

**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 CHE 4/2019

25 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 **the intended demolition of the Brunaupark housing complex in Zürich, owned by the Credit Suisse Pension Fund, which has reportedly been planned without transparency or consultation with affected residents, and which is to lead to their eviction from their homes, without any offer for adequate compensation or proximate relocation. I am also concerned about similar threats to the affordability of housing for tenants living in housing units owned by a Credit Suisse real estate investment fund in Schorenweg in Bale.**

According to the information received:

*The development of Brunaupark*

In 1970 the pension fund of Credit Suisse, purchased 10 hectares of land in the Wiedikon area in order to construct an administrative headquarters for its business activities. According to a zoning agreement concluded between Credit Suisse and Zürich City Council, in 1973, Credit Suisse was obliged to assign 37.5 % of the office space to be constructed to housing. 15 % of this residential share is designated for commercial use, for businesses such as pharmacies and supermarkets. The complex was constructed in four stages (1980, 1983, 1993 and 1996), with the housing completed being subject to affordable rent for a period of 30 years after construction. The first two of these affordable rent periods expired in 2010 and 2013 respectively. The final two are due to expire in 2023 and 2026. The rental properties on the site are run by Wincasa AG on behalf of Credit Suisse. Wincasa was established by Credit Suisse in 1999 and since 2012 belongs to Swiss Prime Site.

Between 2009 and 2011, pursuant to the introduction of the altered Building and Space Regulations in 1999, and the completion of an agreement between Credit Suisse and Zürich City Council, Credit Suisse initiated expansion of its administrative headquarters on the site, adding 65,000m<sup>2</sup> to its area. However, despite this substantial increase in the size of the office space on the site, the terms of the agreement did not require Credit Suisse to set aside any amount of this for

residential purposes. As such, no further housing was constructed. It is understood that this agreement is currently subject to investigation by the City's Commission for Auditing (Geschäftsprüfungskommission).

Brunaupark is today recognised as a close-knit, peaceful community, with residents from numerous different social, economic and religious backgrounds. The community includes around 100 children, and 15-20% of residents are over 65. Many families rely on the amenities, such as schools, kindergartens and day-care centres which are located in or near to the complex. There is a synagogue close by to which some residents have a longstanding attachment.

### *The planned demolition of Brunaupark*

In the summer of 2018, there were reports that the pension fund of Credit Suisse was to initiate plans to demolish Brunaupark and replace the current housing with high-density, upper market apartments. In response to these rumours, Wincasa AG, sent brief letters to all tenants reassuring them that only minor modifications to the commercial area and other parts of the site were planned and that further information about the plans would be provided in due course. Various telephone enquiries by tenants also elicited the same response.

No further information was received by tenants until 27 March 2019 whereupon the residents of all but one block on the site, totalling 240 households, were handed notices of the termination of their leases. These terminations will become effective over the period from 30 June 2020 to 30 June 2023, meaning within four years all will have been evicted from the site. This is despite the fact that many of these evicted tenants will still be under the affordable rent schemes promised upon initial construction, some of which are effective until 2026.

On 17 April 2019, subsequent to the termination notices being sent to tenants, but before the pension fund of Credit Suisse had filed their application for a building permit with the City authorities, scaffolding was erected across the entire site in preparation for demolition. This makes the site less safe, prevents children from playing, and forms an unsightly backdrop for all residents. It is understood that the pension fund of Credit Suisse plans to commence demolition in 2021, meaning that many residents will still live on the site whilst it is being demolished and rebuilt – a reality which will cause significant disruption to them, likely lower their quality of life, and could generate safety concerns.

It has since become clear that despite only informing residents about the intended eviction, demolition and redevelopment plans at the end of March 2019, in reality these had been on the table since at least 2017, when the pension fund of Credit Suisse confidentially commissioned proposals for a new development on the site from four architectural firms. Reportedly the redevelopment of the Brunaupark complex – a measure affecting an entire small suburb of Zürich - was approved by the City department for construction of Zürich (Hochbauamt) in 2018 without any

consultation of residents living in the area. In addition it is alleged that the project was approved without discussion or approval by any local parliament, such as the Gemeinderat of Zürich.

