

# PARALLEL REPORT

BY THE EUROPEAN ROMA RIGHTS CENTRE CONCERNING FRANCE

To the Human Rights Council, within its Universal Periodic Review, for consideration at its 15th session (21 January to 1 February 2013).



CHALLENGING DISCRIMINATION PROMOTING EQUALITY

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The European Roma Rights Centre (ERRC)<sup>1</sup> hereby submits this report to the United Nations Human Rights Council (HRC) for the universal periodic review of France's compliance with its human rights commitments. This report focuses on housing and forced evictions and violations of freedom of movement.

## HOUSING AND EVICTIONS

As a State Party to the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination France is legally obliged to respect, protect and fulfil the right to adequate housing, including the prohibition of forced evictions.<sup>2</sup>

In France, the right of housing is directly recognised in the French law on housing, which provides “[...] the right to housing is a duty for the entire nation. Any person or family experiencing particular difficulties, partly because of the inadequacy of its resources or its conditions of existence, is entitled to assistance from the community, under conditions established by this Act, for access to decent and independent housing where they can remain.”<sup>3</sup>

Despite domestic and international legal standards, many Roma in France live in highly substandard conditions and experience multiple forced evictions, which leave them in increasingly marginalised, poor and unstable conditions. Throughout the review period, the ERRC has monitored the forced eviction of Romani communities in France. Romani communities are frequently evicted, and some are evicted repeatedly within short periods of time. Romani communities have in particular been targeted for forced eviction following statements by then-President Nicolas Sarkozy in July 2010 calling for the dismantling of illegal nomad (Romani) camps throughout the country.<sup>4</sup> Seven hundred and forty-one informal Romani camps were recorded and, one year later, the Ministry of Interior announced that 75% of those had been dismantled.<sup>5</sup>

Most of these forced evictions are marked by the same human rights violations, notably the failure to provide evictees with adequate (or indeed any) alternative accommodation, as France has undertaken to do under international law. According to ERRC research and monitoring activities in collaboration with local organisations, the eviction policy in 2011 against Roma in France has been systematic. In 2011, the ERRC recorded at least 80 forced evictions involving around 8000 Romani people.<sup>6</sup> Between January and April 2012, the ERRC registered at least 15 forced evictions involving around 2400 individuals.<sup>7</sup>

As a result of these evictions, many Roma have been made homeless, regardless of their health situation or children's enrolment in school. They have become scattered around French cities, becoming increasingly vulnerable to violent attacks and police harassment.<sup>8</sup> For example on 19 May 2011,<sup>9</sup> about 400 Roma were evicted from a field in Pantin in Seine Saint Denis, without any notification,<sup>10</sup> even though a vaccination treatment was

- 1 The European Roma Rights Centre (ERRC) is an international public interest law organisation working to combat anti-Romani racism and human rights abuse of Roma through strategic litigation, research and policy development, advocacy and human rights education.
- 2 International Covenant on Civil and Political Rights Article 17(1)(2), and the International Covenant on Economic, Social and Cultural Rights Article 11(1), supported by General Comments 4 (right to adequate housing) and 7 (protection against forced evictions) of the Committee on Economic, Social and Cultural Rights, International Convention on the Elimination of All Forms of Racial Discrimination. Article 5.
- 3 France, Law no 90-449 for the implementation of housing rights, Article 1.
- 4 BBC News, “France to shut illegal Roma camps and deport migrants”, 29 July 2010, available at: <http://www.bbc.co.uk/news/world-europe-10798440>.
- 5 G. Viscusi, “Roma Health in France Worsened Since Crackdown, Group Says”, 26 July 2011, available at: <http://www.bloomberg.com/news/2011-07-26/roma-health-in-france-worsened-since-crackdown-group-says-1.html>.
- 6 Research data on file with the ERRC. Sources include email alerts from French NGOs, local and national media reports, eyewitness reports and primary documentation from the ERRC monitor in France, Gregoire Cousin, and Philippe Goossens (Imediat).
- 7 Ibid.
- 8 ERRC, “No Place for Roma: French Authorities Aggressively Evict Roma”, 11 August 2011, available at: <http://www.errc.org/cikk.php?cikk=3922>.
- 9 Research data on file with the ERRC. See Also: Romeurope National Rights Collective, Report 2010-2011, “The Roma, scapegoats of a security policy which targets migrants and the poor”, p 17.
- 10 The owner of the land in this case the Conseil General of Seine Saint Denis and the police station who carried out the eviction refused to give information to the lawyer of some of the families that had been evicted.

scheduled for the following day. Moreover the organisation Médecins du Monde, who had been working in this camp, indicated that they had followed four cases of tuberculosis and several cases of measles which required ongoing treatments. During the process of eviction the police used tear gas against Roma who tried to go back to save their belongings from the bulldozers, which destroyed everything. The Romani residents scattered and a group of 50 people were evicted three more times in the following days (in Bondy, Sarcelle and Ile-Saint-Denis).

