

CHARTER FOR THE RESPECT OF THE RIGHTS AND DIGNITY OF RESIDENTS OF INFORMAL SETTLEMENTS

“The ignorance, neglect, or contempt of the rights of Man are the sole cause of public misfortunes...”

Preamble to the Declaration of the Rights of Man and of the Citizen, August 26th, 1789

PREAMBLE

The founding organizations of this Charter note that the exclusion of the most disadvantaged and their marginalization leads to the resurgence of illegal land occupation out of necessity in France, generating much insecure housing and, at times, the creation of slums.

The increasing number of expulsions and forced evacuations targeting the occupants of these lands has led to a clear deterioration of their living conditions. They are often carried out in clear contempt of the basic and fundamental national and international norms and principles governing their implementation.

France has already been condemned by European and international bodies in regards to this.

It is essential that a just balance be found between the constitutional right of property and the fundamental rights of the informal settlers, notably their right to housing. The intention is not to perpetuate slums nor other types of precarious housing, but rather to improve the living conditions of the residents of informal settlements while awaiting more dignified and sustainable housing solutions.

This Charter is based on French, European, and International law, to reaffirm human rights as well as the obligations of all stakeholders involved in the public and private spheres in working in the context of informal settlements.

The rights and obligations enumerated in this Charter concern all phases of the occupation of the land, from installation to expulsion or evacuation, depending on whether the decision is based on court ruling or administrative decree, without neglecting the imperative requirement to put into place appropriate alternative re-housing options.

The founding organizations of this Charter commit themselves to promoting and disseminating it to all those concerned and to demanding the respect of its principles.

ARTICLE 1

To effectively implement the right to housing, the public authorities must do all that is possible to eradicate slums by re-housing those that have been forced to live there.

References: Article 8 of the European Convention on Human Rights; Articles 3-1 and 27 of the International Convention on the Rights of the Child; article 11.1 of the International Covenant on Economic, Social and Cultural Rights; Article 34.3 of the Charter of Fundamental Rights of the European Union; articles 30 and 31 of the European Social Charter (revised); article L-300-1 of the Code of Construction and Housing; article 1 of the Law of July 6, 1989; Articles 1 and 1-1 and 2 of the Law of May 31, 1990.

ARTICLE 2

No one may be discriminated against based on their type of housing, their socio-economic status, or any other criteria protected under international law.

References: Article 225-1 of the Criminal Code; Article 14 of the European Convention on Human Rights; Article 2 of the International Convention on the Rights of the Child; Article 2 of the International Covenant on Economic, Social, and Cultural Rights; Articles 2 and 26 of the International Covenant on Civil and Political Rights; Article 21 of the Charter of Fundamental Rights of the European Union; Article E of the European Social Charter (revised).

ARTICLE 3

Any improvised shelter constitutes the home of its occupants. All have the right to have their home recognized and respected as such as well as its inviolability.

References: Articles 226-4 and 432-8 of the Criminal Code; Article 8 of the European Convention on Human Rights; Article 16 of the International Convention on the Rights of the Child; Article 17 of the International Covenant on Civil and Political Rights; Article 7 of the Charter of Fundamental Rights of the European Union.

ARTICLE 4

No one shall be subjected to threats nor be illegally forced, by the owner, by forces of law and order, nor by any other person, to leave their improvised housing, the land which they are occupying, or the municipality. In cases to the contrary, those responsible for such will be held legally liable.

References: Articles 222-14-2, 222-17 to 222-18-2 and 226-4 of the Criminal Code; General Observations # 4 and #7 of the Committee on Economic, Social and Cultural Rights.

ARTICLE 5

In carrying out their responsibilities, the forces of law and order are required to respect the informal settlers regardless of their nationality, their origin or their social status.

References: Articles R434-11 and R515-7 of the Internal Security Code.

ARTICLE 6

No one can be refused access to water, electricity, or residential trash removal, and public authorities must do all that is possible to ensure that these rights are respected.

References: Article L210-1 of the Code on the Environment, L121 of the Energy Code; Article L222413 of the General Local Authorities Code; Articles 2, 3, and 8 of the European Convention On Human Rights; Articles 3-1, 24-2 c) and 37 of the International Convention on the Rights of the Child; Article 14-2.h of the Convention on the Elimination of All Forms of Discrimination against Women; Article 28-2.a) of the Convention on the Rights of Persons with Disabilities; General Observations # 14 and #15 of the Committee on Economic, Social and Cultural Rights; Articles 1, 4, and 7 of the Charter of Fundamental Rights of the European Union.

ARTICLE 7

Any municipal or prefectural decree calling for evacuation must be justified by security considerations of an imminent threat to the physical well-being of the informal settlers and/or their neighbours, and strictly be based on a proportional appreciation of the threat posed to public order, while respecting the dignity of the informal settlers.

References: Articles L2212-2 and L2215-1 of the General Local Authorities Code; Articles 3 and 8 of the European Convention on Human Rights; Articles 4 and 7 of the Charter of Fundamental Rights of the European Union.

