and Cultural Rights (CESCR) expressed concern about the increased number of persons living in homelessness. It also expressed concern that members of the Roma population are particularly at risk of being subjected to forced evictions without being provided with suitable alternatives and, as a consequence, are at higher risk of becoming homeless.⁴

Homelessness has been identified as an issue in the 2020 national strategy for reducing poverty and promoting social inclusion, however, it appears the resources attributed are insufficient to effectively prevent and eliminate homelessness. There appear to be few long-term housing programs for persons in homelessness, with shelters and centers for temporary accommodation, as the main housing options.

Homeless persons on the streets, living in cars or in grossly inadequate conditions experience the harshest conditions lacking any basic services or necessities such as: toilets, drinkable water, a place to rest and eat, and protection from the elements. Persons living in homelessness often contract preventable illnesses like tuberculosis, hepatitis, circulatory diseases, HIV/AIDS, bronchitis, pneumonia and other respiratory diseases. They are malnourished and exposed to life-threatening violence. Persons who are homeless have higher morbidity and mortality rates than housed populations. The life expectancy of persons living in homelessness, particularly women, is dramatically lower than people who are housed, sometime more than three times lower. Persons living in homelessness often experience discrimination, stereotyping and criminalization by public authorities and the public. These conditions are all contrary to the obligations and requirements of the right to adequate housing under international human rights law as well as the rights to non-discrimination and equality, the right to health and the right to life.

While I do not wish to prejudge the accuracy of the information made available to me, I wish to express my serious concern about these allegations of multiple violations of human rights, contrary to international human rights law. The number of persons living in homelessness is an indication that the right to adequate housing is not being effectively implemented. In light of the direct relationship between homelessness and otherwise preventable disease and illness and premature mortality, this would indicate that the Government's obligations with respect to the right to health and the right to life are not being met. The removal of persons living in homelessness from public spaces by force, without providing sufficient short and long-term accommodation, and subjecting them to fines or imprisonment, would constitute violations of the prohibition of cruel, inhuman or degrading treatment. Furthermore, evicting residents of informal settlements into homelessness without

⁴ E/C.12/BGR/CO/6, para 35.

providing alternative accommodation is a serious violation of the right to adequate housing and other human rights. The disproportionate impact of the above-mentioned violations on vulnerable groups would also indicate violations of the rights to equality and non-discrimination.

I call the Government to commence the urgent collection of data on the current number of persons in homelessness and to take immediate life-saving action to address their situation of emergency. The imminent arrival of winter exacerbates the risks faced by thousands of persons in homelessness. Furthermore, according to international human rights bodies, States have an obligation to immediately implement measures to eliminate homelessness within broader rights-based housing strategies.⁵ Rights-based housing strategies must contain clear goals and timelines as well as set out the responsibilities of all levels of government and of other actors for the implementation of specific, time-bound measures, and must be supported by the necessary resources required for implementation. This process should involve consultation with, and participation by, persons living in homelessness.⁶ Bulgaria's failure to adopt and implement a homelessness strategy falls short of meeting this obligation.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please explain what urgent measures are in place to ensure access to adequate shelter and housing for persons who are currently homeless.
3. By what date and through what measures do you anticipate eliminating homelessness as required by international human rights law and SDG Goal 11, Target 11.1?
4. Please indicate what measures you have in place to prevent the causes of homelessness.
5. Please provide information on measures taken to collect reliable data on homelessness and kindly share most recent official estimates disaggregated by gender, age, nationality, migration status, ethnicity and other social indicators.
6. Please provide details of any measures to provide accommodation to families and individuals who have lost their homes, and to prevent

⁵ Please see my report on rights-based housing strategies: A/HRC/37/53

⁶ Please see my report on homelessness and related State obligations: A/HRC/31/54

them from experiencing homelessness as a result of evictions or demolitions.

7. Please provide information on measures to ensure active participation of persons living in homelessness in designing housing policy that affects them.
8. Please provide more information as to whether persons without an official address may be excluded from accessing social or housing benefits, social housing, medical care or medical insurance, or excluded from participating in national elections. What measures have been put in place to address these issues?
9. Please provide more information on any laws or regulations that would allow removing persons from public spaces against their will or prohibit persons eating cooking or sleeping in public spaces. Please clarify under which circumstances such laws or regulations impose fines or detention on persons who stay in a public space and whether such regulations also authorize the confiscation or destruction of personal belongings, including sleeping bags, tents or other materials used for shelter. Please provide information on the safeguards in place and their efficacy.
10. Please provide information on strategies to prevent stigmatization of persons living in homelessness.
11. Please indicate whether someone living in homelessness can claim the right to housing in court or through other human rights mechanisms.
12. For all measures mentioned in questions 1 to 11, please provide what specific actions have been taken for particularly vulnerable groups like migrants, refugees and members of the Roma community, including women and children.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

I may publicly express my concerns in the near future as, in my view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. I also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that I have been in contact with your Excellency's Government's to clarify the issue/s in question.

