

European Roma Rights Centre

**ALWAYS
SOMEWHERE ELSE**

Anti-Gypsyism in France

Country Report Series, No. 15
November 2005

Copyright: © *European Roma Rights Centre*, November 2005

All rights reserved.

ISBN 963 86955 01

ISSN 1416-7409

Layout: Dzavit Berisa

Printed in Budapest, Hungary.

This report is published in English and French. The authoratative version is the English.

For information on reprint policy, please contact the *ERRC*

TABLE OF CONTENTS

| | |
|---|-----|
| Acknowledgements..... | 9 |
| Note on Terminology | 11 |
| 1. Executive Summary | 13 |
| 2. Introduction: A Climate of Racism Against Travellers and Gypsies | 31 |
| 3. Gypsies and Travellers in France: A History of Rejection, Control and Repression | 47 |
| 4. Second Class Citizens: Inequality of Travellers and Gypsies in the Exercise of Basic Civil and Political Rights | 61 |
| 4.1 Discriminatory Control over the Movement of Travellers and Gypsies: Circulation Documents | 63 |
| 4.2 Discrimination in Access to an Identity Card | 67 |
| 4.3 Obstacles to the Political Participation of Gypsies and Travellers | 69 |
| 4.3.1 Infringement of Travellers' and Gypsies' Right to Vote | 70 |
| 4.3.2 Obstacles to the Participation of Gypsies and Travellers in Decision-Making | 73 |
| 4.3.3 The Absence of the Voices of Gypsies and Travellers in the Application of the Besson Law | 77 |
| 5. Assault on a Way of Life: Laws, Policies and Practices Related to Travelling, Halting and Living Conditions of Gypsies and Travellers | 83 |
| 5.1 Excluding Travellers and Gypsies from Most of French Territory | 84 |
| 5.1.1 Territory Legally Off-limits to Gypsies and Travellers | 88 |
| 5.1.2 Territory Factually Off-limits to Gypsies and Travellers..... | 101 |
| 5.2 The Failure of French Courts to Consistently Uphold the Rights of Travellers and Gypsies..... | 116 |
| 5.3 Discrimination and Eviction of Travellers and Gypsies who Buy Land ... | 121 |
| 5.3.1 Obstacles to the Purchase of Private Property | 123 |
| 5.3.2 Forced Evictions from Property Belonging to Travellers and Gypsies | 124 |
| 6. Denying Gypsies and Travellers Adequate Housing | 131 |
| 6.1 Substandard Conditions and Segregation on Official Halting Areas | 132 |
| 6.2 Continuing the Trend of Substandard Halting Areas: Proposals for New Sites | 142 |
| 6.3 Denial of Water, Electricity, Sewage and Solid Waste Removal, and Other Basic Facilities to Travellers and Gypsies Who Buy Land | 149 |