ARTICLE 8

Every informal settler should be able to challenge a municipal or prefectural decree which is patently illegal.

References: Articles L2131-1, L2131-9, and R2122-7 of the General Local Authorities Code; Article R441-1 of the Code of Administrative Justice, Article 25 of the Law of July 10, 1991; Article 43-1 of the Decree of 19 December 1991; Articles 3, 6, and 8 of the European Convention on Human Rights; Article 3-1 of the International Convention on the Rights of the Child; General Observation #7 of the Committee on Economic, Social, and Cultural Rights.

ARTICLE 9

No expulsion can take place without a legal decision and without respecting the guarantees enumerated in this Charter.

Reference: Article L411-1 of the Code des procédures civiles d'exécution (Code of Civil Enforcement Procedures).

ARTICLE 10

Every informal settler threatened by expulsion is entitled to due process, particularly in regards to procedural rules, be it before civil or administrative courts.

References: Articles 12, 55, 503 paragraph 1, 653 to 664-1 and 751 of the Code of Civil Procedure; Articles R411-1 and R412-2 of the Code des procédures civiles d'exécution (Code of Civil Enforcement Procedures); Article 25 of the Law of 10 July 1991; Article 43-1 of the Decree of 19 December 1991; Article 6 of the European Convention on Human Rights; Article 14 of the International Covenant on Civil and Political Rights; Article 47 of the Charter of Fundamental Rights of the European Union.

ARTICLE 11

In respect to timely maintenance, all informal settlers occupying land should benefit from the same rights as those living in constructed buildings.

References: Articles L 412-2, L 412-3, L 412-4, R 412-2 (last part), and R412-4 of the Code of Civil Enforcement Procedure.

ARTICLE 12

No one can be expelled during the “winter truce”, unless a dignified and stable solution appropriate to their needs has been offered.

References: Article L412-6 of the Code des procédures civiles d'exécution (Code of Civil Enforcement Procedures); Articles 3 and 8 of the European Convention on Human Rights, Article 3-1 of the International Convention on the Rights of the Child.

ARTICLE 13

No expulsion or evacuation should take place without a serious examination of the status of each person in regards to their family context, and their health, schooling, employment, and housing.

Reference: Circular of 26 August 2012.

ARTICLE 14

No expulsion or evacuation may take place without a prior housing solution or alternative proposed which is dignified, stable, and appropriate for the needs of the people. Such proposal should be in conformity with the principles of family unity and equal treatment of all persons..

References: Articles L345-2-2 and L345-2-3 of the Social Action and Family Code; Circular of 26 August 2012; Articles 8 and 14 of the European Convention on Human Rights; Articles 3-1 and 9 of the International Convention on the Rights of the Child; General Observation #7 of the Committee on Economic, Social, and Cultural Rights; Article 34.3 of the Charter of Fundamental Rights of the European Union; Articles 30 and 31 of the European Social Charter.

ARTICLE 15

No one may be subjected to a forced expulsion, even if it is authorized by legal decision, as long as the involvement of law enforcement has not been provided for.

Reference: Article 226-4-2 of the Criminal Code.

ARTICLE 16

All informal settlers must be able to contest any manifestly illegal decision calling for the assistance of law enforcement.

References: Article R 441-1 of the Code of Administrative Justice; Articles 1 and 3 of the Law of 11 July 11 1979; Article 25 of the Law of 10 July 1991; Article 43-1 of the Decree of 19 December 1991; Articles 3, 6, and 8 of the European Convention on Human Rights; Article 3-1 of the International Convention on the Rights of the Child; General Observations #7 of the Committee on Economic, Social, and Cultural Rights.

ARTICLE 17

No expulsion or evacuation may compromise the continuing schooling of children, nor cause an interruption in the provision of health and social services to the persons concerned.

References: Articles L131-1 and L131-6 of the Code of Education; Article 1110-1 of the Public Health Code; Circular of 26 August 2012; Article 2 of the Additional Protocol #1 of the European Convention on Human Rights; Article 24 of the International Convention on the Rights of the Child; Article 13-1 of the International Covenant on Economic, Social, and Cultural Rights.

ARTICLE 18

No one should be subjected to the destruction or retention of their belongings or personal effects.

References: Articles 322-1, paragraph 1 and 322-2, paragraph 3, of the Criminal Code; Articles 544 and 545 of the Civil Code, Articles L122-2, L433-1 to L433-3 and R433-1 to R433-6 of the Code des procédures civiles d'exécution (Code of Civil Enforcement Procedures); Articles 2 and 17 of the Declaration of the Rights of Man and Citizen of 26 August 1789; Article 1, paragraph 1, of the Additional Protocol #1 of the European Convention on Human Rights; Article 17 of the Charter of Fundamental Rights of the European Union.

ARTICLE 19

No one should have their ability to come and go limited by law enforcement following an expulsion or evacuation from land. Informal settlers should continue to enjoy freedom of movement.

References: Article 12, paragraph 1, of the International Covenant on Civil and Political Rights; Article 2.1 of the Protocol #4 of the European Convention on Human Rights.