According to information received the pension fund of Credit Suisse and Zürich City Council have seemingly attempted to hide their intentions about the redevelopment of Brunapark by keeping all information confidential until the latest possible moment. Furthermore, since being handed notices to vacate their properties, residents have reportedly not received any offer for compensation or for relocation to similar sized apartments in proximity. Nor has in-situ relocation to affordable newly planned apartments in the Brunapark complex been offered.

### *Unaffordable Rent Increases*

The current situation of eviction faced by the tenants of Brunapark is exacerbated by the lack of affordability offered by the new housing proposed by Credit Suisse. In other words, even if some of the current tenants wish to stay on the site by renting new apartments there, many would be unable to afford to do so. This reality means that under Credit Suisse's plans current residents will have little choice, but to leave the area for good.

In general, current rents in Brunapark range from CHF 1,200 for a 3.5 room apartment under an affordable-economic rent scheme, to CHF 3,500 for a 5.5 room apartment at market rent (additional costs excluded). The development plan published suggested that rental prices for a 3.5 room apartment built to replace that which has been demolished may likely cost between CHF 2,200 and 2,650, whilst rents for 4.5 room apartments will range from CHF 2,700 and 3,200 (without additional costs). It should be noted that the project description for Brunapark mentions that these are only preliminary figures that may change depending on construction costs and interest rates. Given that currently newly built apartments in Zürich of about 100 square metres are hardly available below CHF 3000 it is questionable whether such rent levels will actually be maintained.

In order to facilitate relocation of residents, Wincasa has started to publish regularly a list of vacant housing under its administration in Zürich. A list dated 12 August 2019 is indicative about the actual pricing for any alternative accommodation on the market. 2.5 room units are not available below CHF 2000, 3.5 room units range between CHF 2,540 and CHF 5,490, while rental prices for 4.5 room apartments range between CHF 3,715 and CHF 4,230.<sup>1</sup> In summary, alternative accommodation in other areas of Zürich is not only difficult to find, but also unaffordable for most residents living at Brunapark. Support provided to residents above 65 years of age is reportedly strongly geared at providing incentives to older persons to move to an old age home, however, most older

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<sup>1</sup> [https://brunapark.ch/wp-content/uploads/2019/08/Verfuegbare\\_Wohnungen\\_Wincasa\\_Zuerich\\_190812.pdf](https://brunapark.ch/wp-content/uploads/2019/08/Verfuegbare_Wohnungen_Wincasa_Zuerich_190812.pdf)

persons want to continue to live independently in a standard apartment in the area as long as possible.

There is also mistrust by residents about future indicated rental prices, because during the last years the pension fund of Credit Suisse has significantly increased rents for homes in Brunaupark. When the first two 30-year periods under rent control ended in 2010 and 2013 respectively, the pension fund of Credit Suisse initiated various renovations to the properties, including fitting new windows, adding new kitchen equipment, and creating new bathroom areas. Subsequent to the conclusion of these renovations, rents for the renovated apartments were increased by approximately 60 percent or more, making them unaffordable for several tenants.

Residents of Brunaupark have mobilised against the evictions, forming an organisation called 'Interessengemeinschaft Leben im Brunaupark'. They have collected 5,700 signatures on a petition against the plans. Reportedly the majority are formally challenging their eviction notices. However, as yet no tangible results have been achieved to prevent the eviction and demolition, or to ensure in situ-resettlement to affordable housing units.

### *Impacts*

The impact of these plans on individual residents and the community as a whole has been severe. People living in Brunaupark are deeply shocked at the prospect of losing their homes, with older residents and those with children being placed under extreme mental pressure resulting from them facing the reality of having to leave the place they live and find new houses, new communities, and new resources and support networks. The eviction of such a large number of tenants will also cause major issues for them finding new, affordable accommodation, as Zürich is already faced with an affordable housing shortage. Many of the older residents have lived in Brunaupark for decades, their children grew up there, and they fully expected to live out their lives there. Several older tenants live close to their children and grandchildren who visit frequently. If they were to have to move, this would disrupt family life and decrease the support they derive from each other. In some cases, families having to move from Brunaupark would be disconnected from religious institutions with which they have a long standing relationship.