## FREEDOM OF MOVEMENT

The International Convention on the Elimination of All Forms of Racial Discrimination, to which France is bound, guarantees all persons the right to be free from discrimination in the exercise of the right to freedom of movement and residence within the State.<sup>11</sup> In the case of France, this ought to be read in the light of European Union law, which guarantees the right to freedom of movement across the EU for every EU citizen, regardless of their ethnicity. EU Directive 2004/38/EC on free movement provides that every EU citizen is free to stay in a host EU Member State for up to three months provided they hold a valid passport or national identity card.<sup>12</sup> After three months, the Free Movement Directive provides that EU citizens should have sufficient resources to avoid becoming a burden on the host Member State.

France transposed the Free Movement Directive through Law No. 2011-672 on Immigration, Integration and Nationality on 17 June 2011.<sup>13</sup> However, problems with the manner in which the law complies with the Free Movement Directive and inadequate implementation of the law in practice gives rise to persistent discrimination against certain categories of EU citizens such as Roma.

Article 27 of the Free Movement Directive says that the only waiver of freedom of movement is “on grounds of public policy, public security or public health”. However, Article 39 of the French law includes “abuse of rights” as a ground for waiving freedom of movement. Abuse of rights is defined as staying in France for “renewing stays of less than three months in order to remain on the territory although the requirements for a stay of longer than three months are not met. [...] living in France with the primary aim of benefiting from the social assistance system.”<sup>14</sup> This provision is in direct violation of EU law which allows EU citizens to stay in another Member State for up to three months subject only to the possession of a valid identity card or passport.

## MASS DISTRIBUTION OF EXPULSION ORDERS

Administrative expulsion orders in France are called Obligation to Leave the French Territory (OQTF). Prefects are responsible for delivering OQTFs. French law provides that OQTFs can be delivered to any foreign national illegally present on the French territory. Upon notification, the recipient has 30 days to leave the French territory. The administrative authority may also, by reasoned decision, decide that the individual is obliged to leave the French territory immediately, if his or her behaviour constitutes a threat to public order; or if there is a risk that they will evade the obligation to leave.<sup>15</sup>

In 2010, ERRC monitored 23 operations of distribution of OQTF involving a total of 545 Roma. In 2011 the ERRC monitored 62 operations, with 1484 OQTF distributed to Roma, and in 2012 to date 11 operations have been monitored, with 318 OQTF distributed.

Three months after then-President Sarkozy’s anti-Romani statements of July 2010, in September 2010 then-Immigration Minister Eric Besson stated that during the first nine months of the year 13,241 of the 21,384 foreign nationals expelled from France were from Romania and Bulgaria.<sup>16</sup> Of those, more than half were forcibly removed

11 International Convention on the Elimination of All Forms of Discrimination, Article 5(d)(i).

12 EU Directive 2004/38/CE, Article 6(1).

13 Law No. 2011-672 on Immigration, Integration and Nationality. Available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000024191380&categorieLien=id>.

14 Unofficial translation by the ERRC.

15 Code l’entrée et du séjour des étrangers et du droit d’asile, Article 511-1 et suivants.

16 Eric Besson, National Assembly, Thirteenth Legislature, Regular Session of 2010-2011, Verbatim Report, Session of Wednesday, November 3, 2010, available at: [http://www.assemblee-nationale.fr/13/crj/2010-2011/20110039.asp#INTER\\_13](http://www.assemblee-nationale.fr/13/crj/2010-2011/20110039.asp#INTER_13).

from France (6,562 Romanians and 910 Bulgarians) while another 5,086 Romanians and 683 Bulgarians left under the Humanitarian Aid Returns scheme, organised by the French Office for Immigration and Integration (OFII).<sup>17</sup>

A Circular of the French Interior Ministry dated 5 August 2010 instructed French security forces to ‘give priority to Roma’ in conducting eviction and expulsion operations.<sup>18</sup> Documentation by the ERRC and other NGOs also shows that the distribution of OQTFs to Romanian and Bulgarian national primarily target Romani citizens of those countries. In the last few years, during police operations in slums inhabited by Roma on the outskirts of large cities, such as Paris, Lyons, Lille, Nantes and Marseille, prefectural officials would issue all or most Roma present with expulsion orders, without taking individual circumstances into account as required by French law.<sup>19</sup>

According to ERRC research, in some instances, up to 90 expulsion orders have been prepared and distributed to Romani individuals within a matter of several hours. For example, on 1 September 2011, in Saint-Martin-d’Hères, 120 expulsion orders were distributed to Roma in several hours,<sup>20</sup> and the 11 October 2011 127 expulsion orders were delivered to Romanian Roma in Lille, also within several hours.<sup>21</sup> All of the Roma concerned accepted Humanitarian Aid Returns in lieu of forced deportation.