Homelessness is a human rights crisis of a global scale; I am also sending similar letters calling the attention of other Governments to the situation of homeless persons in their respective countries.

Please accept, Excellency, the assurances of my highest consideration.

Leilani Farha

Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, and without prejudice to the accuracy of these allegations, I would like to draw the attention of your Excellency's Government to the relevant international norms and standards.

I wish to draw the attention of your Excellency's Government to its obligations under article 11.1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Bulgaria on 21 September 1970, which states that "[t]he States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right [...]". Pursuant to article 2.2 of the ICESCR, it is the obligation of States Parties to guarantee that the Covenant's rights will be exercised "without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth *or other status* [emphasis added]." The Committee on Economic, Social and Cultural Rights has stressed in General Comment No. 4 that the right to adequate housing includes affordability, accessibility, and legal security of tenure.

The Committee on Economic, Social and Cultural Rights has previously recognized that a State party to the ICESCR in which a significant number of individuals are deprived of basic shelter and housing is, *prima facie*, failing to discharge its obligations under the Covenant. States parties are required to demonstrate that every effort has been made to use a maximum of available resources in an effort to discharge their obligations. Furthermore, I wish to direct your Excellency's Government to my report on homelessness and the right to adequate housing (A/HRC/31/54), in which I note that homelessness constitutes a serious violation of the right to adequate housing to which must respond to homelessness with the highest level of urgency. National and sub-national governments must immediately repeal any laws or measures that criminalize, impose fines on or restrict persons living in homelessness or behaviour associated with being homeless, such as sleeping or eating in public spaces. Governments also have an obligation to combat and prohibit any law or practice that serves to discriminate, stigmatize and negatively stereotype persons living in homelessness.

I also draw your attention to article 6 of the International Covenant on Civil and Political Rights which protects the right to life which is understood as "the supreme right from which no derogation is permitted" and, "the effective protection of which is the prerequisite for the enjoyment of all other human rights and the content of which can be informed by other human rights."⁷ The Human Rights Committee specifically states that "The duty to protect life also implies that States parties should take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity. These general conditions may include ... homelessness." The Committee also

⁷ Human Rights Committee, General Comment No. 36 para. 2.

states that the measures called for to address adequate conditions for protecting the right to life include, where necessary, “measures designed to ensure access without delay by individuals to essential goods and services such as food, water, shelter, health care ...” [emphasis added].⁸ Violations of the right to life must be treated with the utmost seriousness and urgency. There is little doubt that homelessness triggers right to life interests.

I also call your attention to article 27.1 of the Convention on the Rights of the Child, ratified by Bulgaria on 3 June 1991, which states that “States Parties recognize the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development.” Article 27.3 states that “States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing, and housing.” It is widely acknowledged that inadequate housing has an adverse impact on the physical health, well-being and development of children. Any increase in the number of children living in homelessness is incompatible with the Convention.

I recall article 5(e)(iii) of the International Convention on the Elimination of All Forms of Racial Discrimination, ratified by Bulgaria on 8 August 1966, which states that “States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: [...] the right to housing.”

I also recall General Comments No. 4, 7 and 20 of the Committee on Economic, Social and Cultural Rights, which stress the need to provide adequate legal protection from forced eviction, as well as to guarantee due process, alternative accommodation, and access to an effective remedy for those that may be affected by eviction orders. Demolitions and destruction of property are strictly forbidden under international human rights law and standards. According to these General Comments, Bulgaria must have explored all feasible alternatives to forced eviction in consultation with the affected persons. Moreover, demolitions must never lead to homelessness of evicted persons by ensuring there is provision of adequate alternative housing facilities, resettlement and compensation for lost property.

I note that through Agenda 2030 for Sustainable Development, the Government of Bulgaria has committed itself to eliminating homelessness. Target 11.1 requires all States to ensure access for everyone to adequate, safe, and affordable housing by 2030. This necessarily means eliminating homelessness by 2030. To this end, states must adopt rights-based housing strategies with the aim of eliminating homelessness by that date. I refer you to my report on human rights-based housing strategies (A/HRC/37/53) in which I identify ten key principles for the strategies’ effective development and implementation. According to these principles, States must ensure the political participation of persons living in homelessness in the design, implementation, and monitoring of rights-based housing strategies. Strategies should

⁸ Human Rights Committee, General Comment No. 36 para 26.

also work to combat stigmatization and discrimination against persons living in homelessness.

The full texts of the human rights instruments and standards recalled above are available at www.ohchr.org or can be provided upon request.