



Forced Evictions

in Slovakia - 2006

Executive Summary



MILAN
ŠIMEČKA
FOUNDATION



CENTRE ON
HOUSING RIGHTS
AND EVICTIONS



EUROPEAN ROMA
RIGHTS CENTRE

Introduction

This is the Executive Summary of Forced Evictions in Slovakia - 2006, prepared by the Milan Šimecka Foundation in cooperation with the Centre on Housing Rights and Evictions (COHRE) and European Roma Rights Centre (ERRC).

The report aims to identify the underlying legal and social causes of forced evictions of Roma in Slovakia and provides recommendations for reform. Part 1 of the report provides an overview of the legal background to the increase in incidences of forced evictions of Roma in Slovakia. The main hypothesis is that the current wave of forced evictions is a consequence of the amendments to the Civil Code in 2001, which weakened the legal position of tenants in municipal apartments combined with the historical long-term negligence of the problem of non-paying of rents and utilities. In addition, the radical reforms in 2004 to the social assistance system, including a fundamental revision of housing allowances, has weakened the ability of indigent tenants to regularly pay their rent and utility costs, often resulting in eviction. The unfair practice of excessive billing of Roma tenants by utilities, for services such as water and energy, is also highlighted. The concluding section of this Part examines the institution of special receiver of social aid as a tool of prevention of forced eviction.



New lower quality and segregated housing in Telek

Part 2 provides a series of case studies of forced evictions of Roma in Slovakia in 2006. The sources of these case studies include media reports, community social workers in Roma communities, the Office of the SR Government Plenipotentiary for Roma Communities, affected persons, interviews and field missions. The account is not necessarily exhaustive but the case studies illustrate a general and alarming trend. One of the clear patterns that emerges from this investigation is the practice of Municipalities moving Roma from housing in central locations, often on false pretences such as building safety, and placing them in newly built but segregated and very low quality buildings on the outskirts of towns or allocating them poor housing bought in small towns. This practice applies even to regularly rent paying Roma who have clear legal rights in Slovakia to alternative housing of an equal standard and on the same conditions.

The final part of the report contains an attempt to give a generalised model of forced eviction of Roma tenants in Slovakia and a set of recommendations.



Legal framework

The old Civil Code (in force until 2001) provided criteria for eviction of tenants and the duty of landlords to provide substitute housing in the event of eviction. The protection of housing rights was incorporated in provision of Paragraph 711 stipulating that a time-unlimited contract can be terminated only upon:

- an agreement between tenant and landlord;
- a written cancellation by tenant for any reason or without indication of reason;
- a court assent to cancellation by the landlord for one of the reasons enumerated in the law (especially, if the landlord needed the flat for himself/herself or for his/her close relatives; if the flat was assigned for a worker, the former tenant finished to exercise that work and the flat was needed by a new worker; in case of serious violation of morals in the house by the tenant or his inmates; in case of a serious violation of tenant's obligations – especially by not paying rent and utilities for a period of time longer than three months; or if the house cannot be inhabited anymore for a reason of public interest or a reason of necessary reconstruction).

In case of termination of the contract by the landlord, the Court would decide on the period of notice and on the obligation of the landlord or municipality to provide the tenant with substitute housing (flat or other accommodation of lower standard, according to the circumstances). The period of notice was usually three months. According to an authoritative court decision (R 14/1978), in the case of a non-payer, the court has to take into consideration the objective circumstances of the tenant, e.g., objective inability to pay the rent (that particular case concerned neglect of maintenance by the father after divorce).

For a time-limited contract, it could be terminated after the agreed period, but it could be extended *ex lege*, on an implied basis, if the tenant continued to use the flat and the landlord did not ask them to free the flat in the period of 30 days after the termination of the contract. After the termination of a time limited contract the landlord had to provide the former tenants with a substitute accommodation (not necessarily a flat though).