| | |
|---|-----|
| 6.4 Substandard Living Conditions in Areas of Permanent Settlement..... | 159 |
| 6.5 Discrimination against Travellers and Gypsies in Access to Social Housing..... | 169 |
| 6.6 Harassment of Travellers Who Buy Constructible Land..... | 176 |
| 6.7 Deleterious Health Effects of Inadequate Housing..... | 177 |
| 7. Discriminatory Treatment and Abuse of Travellers and Gypsies by Criminal Justice Officials..... | 181 |
| 7.1 Ill-treatment and Abuse of Travellers and Gypsies during Forced Evictions..... | 181 |
| 7.2 Abusive Raids of Gypsy and Traveller Places of Residence during Searches, Checks or Arrests..... | 195 |
| 7.3 Racial Profiling of Travellers and Gypsies..... | 200 |
| 7.4 Discrimination by Judicial Authorities..... | 202 |
| 8. Discrimination in Access to Social and Public Services..... | 205 |
| 8.1 Discriminatory Treatment of Travellers and Gypsies in the Provision of Social Assistance..... | 205 |
| 8.1.1 Discrimination in Access to Housing Assistance..... | 206 |
| 8.1.2 Segregated Social Services..... | 209 |
| 8.2 Discriminatory Treatment of Travellers and Gypsies in the Provision of Public Services..... | 212 |
| 8.2.1 Discrimination in Access to Insurance..... | 213 |
| 8.2.2 Discrimination by Public Service Establishments..... | 214 |
| 9. Discrimination Against Gypsies and Travellers in Access to Employment..... | 217 |
| 9.1 Restrictions on Halting – Obstructing Travellers’ and Gypsies’ Ability to Work..... | 219 |
| 9.2 Regulations that Hinder Gypsies’ and Travellers’ Opportunities for Self-Employment..... | 220 |
| 9.3 Discrimination in Access to Salaried Employment..... | 223 |
| 9.4 A Favoured Workforce for Work Presenting Health and Safety Hazards..... | 225 |
| 9.5 Racism a Constant Backdrop to the Economic Possibilities of Gypsies and Travellers..... | 227 |
| 10. Violations of the Right to Education of Traveller and Gypsy Children..... | 229 |
| 10.1 Dramatically Low School Participation Rates..... | 230 |
| 10.2 Obstacles to School Enrolment of Children Who Travel..... | 234 |
| 10.3 Obstruction by Local Officials to School Enrolment of Traveller and Gypsy Children..... | 239 |

| | |
|---|-----|
| 10.4 Discrimination by an Examination Committee | 242 |
| 10.5 Inferior Education | 244 |
| 10.6 Segregated Schooling of Gypsy and Traveller Children | 245 |
| 10.7 Gypsy and Traveller Children in “Special Schools” | 251 |
| 10.8 Applying Circular No. 2002-101 of 25 April 2002 on the “Schooling of Traveller Children and Non-Sedentary Families” | 254 |
| 11. Anti-Discrimination Legislation | 257 |
| 12. Subjecting Romani Migrants to Inhuman and Degrading Treatment | 265 |
| 12.1 Introduction | 265 |
| 12.2 Substandard Living Conditions: French Slums | 267 |
| 12.3 Pattern and Repeated Forced Evictions | 274 |
| 12.4 Abusive Police Conduct During Evictions | 276 |
| 12.5 Indirect and Abusive Methods of Evicting Romani Migrants | 280 |
| 12.6 Denying Romani Migrants Means of Survival | 284 |
| 12.7 Penal Sanctions against Roma Who Beg | 289 |
| 12.8 Denying Romani Migrants the Right to Health | 290 |
| 12.9 Denying Romani Migrants the Right to Education | 291 |
| 12.10 Romani Migrants Targeted for Deportation | 292 |
| 12.11 Discrimination Against Romani Political Asylum Seekers | 297 |
| 12.12 Conclusion: The Urgent Need to Provide Protection to Romani Asylum Seekers | 300 |
| 13. Conclusion: Failed Equality | 303 |
| 14. Recommendations | 309 |
| 15. Bibliography | 317 |
| 16. Summary in Romani | 327 |

ACKNOWLEDGEMENTS

This report was produced by staff, interns, consultants and volunteers to the ERRC. The research team that carried out field research for this report over a period of a year and a half was lead by Lanna Yael Hollo, who wrote the report. Savelina Danova/Russinova edited drafts of the report. Jose Brun and Danielle Mercier read parts of the report and provided comments. Corina Savu interpreted between Romani/Romanian and French during research with migrant Roma. Gil Hyde and Kelly Johnson proofread drafts of the report. Claude Cahn copy-edited drafts of the report and authorised its publication.

The ERRC is grateful to the many Travellers and Gypsies who were willing to describe their personal experiences and who provided invaluable encouragement in the research and writing of the report. It is also thankful to the many other individuals and organisations who were willing to share their expertise with the ERRC and to the state officials who agreed to be interviewed. Gyula Vamosi provided the summary in Romani.