According to recent official data, only 0.2 per cent of all housing units for rental are vacant in the City of Zürich, meaning that there is hardly any alternative housing at offer on the rental market, in particular affordable housing for low-income households.<sup>2</sup> Switzerland-wide, households with revenues below CHF 4,000 pay more than 35 per cent of the income for housing, indicating a serious

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<sup>2</sup> Quelle: Bundesamt für Statistik, Leerwohnungszählung Juni 2018

housing cost overburden rate for low income households, which is even more acute in large cities.

While Switzerland witnessed hardly any inflation (the consumer price index increased by only 2 per cent between 2005 and 2018), rents for newly rented apartments have increased in the City of Zürich by 22 per cent during the same period.<sup>3</sup> Nationwide rents of housing units have increased by over 17 per cent between 2005 and 2018.

As there is currently a housing shortage in Zürich, the idea to build additional housing units in central locations is understandable and generally desirable. However, reportedly the only social measure offered by the pension fund of Credit Suisse was that 16 of the new apartments would be offered at below market value. This offer by the pension fund was conditional that the City Council would approve the early demolition of 170 housing units that are currently still subject to rent control until 2023 and 2026. Reportedly the City Council refused to agree to such a deal.

After urban renewal Brunaupark is expected to have a total of 500 housing units. The construction of 16 units under rent control would mean that only 3 per cent of the total housing stock would be reserved for low income households. According to official statistics, 7.7 percent of the population in the Region of Zürich currently lives in income poverty (defined as having an income below CHF 2259 for single person household and below CHF 3990 CHF for a household with two adults and two children). It is therefore obvious that offering only about 3 per cent of all planned housing units below market value, would be inadequate and not respond to the actual housing needs of the local population. It is reasonable to conclude that the entire project – if implemented unchanged - would rather shrink the number of affordable housing units in the city and thus undermine the realization of the right to adequate housing in Zürich.

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<sup>3</sup> Abschlussmietpreisindex, Mietpreisabschlüsse, Daten: WuestPartner 2005 bis 2018

*Concerns relating similar business practices by Credit Suisse controlled companies and investment funds in Bale*

Regrettably Brunaupark appears not to be an isolated case in which enterprises belonging or mandated by Credit Suisse appear to be engaged in business conduct undermining the right to adequate housing. This stands in contradiction to the official commitment by Credit Suisse to respect international human rights standards in its policies and operations.<sup>4</sup>

For example, plans have been reported to renovate in Bale in Schorenweg two high rights complexes with 192 tenants which are owned by Credit Suisse and one of its Zug based Real Estate Investment Funds. The affected units reportedly received new bathrooms in 2002 and appear overwhelmingly to be in good condition. After the proposed modernization the relatively affordable units with rents of 1,000 to 1,700 CHF for two to three rooms are expected to rise significantly and will be unaffordable to many of the current tenants. While Wincasa has reportedly offered some support to tenants to find alternative accommodation, tenants have not received any guarantee to continue renting their apartments or a similar sized apartment in the complex at affordable pricing after completion of the modernization.<sup>5</sup>

Overall, the modernization project at Schorenweg appears not to be motivated to improve or expand affordable housing in urban areas in Switzerland, but instead to ensure higher returns on the real estate portfolio of Credit Suisse by evicting tenants and offering renovated units at much higher price to new tenants.<sup>6</sup> While tenant unions have demanded that the Canton of Bale should acquire the housing complex and hand it over to a social housing provider, it appears unclear whether there is sufficient political will at cantonal level to ensure a solution that would fully respect their right to adequate housing for the affected tenants.