In 2001, the Civil Code was substantially amended in legislative act No. 261/2001. The conditions for termination of tenancy enumerated in the law were modified slightly, but the main change was that there was no need of a court assent to the cancellation by the landlord. The law stipulated criteria as to whether the landlord had an obligation to provide the tenant with substitute housing, (accommodation) or not. In case of termination of the contract on grounds of a serious violation of tenant's obligations – especially by not paying rent and utilities, the tenant had no right to be provided with a substitute housing or accommodation. A new protection period of six months was introduced for tenants in material need for objective reasons. The period of notice in case of such a tenant was nine months (three months standard notice period plus six months protection period). If the tenant had paid the debt on rent and utilities within the protection period, the reason for cancellation of the contract by the landlord expired. However the provision about the protection period for tenants in material need for objective reasons probably was indirectly discriminatory toward Roma. Status of material need for objective reasons turned into status of material need for subjective reasons after two years, if the person was jobless for more than two years. However, the Roma are the most vulnerable group in the terms of a risk.ttt

of long-term unemployment though. According to UNDP data, based on surveys of the Statistical Office of the Slovak Republic, the rate of a long-term unemployment among Roma was 62,8 per cent, while the national average was 11,4 per cent; the index of risk of long-term unemployment of Roma was 5,2-times higher than the national average.

For time-limited contracts, the implied extension of the contract was abolished, as well as obligation to provide the tenant with a substitute housing. In December 2003, after adoption of the law n. 599/2003 on help in material need the distinction between material need from objective and subjective reasons disappeared; the protection period for tenants in material need from objective reasons is no long applicable.

It is therefore concluded that current wave of evictions is consequences of the amendment of the Civil Code and the substantial of attenuation of tenant's rights. At the same time, the irregular paying of rent and utilities by Roma tenants was tolerated for many years. Debts therefore grew up to enormous amounts (for example the dept on rents, utilities including the delay charges in Lunik IX exceeds one billion SKK). It is questionable, whether this tolerance was only a simple negligence of landlords (because of complicated procedures of eviction) or it was an intention to get Roma tenants into a situation of large debts to have grounds to expel them from flats in centers of towns or other localities, where presence of Roma was undesirable.

Housing allowances

The social security reforms of 2003/4 have meant that many Roma struggle to pay rent and other basic costs and therefore face forced eviction. Many of the restrictions on access to

social benefits in the new law arguably constitute indirect discrimination. According to the law, there are two conditions to receive the housing allowances: to have a legal lease for a flat and to pay the rent and utilities regularly, or to have an installment plan agreed with the landlord. The first condition excludes from the housing allowances the inhabitants of informal Roma settlement; the second one the families with large unpaid debts from the past. At the same time, the rental and services costs in social housing for Roma are close to the average housing costs for the wider population, or even higher, yet the flat amount of housing allowances doesn't meet real housing costs. For example in Nitra monthly bills came to 12000 SKK because of extremely high sewage charges caused by inappropriate technology used in a newly built segregated settlement. Similar billing irregularities were recorded in Zvolen and Stara Tehelna in Presov, with utilities charges highly exceeding the financial possibilities of tenants. With a housing allowances of 2300 SKK monthly for a family, the total income of family of two unemployed parents and four children would be approximately 10030 SKK (if the parents do not participate on the activation program) or 13830 SKK (if both parents do participate on the activation program). Even if there are no exact data, the ratio of housing expenses exceeds 50% in many low-income families. As part of the social security reforms, the eligibility criteria for receiving the housing allowances were changed for 'bad payers'. The housing allowances are only to be paid to those who are regularly paying their bills. It brings the serious threat of falling into a regime of non-payment facing the difficulties of trying to escape it. In combination with the lack of social services to assist such tenants, it results in a desperate situation for many Roma. The report also found that many tenants were receiving enormous

bills in social housing. Our hypothesis is that utilities suppliers may be trying to compensate their losses in the general distribution systems by billing those tenants who are regularly paying their expenses. We encountered such cases in field, for examples: Ms. A. P., Zvolen – water supplies; and Mr. M. E., Presov – water and electricity. Moreover, the housing in which Roma live often means higher consumption of energy due to low cost construction and the methods used for heating. An other serious case was recorded in Presov, where Roma inhabitants of a flat-block are being highly billed for wather, while there is no functioning water supply in the block.

Box 1.

Slovakia's international human rights commitments on forced evictions

International Covenant on Economic, Social and Cultural Rights (ICESCR).

On 28 May 1993, Slovakia acceded to the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 11(1) proclaims the “the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing”. In General Comment No. 4, the Committee on Economic, Social and Cultural Rights, which monitors States' compliance with the Covenant, stated that this includes the right of all persons to “a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats.” In General Comment No. 7, the Committee made clear that evictions can only proceed in exceptional circumstances, where there is sufficient justification, a search for all feasible alternatives to eviction with the participation of all affected persons, due process and adequate alternative accommodation in case an eviction must proceed.