The ERRC is additionally grateful to the following individuals who provided invaluable support and assistance during the course of preparing this report:

Frédéric Bone, José Brun, Joseph Charpentier, Pierre Delsuc, James Dubois, Céline Larivière, Frédéric Lievy, Dani Peto Manso, Danielle Mercier, Karine Moreau, Nara Ritz, Maurice Ruiz, and Franck Sinclair, who generously shared their knowledge and networks with the ERRC.

Anne-Marie Auger, Alain Fourest, Bertrand Favarel Garrigues, Jean-Claude Giraud, Jean Arroucau, Michèle Mézard, Nicolas Mole, Christophe Monteiro, Flore Naudin, and Laurence Pinochet, who provided various forms of technical assistance during ERRC field missions and shared information.

NOTE ON TERMINOLOGY

Identity issues among the many communities regarded as “Gypsies” and “Travelers” in France are complex and have long been externally perceived through stereotypical notions and categories.

For the purposes of this report, the ERRC uses the terms “Gypsies” and “Travelers” to refer to individuals and groups who are French citizens, who are descended from groups that have long been citizens of France, and who have for many generations played a key role in French society and history. The category “Gypsies and Travellers” includes persons of diverse culture, frequently self-identifying as “Sinti”, “Manouche”, “Kale”, “Gitan”, “Roma”, “Yenish”, “Traveller” or other.

The ERRC uses the term “Romani migrants” to refer to non-citizens who have recently arrived in France from the countries of Central and Eastern Europe and who are generally regarded as “Gypsies”.

Such persons share the stigma of the long-standing racist stereotypes associated with “Gypsies” and “Gens du Voyage” (Travellers) in France, and therefore are frequently subjected to hostility and to racially discriminatory harms. Many of these persons (Sinti, Manouche, Kale, Gitan, Roma) share an Indic origin, being descended from persons who left India around one thousand years ago. However, some do not. The common elements binding all persons subjected to the treatment described in this document are anti-Gypsy/anti-Traveller racist discourse and related widespread discrimination.

The ERRC uses the word “Gypsies” with some hesitation, given the derogatory connotations of this word in a number of countries in Europe. However, in the French context, this term is not generally considered to have the same pejorative connotations as elsewhere, is commonly used to refer to the persons concerned in this report who share common experiences of racism and discrimination, and, in particular, is the word used for self-designation by various Gypsy associations.

First we should say that they are cornered in a Kafkaesque absurd situation of the type the French administration is so good at creating. Here is the summary. There is a law – the Besson law – which requires each municipality of 5000 residents to create a stopping area for Gypsies and Travellers. But only one municipality out of four has done so, which basically means that 80% of Gypsies or four Gypsies out of five find themselves without a place to stop. Into this situation is added a second law, which is repressive in nature, which is the Sarkozy Law, and it criminalises them – it sends them to prison if they are not on a legal halting area. So, it is as if you have a game of musical chairs with one chair for five persons and the four who remain standing risk six months in prison.

Documentary “Gens du voyage: la répression et l’absurde”,
aired on May 10, 2004, by Canal Plus.

1. EXECUTIVE SUMMARY

Since 2003, the European Roma Rights Centre (ERRC) has been engaged in intensive monitoring of the situation of Gypsies, Travellers and Romani migrants in France. This research indicates that the situation of Gypsies, Travellers and Romani migrants in France reached crisis proportions in recent years. As France does not recognise minorities, Gypsy and Traveller communities are denied recognition of their identity and possibilities to promote and preserve their culture, traditions, way-of-life and other fundamental aspects of their identity. Hundreds of thousands of Gypsies and Travellers, who have been French citizens for generations, are denied the very basic right of equal treatment and experience regular denial and interference with fundamental civil, political, social, economic and cultural rights. They have long been subjected to laws, policies and practices aimed at their control, repression, exclusion and assimilation. These laws, policies and practices affect almost all aspects of their daily life. Recently, a number of new laws have severely constricted possibilities for the expression of key elements of Gypsy and Traveller identity, while simultaneously providing racist local officials with legal justification for repressive and draconian measures aimed at – and succeeding in – the exclusion of Gypsies and Travellers from nearly all elements of French public life and services.