While I do not wish to prejudge the accuracy of these allegations, I would like to express my sincere concern about the planned eviction of the Brunaupark residents that has been planned with insufficient consultation with those affected, and appears not to include any compensation or offer for proximate relocation to homes affordable to current residents. The planned urban redevelopment project will displace hundreds of people, including older persons and children. The rents for the new housing expected to be constructed are feared to be largely unaffordable for those evicted, resulting in their displacement to locations at the periphery of Zürich far from work and other services. Instead of increasing the number of housing units for low-income households in Zürich, the Brunaupark project appears rather to reduce this offer. Similar concerns relate to the

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<sup>4</sup> See <https://www.credit-suisse.com/about-us/en/our-company/corporate-responsibility/banking/human-rights.html>

<sup>5</sup> See Ralph Hug, “Was gilt bei der Credit Suisse der Volkswille? Mieten + Wohnen, Nr. 2, April 2019, p.10-11.

<sup>6</sup> See “Massekündigung am Schorenweg: Sammelklage eingereicht, Häuser “in gutem Zustand”, BZ, 29.4.2019.

planned modernization of high rise buildings at Schorenweg in Bale owned by an investment fund managed by Credit Suisse.

The abovementioned cases point also to a more general concern. Federal, cantonal and city Governments appear to have largely been unable to ensure sufficient access to affordable housing for low-income households in major Swiss urban areas. Various efforts to limit rent increases through legislation, to increase the offer of housing units for rental, or to support the provision of affordable housing through social housing associations have apparently been ineffective in ensuring that all low-income households living in urban areas have access to affordable housing.

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.

It is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify cases brought to my attention. I would therefore be grateful if this communication could be shared with relevant federal, cantonal, and local authorities to receive their observations on the following matters:

1. Please provide any information and/or comments you might have on the above-mentioned allegations.
2. Please indicate the mechanisms used by the Government of Switzerland to ensure that third party actors like the Credit Suisse and its pension fund and Wincasa comply with international human rights obligations in the area of housing. What measures has the Government taken to ensure that business enterprises and financial institutions operating in the real estate sector respect human rights in line with the UN Guiding Principles on Business and Human Rights, which require such entities to conduct human rights due diligence to prevent, mitigate and remediate adverse impacts.
3. Please provide details of the decision making process regarding the planned redevelopment of Brunaupark, the demolition of existing housing and the planned eviction of tenants, including the role of the City Council in these decisions. Please indicate what processes were and are in place to ensure that residents of Brunaupark and Schorenweg can engage in policies and decisions that affect their housing.
4. Please describe what safeguards the City Councils of Zürich and Bale and cantonal Governments of Switzerland have put in place to ensure that the rights of the residents of Brunaupark and in Schorenweg will be respected, protected and fulfilled during the process of eviction, modernization or redevelopment, and, if applicable, explain to what extent they may not have been complied with in the above mentioned context.

5. Please provide any details about the efforts made by the real estate firm, the cantons of Zürich and Bale and their City Councils to ensure that after the planned redevelopment or modernization, current tenants will be able to continue living in the complex at affordable rents.
6. Please describe the measures required by national, cantonal and city Governments to ensure that residents facing development-based eviction in Brunaupark in Zürich and Schorenweg in Bale are provided with adequate compensation or alternative accommodation at similar cost in proximate location.
7. Please describe measures of federal, cantonal and local authorities to address issues related to the supply, accessibility, availability and affordability of housing for low-income households in Zürich and Bale.
8. Please outline what mechanisms are available to residents in order to enable them to achieve effective legal recourse against the termination of the lease contracts and eviction, taking into account the fact that access to justice and due process are core human rights standards.

I would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). 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 responsible federal, cantonal and local authorities to take all necessary interim measures to prevent any non-compliance by Credit Suisse, its pension fund, Wincasa or others with the right to adequate housing. In addition, I call upon federal, cantonal and local authorities to undertake additional efforts to ensure that all persons, in particular low-income households, have access to adequate and affordable housing.

Please be informed that a similar letter has been send to Credit Suisse, its pension fund, and Wincasa.

Please accept, Excellency, the assurances of our 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 the above alleged facts and concerns, I would like to draw your attention to article 11.1 of the International Covenant on Economic, Social and Cultural Rights, ratified by Switzerland in 1992, 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 [...]”.