International Convention on the Elimination of All Forms of Racial Discrimination

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), to which Slovakia acceded on May 28, 1993, provides that States must eliminate discrimination in relation to the right to housing, which includes protection from forced eviction. Further, in Article 3, it requires States Parties to “particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.” Segregation is a common result of forced eviction of ethnic minorities from their housing.

UN Human Rights Council

In 1993 and 2004, the UN Human Rights Commission, the predecessor of the Council, condemned forced evictions as ‘gross violation of human rights’. This declaration was issued by the 54 member states of the Commission. In 2004, they recommended that “5. Also recommends that all Governments ensure that any eviction that is otherwise deemed lawful is carried out in a manner that does not violate any of the human rights of those evicted.”

'Special receiver' institution

The special receiver is a remedial tool for debts and tenants who have fallen behind in their payments. It enables an agreement to be reached whereby installment payments are made to clear debt, it halts eviction and it enables the receiver to receive the housing allowance directly in order to ensure regular

future payment of rent. This positive reform has not been significantly implemented in practice despite many tenants being interested in such an arrangement. Many municipalities are unwilling to adopt it. Evictions are regularly initiated by the municipalities without them resorting to the special receiver option, for example in Prešov.

European Convention on Human Rights (ECHR)

Article 8(1) of the European Convention on Human Rights contains the following guarantee: "Everyone has the right to respect for his private and family life, his home and his correspondence." The European Court of Human Rights has said that this encompasses the rights of access, occupation and not to be expelled or evicted without justification or adequate remedy. In *Connors v. United Kingdom* (2004), Court found a violation because the eviction of a Traveller, Mr Connors, was arbitrary and could not be justified, and awarded significant monetary damages for emotional suffering.

European Committee on Social Rights

On 22 June 1998, Slovakia ratified the European Social Charter and accepted Article 16, which provides for the rights of families to housing. In *ERRC v Greece*, the Committee applied this article stating that it "considers that illegal occupation of a site or dwelling may justify the eviction of the illegal occupants. However the criteria of illegal occupation must not be unduly wide, the eviction should take place in accordance with the applicable rules of procedure and these should be sufficiently protective of the rights of the persons concerned. The Committee considers that on these three grounds the situation is not satisfactory."

Committee of Ministers – Council of Europe

In 2004 and 2005, the Committee of Ministers of the Council of Europe issued two recommendations on Roma and Travellers. The latter states that "Member states should establish a legal framework that conforms with international human rights standards, to ensure effective protection against unlawful forced and collective evictions and to control strictly the circumstances in which legal evictions may be carried out. In the case of lawful evictions, Roma must be provided with appropriate alternative accommodation, if needed, except in cases of force majeure. Legislation should also strictly define the procedures for legal eviction, and such legislation should comply with international human rights standards and principles, including those articulated in General Comment No. 7 on forced evictions of the United Nations Committee on Economic, Social and Cultural rights."

1. Zilina

The Municipality of Zilina, whose Mayor is Jan Slota, leader of the right-wing Slovak National Party (SNS), announced on 6 November 2006 its intention to evict inhabitants, most of them Roma, from a building in the town into 'UNIMO cells' (temporary housing cubicles), which have been built in another locality. Their present building is to be demolished to give way to a parking lot for a planned hotel. Only tenants with an official contract will be provided with substitute housing in the cells, yet these do not correspond to the standard of their present flats.

2. Kosice

The Milan Šimecka Foundation recorded a case of unlawful forced eviction of Roma family Berko in Kosice on 16 October 2006. The family was a legal tenant of a municipal flat from 1987 and regularly paid rent and utilities. In September 2006, a representative of the housing administrator of Kosice municipality announced to the family that the state of the building was corrupted and they would have to move out for a limited period of time. The representative proposed substitute housing in the form of a flat in Lunik IX (a segregated Roma ghetto in Kosice).

The Berko family acquiesced to the proposal to move out, if only for reconstruction reasons, but refused to move to Lunik IX. Later, the representative let Mr. Berko, who is illiterate, sign a document supposedly related to water supplies. In reality it was a lease contract for the flat in Lunik IX. Despite protests, in October the administrator of municipal flats entered the Berko family flat, evicted the tenants, removed all the furnishings and sealed the empty flat. There were no measures to evict

other non-Roma tenants of the flat block, nor were they informed about alleged corrupted static of the building. The Milan Šimecka Foundation will provide the family with necessary legal assistance and bring a legal complaint to the police.