In addition to the lack of individual consideration afforded to Romani migrants during expulsion proceedings, the ERRC has documented instances in which Romani individuals are issued with expulsion orders which are not in compliance with the Free Movement Directive, which allows European Union citizens to stay in another Member State for up to three months subject only to the possession of a valid identity card or passport.<sup>22</sup> This was the case on 29 September 2011 when the authorities issued 58 expulsion orders to most Romani adults at a camp in Bobigny, even though the persons concerned submitted proof of residence of less than three months.<sup>23</sup>

The European Committee of Social Rights found that returning Roma of Romanian and Bulgarian origin to their countries of origin was based on discriminatory provisions, that directly targeted Roma individuals and families.<sup>24</sup> The Committee found France in violation of the European Social Charter, with reference to ERRC research on mass expulsions and violations of EU Law by France.<sup>25</sup>

The ERRC has also recorded instances in which French authorities conducted evictions and expulsions without respect for the right to education of Romani children, or in which Romani families were separated. For example, on 16 March 2011 a Romani woman was deported to Romania, despite the fact that her two children aged 10 and 11 were attending school in France. The woman in question was forcibly returned to Romania and had to leave her children in France.<sup>26</sup>

## HUMANITARIAN AID RETURNS (ARH)

A Ministerial Circular from December 2006 created the possibility for the French Office for Immigration and Integration (OFII – then the Agence Nationale de l’Accueil des Etrangers et des Migrations) to grant Humanitarian Aid Returns (aides au retour humanitaire, ARH) to European Union citizens.<sup>27</sup> In 2007 ARH were offered to 1693 Romanians and 493 Bulgarians out of a total of 2898.<sup>28</sup> Three years later, according to OFII’s 2010 annual report,

17 Available at: <http://www.euractiv.com/enlargement/french-expulsions-aimed-romanian-news-499461>.

18 On file with the ERRC.

19 Directive 2004/38/EC, Article 28; French Law No. 2011-672, Article 39.

20 On file with the ERRC. See also: <http://www.nordeclair.fr/Actualite/Depeches/2011/10/11/-120-roms-renvoyes-en-roumanie.shtml>.

21 On file with the ERRC. See also: <http://www.nordeclair.fr/Actualite/Depeches/2011/10/11/-120-roms-renvoyes-en-roumanie.shtml>.

22 Directive 2004/38/CE, Article 6(1).

23 On file with the ERRC. See also: <http://www.leparisien.fr/bobigny-93000/un-camp-rom-menace-trois-autres-evacues-30-09-2011-1632279.php>.

24 The European Committee of Social Rights, Complaint No. 63/2010 Centre on Housing Rights and Evictions (COHRE) v. France (decision public on 11th of November 2011), available at: [http://www.coe.int/t/dghl/monitoring/socialcharter/complaints/CC63Merits\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/complaints/CC63Merits_en.pdf).

25 ERRC, *Submission in Relation to the Analysis and Consideration of Legality under EU Law of the Situation of Roma in France*, 27 September 2010, available at: <http://www.errc.org/cms/upload/file/france-ec-legalbrief-27-sept-2010.pdf>.

26 ERRC interview with the Romani woman’s sister. Moulin Galant, 19 March 2011.

27 Circulaire interministérielle n°DPM/ACI3/2006/522, 7 December 2006, available at: <http://www.ofii.fr/IMG/pdf/circulaire07122006.pdf>.