The Committee on Economic, Social and Cultural Rights in its General Comment No. 4 has stressed that the right to adequate housing includes various aspects such as affordability, proximity to employment and services, and legal security of tenure.

We also wish to draw your attention to the Basic Principles and Guidelines on Development-based Evictions and Displacement (A/HRC/4/18, Annex), which provides that where development of housing areas takes place, and prior to eviction notices being issued, “[a]ll potentially affected groups and persons, including women, indigenous peoples and persons with disabilities, as well as others working on behalf of the affected, have the right to relevant information, full consultation and participation throughout the entire process, and to propose alternatives that authorities should duly consider.” (para. 38) Equally, the Basic Principles hold that where evictions must take place as a result of development, the Government, or other parties responsible for that eviction, must provide “just compensation and sufficient alternative accommodation, or restitution when feasible....” (para. 52) Furthermore, they note that evictions should never render anyone homeless, or leave them exposed to other violations of their human rights. When evictions do take place due to development, States should utilise the maximum of their available resources to ensure that other adequate housing is made available to those evicted. This “should be situated as close as possible to the original place of residence and source of livelihood of those evicted.” (para. 43)

Sub-national Government entities, such as Cantons and Local Governments are fully bound by international human rights instruments ratified by Switzerland and the international human rights obligations contained in them extend as well to the Cantons and City Councils of Zürich and Bale. For example the Human Rights Committee, stated in its General Comment No. 31 (CCPR/C/21/Rev.1/Add. 13) that “[a]ll branches of government (executive, legislative and judicial), and other public or governmental authorities, at whatever level – national, regional or local - are in a position to engage the responsibility of the State party” (para. 4). Furthermore, the Committee on Economic, Social and Cultural Rights, clarified in its General Comment No. 9, that “all administrative authorities will take account of the requirements of the Covenant in their decision-making” (para. 9).

Accordingly, where they hold responsibility for housing issues and policies, local authorities such as Zürich City Council are under an obligation to ensure the right to adequate housing is respected, protected and fulfilled for all those within their zone of

influence, and therefore must apply human rights standards, such as those identified above, in all housing projects and decisions. For more information on the responsibility of the City Councils of Zürich and Bale and corresponding cantonal authorities to respect, protect and fulfil the right to adequate housing, we draw your attention to the report of the Special Rapporteur on the obligations of subnational and local governments in the implementation of the right (A/HRC/28/62).

We further call your attention to the reports of the Special Rapporteur on adequate housing on several central issues for the situation at hand, namely: 1) on homelessness and the right to adequate housing (A/HRC/31/54); 2) on the intimate link between the right to life and the right to adequate housing (A/71/310); 3) on access to justice for the right to housing (A/HRC/40/61); 4) on the financialization of housing and the right to adequate housing (A/HRC/34/51); and 5) on human rights-based national housing strategies (A/HRC/37/53).

States and relevant State authorities also have to ensure adequate regulation of business enterprises to ensure respect, protection and fulfilment of the right to adequate housing, as outlined by General Comment No.24 of the Committee on Economic, Social and Cultural Rights and by Pilar I of the UN Guiding Principles on Business and Human rights.

While we note that Credit Suisse has adopted a Statement on Human Rights in which the corporation commits itself to respect human rights in its policies and operations in line with the UN Guiding Principles on Business and Human Rights, we are concerned that Credit Suisse and Pensions Funds and investment funds owned or managed by Credit Suisse have so far given insufficient attention to adverse impacts on the right to adequate housing of their operations. The same applies to companies, like Wincasa that have been mandated to manage real estate on behalf of business entities belonging to the Credit Suisse. According to Principle 13 of the UN Guiding Principles, the responsibility to protect human rights requires Credit Suisse, including its pension, investment funds and real estate management firms mandated by them to avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur. They should also seek to prevent and mitigate adverse human rights impacts that are directly linked to their operations, products or services through their business relationships.

Furthermore, we would also highlight that in order to exercise human rights due diligence the UN Guiding Principles require business enterprises to engage in meaningful consultation with affected groups and other relevant stakeholders (Principle 17) and to conduct human rights impact assessments (Principle 19).