3. Kezmarok

In September 2006, the municipality of Kezmarok moved seventeen Roma to the village of Zombor (district Velky Krtis). The municipality bought a house in Zombor with aim of disposing of Roma 'bad-payers' from municipal flats in historic centre of the town. The evicted persons agreed with the movement because the otherwise they would be evicted onto the street. However, the municipality and inhabitants (both Roma and non-Roma) of Zombor protested against such a movement of 'bad payers' from Kezmarok. The mayor of Kezmarok said in a statement to the national daily Pravda, that Zombor could avoid the movement by buying back the house from the Kezmarok municipality.

4. Komárno

In September 2005, the municipal council of Komárno adopted a decision on the sale of 63 flats inhabited by about 350 Roma tenants in four localities of the town to a unique applicant, businessman Vojtech Meszaros. According to the council decision, the applicant had to undertake to provide the tenants with legal title in substitute housing outside of the cadastral area of the town of Komarno and prevent potential return of the "inadaptable citizens" back to the town. Following the sale, Mr. Meszaros bought a lot of old family

houses in villages and small towns in the surroundings of Komarno. The mayors of these municipalities had to decide either to buy back the old building back from Mr. Meszaros for double price or to have bad payers from Komarno moved in their villages. By July 2006, some families from Komarno were evicted from their Komarno homes to the villages of Kollarovo, Marcelova, Hurbanovo, Kava, Hurbanovo, Balvany and Dulovce. Representatives of several concerned municipalities drafted a petition and addressed the General Prosecutor, in vain. There were several attacks recorded in the villages against the building bought for new inhabitants from Komarno. Some of the evicted families are presently homeless.

5. Puchov

In March 2006, the municipality of Puchov bought, through the medium of a private company, a house in nearby village of Nimnica with intention to move there four families of Roma bad payers from municipal flats. In May 2006, Puchov attempted to move ten persons to the house, but the inhabitants of Nimnica (both non-Roma and Roma) prevented the truck with moved Roma to access the village. The truck had to return the Roma back to Puchov. Since then there is an administrative struggle between the two municipalities on the matter of legality of reconstruction of the house and thus possibility to move concerned persons in.

6. Michalovce

In June 2005, the Municipal Council of Michalovce voted to sell a block of social housing C1 in the centre of town. Some of the tenants applied to buy flats they lived in, but there were no municipal reaction to the applications. Later, the municipality sold the building to a group of three individuals for

1 SKK and the land for 175.000 SKK; the new owners undertook to settle the debts related to the flats amounting to 11 millions SKK. However, this latter point is unclear: there are allegations that the obligation to pay the debts is not part of the contract. On 28 February 2006, the new owners commenced the forced evictions of the inhabitants by force through a private security service. Forty two families were evicted and left on the street. By 3 March 2006, all of the approximately 800 Roma inhabitants, including some 200 children, were evicted, among them regular payers without any debt on rent. Twenty nine tenants (with their families) had valid contracts for unlimited period, several tens of tenants with limited contract (most of them used to have limited contract but under unclear circumstances agreed with amendment introducing time limitation) and some families lived in the building without any legal title. The municipality (not the new owners) provided only five tenants and their families with substitute housing. However, these new flats do represent an adequate substitution in the terms of dwelling area. According to the findings of the lawyer of the Milan Simecka Foundation and Office of the Plenipotentiary for Roma Communities, part of the tenants become bad payers because of unfair billing for water supplies and heating.

7. Fil'akovo

Sixteen families (70 persons) owing large debts on housing and utilities were evicted from municipal UNIMO cells on 5 December 2005.

8. Vrútky

Slovak Railways were the owner of an old ramshackle house settled by about 60 Roma in social need. One third of the residents had a tenancy contract; the rest of them resided

informally. The railway company decided to evict the inhabitants because of 'bad paying' discipline and demolish the house citing its poor condition. Following the decision of the court on 12 September 2005, the company evicted all 60 inhabitants. Twenty four of them, who had valid tenancy contracts, were provided with alternative housing, while 36 were evicted and left on the street. On 1 October 2005 the building was demolished. According to regional media, in September 2006 (one year after the forced eviction), another two families with small children were evicted from the railways' house living in tents on a bank of the river in Vrútky. There have been several attacks against one of the families; their tent was burnt down by unknown persons, so all personal property and documents of the family perished.