28 Comité interministériel de contrôle de l’immigration, cinquième rapport au Parlement, December 2008.

8,182 Romanians and 958 Bulgarians were granted ARH that year, accounting for 94% of all ARH recipients.<sup>29</sup> Based on ERRC monitoring, the incentives are offered to European Union citizens, especially of Roma ethnicity, as OFII workers reached out to Romani communities in informal settlements to encourage their return.<sup>30</sup>

Typically, the ARH consists of a return ticket to the country of origin, 300 Euro per adult and 100 EUR per child, and is offered during the eviction of informal Romani settlements or the collective distribution of expulsion orders to members of the community in question.<sup>31</sup> Often, no investigation into the legality of the residency, including both length of residency and economic standing, is conducted.<sup>32</sup> Although the policy, as codified, depicts an opportunity for voluntary repatriation, it must be considered within its context. The policy targets those in a “situation of destitution or extreme uncertainty,”<sup>33</sup> if applied as stipulated. The involuntary nature of this paid return scheme is clear because:

- ARH is often proposed to individuals in high-stress situations of forced eviction, in which the individuals involved have suffered the loss of housing and may be subjected to police harassment. Many individuals accept ARH under pressure. For example, in March 2010 in Massy, Roma were detained in a gymnasium following their eviction as a result of a fire in the illegal camp. They all finally accepted ARH under pressure.<sup>34</sup>
- Many Roma are issued with an expulsion order at the time they are offered ARH, and are left with the choice of going back to Romania with assistance or being forcibly expelled.

## DETENTION CENTRES

There is no comprehensive and official data disaggregated by ethnicity on the numbers of Romanians and Bulgarians placed in immigration detention centres. However according to the ERRC research Roma with expired expulsion orders are often placed in immigration detention. ERRC research revealed that at least 40 people were arrested by police during 28 operations of mass distribution of expulsion orders in order to proceed with forced returns. According to data from an NGO operating within three detention centres<sup>35</sup> in Paris, in 2011 up to 527 Romanians – a large majority of them perceived to be Roma - were held in detention compared to only 291 in 2010.<sup>36</sup>

## RECOMMENDATIONS

In order to address the rights violations of Roma in France, French authorities should:

- Refrain from carrying out forced evictions in the absence of legal safeguards, including adequate alternative housing;
- Ensure that no Romani individual is made homeless in the process of eviction;
- Develop sustainable, adequate integrated housing solutions for all Roma;
- Amend French law to remove “abuse of rights” as a ground for expelling EU citizens from France;

29 Office Français de l’immigration et l’intégration, rapport au conseil d’administration, 29 Mars 2011 (OFII’s report for 2010) p. 39, available at : [http://www.ofii.fr/IMG/pdf/OFII-RapportActivites\\_2010-Client-150DPI-FeuilleAF.pdf](http://www.ofii.fr/IMG/pdf/OFII-RapportActivites_2010-Client-150DPI-FeuilleAF.pdf).

30 On file with the ERRC and others, see also Romeurope Annual Report for 2010-2011: [http://www.romeurope.org/IMG/pdf/Rapport\\_2010-2011\\_CNDH\\_Romeurope\\_16-02-12.pdf](http://www.romeurope.org/IMG/pdf/Rapport_2010-2011_CNDH_Romeurope_16-02-12.pdf).

31 Different practices have been monitored: in Ile-de-France OFII representatives proposed ARH to Romani individuals at the time expulsion orders were distributed. Usually one OFII worker proposes ARH in a police van. In Marseille, ARH has been offered at the time of eviction and in Lyon both practices have been documented.

32 ERRC interview with Médecins du Monde: February 2012.

33 Cirulaire Interministerielle N°DPM/ACI3/2006/522, 7 December 2006, ‘relative au dispositif d’aide au retour pour les étrangers en situation irrégulière ou en situation de dénuement’.

34 Le Monde, “Des Roms expulsés de Massy vers la Roumanie”, 11 March 2010, available at: [http://www.lemonde.fr/societe/article/2010/03/11/des-roms-expulses-de-massy-vers-la-roumanie\\_1317556\\_3224.html](http://www.lemonde.fr/societe/article/2010/03/11/des-roms-expulses-de-massy-vers-la-roumanie_1317556_3224.html).

35 Bobigny, Palais de Justice and Vincennes.

36 ERRC interview with a representative of ASSFAM. Paris, France, April 2012. See also: [www.cimade.org/publications/57](http://www.cimade.org/publications/57), 47.

- Refrain from collectively expelling Romani EU citizens from France;
- Introduce clear guidelines on how authorities should safeguards rights in accordance with the requirements of the Directive 2004/38/EC on free movement;
- Ensure that returns to other EU Member States are truly voluntary, accompanied by reintegration assistance and take account of the needs of vulnerable peoples in the process of humanitarian returns;
- Ensure independent monitoring of all immigration processes and programmes, including both return and reintegration; and
- Redirect funding earmarked for expulsions and returns to the implementation of long term inclusion policies.