

Neven Mimica
Commissioner for
International Cooperation and Development
European Commission
Rue de la Loi 41
1049 Brussels

**AMNESTY
INTERNATIONAL**



EUROPEAN INSTITUTIONS OFFICE

Brussels, 9 July 2015

Ref.: B1690

Dear Commissioner Mimica,

URGENT: EU RISKS FUNDING FORCED EVICTION THROUGH 'MISSING LINK 15 B' PROJECT

Amnesty International wishes to urgently draw your attention to the risk of imminent forced evictions in Nairobi, Kenya, which risks taking place under the European Union (EU) funded 'Missing Link 15 B' road construction project. Over 1000 families residing in the Deep Sea settlement in Westlands, Nairobi, Kenya, are at risk of human rights violations in the absence of adequate human rights safeguards, and ahead of the evictions that would start from 8 July 2015 onward, as announced by the Kenya Urban Roads Authority (KURA). Amnesty International recalls that forced evictions constitute gross violations of a range of internationally recognised human rights, including the rights to adequate housing, food, water, health, education, work, security of the person, and freedom of movement, and the right to be freed from cruel, inhuman and degrading treatment. **We therefore urge you to intervene immediately to stop the evictions until due process requirements in line with international human rights standards are put in place.**

Under international human rights law¹, evictions should be carried out only as a last resort, once all feasible alternatives have been explored, and only after appropriate procedural and legal safeguards are in place. These include genuine consultation with the people affected, adequate and reasonable notice, compensation for loss of or damage to property, and adequate alternative housing for those who cannot provide for themselves. Authorities must ensure that no one is rendered homeless or vulnerable to other human rights violations as a consequence of an eviction.

In the case of the Deep Sea settlement and the imminent evictions, Amnesty International is particularly concerned about the:

- Lack of clarity of information about the number of people affected
- Failure to undertake genuine consultations with people affected by the project
- Lack of adequate notice of the evictions
- Inadequate compensation and failure to ensure adequate alternative housing
- Lack of information on a grievance redress
- Impact on children's education.

Please find additional information about our concerns in the Annex to this letter.

Amnesty International has repeatedly raised its concerns with the EU. In a meeting with the EU Delegation in Nairobi on 27 May, Amnesty International was assured that the Delegation would engage with KURA with a view to addressing gaps in the eviction process. However, according to our information from community representatives, the above-mentioned concerns have still not been addressed despite the looming evictions.

We urge you to intervene in this matter given that the EU is financing the project. As you will be aware, the European Commission is obliged to carry out its development cooperation in compliance with

¹ The UN Basic Principles and Guidelines on development-based Evictions and Displacement, http://www.ohchr.org/Documents/Issues/Housing/Guidelines_en.pdf

human rights, as set out in Article 21 of the Treaty on the European Union and Article 208 of the Treaty on the Functioning of the European Union. In this regard, we should also like to recall the Council of the European Union Foreign Affairs (Development) meeting Conclusions on a rights-based approach to development cooperation, encompassing all human rights of 19 May 2014.

We ask you to fully take into account the prohibition of forced evictions under international human rights law, and to:

- Request KURA and all agencies involved to follow due process requirements as set out in international human rights law and standards
- Ensure that, in line with the Missing Link project requirement, a Resettlement Action Plan is shared with affected people, and is genuinely open for consultations prior to evictions.

We thank you in advance for your effort. We would very much appreciate being kept informed of any actions you take in this case, and stand ready to provide any further information you may require.

Yours sincerely,



Ivorna McGowan
Acting Director and Director of Programmes
Amnesty International, European Institutions Office

Cc:

Irena Andrassy, Deputy Head of cabinet

Maud Arnould, Member of cabinet

Christine Desbordes, Head of EU Delegation, Kenya

Karin Johansson, International relations officer and desk officer for Kenya, European External Action Service (EEAS)

Annex:

Amnesty International is concerned that Deep Sea residents may be at risk of imminent forced evictions.

- **Failure to undertake genuine consultations with Project Affected Persons (PAPs)**

In a public meeting convened by KURA on 29 April 2015 in the presence of the District Commissioner for Westlands, Deep Sea residents present were informed that project affected people (PAP) would need to vacate the area by 19 June 2015. This meeting cannot be considered as a consultation process, as there was little opportunity for those present to have their questions answered or explore all feasible alternatives to evictions, as required by international human rights standards on evictions.² When Deep Sea residents tried to raise their concerns about the evictions process at the meeting, KURA and the District Commissioner for Westlands brought armed Administration Police into the meeting. Amnesty International would like to point out that the involvement of armed police at the consultation meeting caused a chilling effect on those present, and therefore can be construed as intimidation of PAPs in order to silence them.

- **Lack of clarity on number of people affected**

According to information provided by KURA at the 29 April public meeting, 1071 people will be affected by the road construction project. The community through its own count claims that there are around 3000 PAPs. Further, in the meeting on 27 May, Amnesty International was told by representatives of the EU delegation that the number of people affected would be approximately over a 1000 households. Despite this lack of clarity on the actual number of people affected, KURA officials failed to make available the survey report that they had used for arriving at the 1071 figure. This has caused distrust and uncertainty in the Deep Sea community, and many fear that they will only really find out if they are affected by the eviction on the day road construction starts.

- **Lack of adequate notice**

Resulting from the lack of clarity on the number of people affected, Deep Sea residents have not been provided with adequate notice of eviction, as required under international law and standards. Notices have not been individually issued. Instead, generic letters informing residents of the impending eviction have been made available at the office of the District Commissioner. Under such circumstances, it is impossible for Deep Sea residents to know who exactly would be affected.

- **Inadequate compensation and failure to ensure alternative housing**

At the 29 April public meeting, KURA announced to the community that instead of compensation, it would pay certain 'allowances'. These include a Disturbance Allowance of KES 15,000 (EUR 134) for tenants and KES 5000 (EUR 45) for structure owners; Transport Allowance of KES 5,000 (EUR 45); Child Allowance of KES 1500 (EUR 13) per child up to 3 children. International human rights law calls for fair and just compensation for any losses of personal, real or other property or goods. The allowance decided by KURA has not been shown to be the result of an assessment of the impact of the eviction on affected people. Furthermore, international human rights standards require that compensation must be sufficient to ensure that affected people are able to find adequate alternative housing. The allowances announced by KURA fall far short of this requirement and at best push affected persons into increasingly insecure housing, putting them at risk of further forced evictions.

² CESCR, "General Comment 7: The right to adequate housing (Art. 11.1): forced evictions," 20 May 1997. <http://www.unhcr.ch/tbs/doc.nsf/0/959f71e476284596802564c3005d8d50?Opendocument>

- **Lack of information on grievance redress**

While at the 29 April meeting, KURA announced that there would be a mechanism to address issues emanating from the project, KURA has yet to provide information on the composition and procedures of the mechanism. PAPs are therefore not fully aware of how to channel their grievances and the nature and scope of the remedies that they will be provided. Additionally, the composition of the mechanism, which is limited to members of KURA and the District Commissioner, has raised questions about its impartiality in determining claims that PAPs may have against KURA.

- **Impact on children's education**

As highlighted by community members at the 29 April public meeting with KURA, and by Amnesty International at its meeting on 27 May with the EU delegation, the timing of the eviction will negatively impact children who have enrolled for their school examinations in October in schools near Deep Sea settlement. If Deep Sea residents are evicted in accordance with the current timeline, hundreds of children would lose out on a school year at the very least.