9. Sabinov

In 2005, the Municipality of Sabinov built 24 low standard flats in the segregated locality of Telek (3 km from the town). According to the document Program of social integration of Roma and non-adaptable inhabitants adopted by the Municipal Council the low standard flats were intended for the Roma living in the center of the town. "This solution is acceptable for the majority population; we will satisfy them. The new settlement will be far enough from their houses," declared the mayor of Sabinov to the *Korzár* newspaper on 15 April 2005. By June 2005, 24 Roma families were evicted from municipal flats at the main Liberty Square (a huge reconstruction of the square is planned with aim to promote tourism in the town) and moved to Telek. Among them were several families that regularly paid rent and utilities and had invested considerable money to improve their flats. Previously these families tried to buy the municipal flats they lived in, but the municipality gave no reaction to their applications.

(There were some non-Roma tenants evicted from the Liberty Square, but they were provided with adequate substitute housing in other localities of the town.)

After the eviction of Roma tenants some of the flats were sold to high-ranking officials of the municipality. It is important to note that there is an informal Roma settlement in Sabinov, but the people living in the informal huts, despite their urgent needs, were not moved to the newly built low standard flats in Telek. Presently, the municipality continues to build low standard flats in Telek with intention of moving more Roma, including regular rent payers, from the centre of the town. The Treasurer of the Sabinov municipality in an interview for the Roma Press Agency in July 2006 admitted, "However it is true that some families, that were moved and some that will have to move in the next year, used to perform all the duties according to their tenancy contracts ...". I guess they went to much worst living condition that they used to live. The flats at the Liberty Square have higher level than the new low standard flats,"

10. Banská Bystrica

The forced eviction of 24 Roma families from social flats at *Interanátna ulica* was executed on 30 March 2005. According to the court decision 12 families were provided with substitute housing in emergency facility *Kotva II*.

11. Other Localities

In 2006, forced evictions have also been recorded or threatened in the following localities: Detva, Dubnica, Horovce, Kráľovský Chlmec, Krupina, Lipany, Liptovská Porúbka, Medzilaborce, Nitra, Prešov, Snina, Tornal'a, Trenlín, Zvolen, Žiar nad Hronom

Both preventative, remedial and punitive measures are necessary to be taken to address the growing wave of forced eviction of Roma in Slovakia. The following responsible state bodies need to take action: General Prosecutor Office and regional prosecutor offices,

Ombudsman, Slovak National Centre for Human Rights, Ministry of Construction and Regional Development, Ministry of Labor, Family and Social Affairs.

The key recommendations in the report include the following:

- Amend the law on forced evictions (the Civil Code), which is affecting Roma inhabitants at a local level by municipal and private institutions, to bring it into line with international standards and previous protections. Slovak domestic law should also provide that private and public individuals and bodies are unable to forcibly evict a person without a court order, and such that all other measures specified under the international housing rights acquis are incorporated into the Slovak domestic legal order.

- Adopt legislation which renders racial segregation and acts leading to racial segregation, whether directly or indirectly, illegal;

- Adopt a comprehensive housing policy, respecting adequate housing standards, including affordability.

A broad consensus of stakeholders has to be achieved in order to introduce a new approach in tackling the housing situation of poor families, especially Romani.

- Ensure that social and public services are accessible for people at risk of poverty, including Roma. The scheme of alternative beneficiary, the social receiver, for social allowances should be actively extended by municipalities to those beneficiaries who want such an arrangement.

- Carry out research on housing affordability among low-income families to clarify the share of housing costs in comparison to incomes. Action should then be taken to ensure that housing allowances and social security payments appropriately cover housing, utility and related costs.

- All cases of evictions that do not conform to national legal and international human rights standards should be investigated and punished. Discriminatory patterns of evictions should be monitored and combated.

The entrance to the segregated ghetto of Stara Tehelna



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The report also provides a series of case studies of forced evictions of Roma in Slovakia during 2006. One of the clear patterns that emerges from this investigation is the practice of Municipalities of moving Roma from housing in central locations, often on false pretences such as building safety, and placing them in newly built but segregated and very low quality buildings on the outskirts of towns or allocating them poor housing bought in small towns. This practice applies to regularly rent paying Roma who have clear rights to alternative housing of an equal standard and on the same conditions.



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