Many Gypsies and Travellers are driven from municipality to municipality, unable to halt for more than very short periods at a time, before being subjected to the next forced eviction. Most of French territory seems, in fact, to be off-limits for Gypsies and Travellers, except unhealthy, polluted and segregated areas well-hidden from the view of other residents. The present situation has become so acute that a great number of Gypsies and Travellers believe the full apparatus of the state is being brought against them, possibly to end key elements of their culture, or more likely for no reason other than to try to force them away from French society altogether.

Likewise, the few thousand Romani migrants on French territory are subjected to inhuman policies with the basic aim of making them leave France. They live in indecent slum conditions and find themselves repeatedly evicted from their precarious camps and squats, chased to the next municipality – from which they are in turn evicted. In addition, they are subjected to various forms of violence, abuse, harassment and neglect that result in extreme violations of their rights in almost all fields of life.

At the same time, no serious public discussion involving Gypsies and Travellers or Romani migrants has taken place. The impact of these various administratively-led efforts has been to inflame racial hatred against Gypsies, Travellers and Romani migrants in France, while simultaneously seriously damaging possibilities for their integration with full dignity, in accordance with international human rights laws which bind France. Anti-Gypsy racism has never been addressed well in France, and its public expression has become a daily and commonplace occurrence escaping any form of sanction. There is currently an alarming climate of anti-Gypsy and Traveller discourse in which free rein is given to stereotypes about their supposed delinquency, illicit means of acquiring revenue, foreign origin, lack of hygiene, and non-respect of society. Such racist speech is promoted by political actors at all levels, and is particularly commonplace at the local level during discussions over the creation of halting areas for Travellers. Instead of informing the population about the legitimate rights of Travellers and Gypsies – secured under French law¹ – to stop in their town, mayors garner political capital by inciting the population against “invasions” of Travellers and Gypsies into their towns and the risks to security, public order and health that they pose.

¹ In particular Law no. 2000-614 of 5 July 2000 relating to the Welcome and Housing of Travellers (“Besson Law”), as amended by subsequent legislation.

A summary of issues arising in France as identified in the course of ERRC research, follows:

1.1 Second Class Citizens: Inequality of Travellers and Gypsies in the Exercise of Basic Civil and Political Rights

France is renowned as the source and guardian of modern democracy and of individual rights and freedoms; yet, hundreds of thousands of French citizens are subject to severe violations of the most basic civil and political rights without this seeming to cause even a ripple of protest, let alone public outcry, at the challenge posed to the very foundations of the French Republic. A large part of those affected by these violations are Gypsies and Travellers, indicating that these violations are in fact racist in character. Those persons without a fixed domicile or residence who live in vehicles, trailers, or other mobile shelters (in large part Gypsies and Travellers) are obliged to have in their possession special circulation documents. There are various categories of circulation documents, each implying different levels of police control. Persons unable to provide proof of their professional activities and regular revenue are required to present their circulation documents (circulation cards) at the police station or gendarmery for validation every three months. Persons caught without circulation documents or who fail to present them for validation may be subject to penal sanctions, including fines and imprisonment.

Those persons with circulation documents may only exercise their right to vote after a three-year period of “attachment” to a selected municipality. Other French citizens are able to vote after a six-month period of residence in a given municipality. Special arrangements are made for homeless persons who do not live in “vehicles, trailers or other mobile shelters” allowing them to vote after a six month period of links with a given municipality as well.

The number of persons with circulation documents “attached” to a municipality cannot exceed (except in certain non-standard situations) 3% of the town’s population. Since they are required to vote in their municipality of attachment, the many Travellers and Gypsies who hold circulation documents may have considerable difficulty electing a representative to defend their interests, as they can never constitute more than 3% of enfranchised persons. Furthermore, Gypsies and Travellers are excluded from other forms of political participation. Public officials often

do not consult them directly, even when the issues at the forefront of public debate concern Travellers and Gypsies directly. Instead, they generally turn to “intermediaries” whom they believe know and understand “the Gypsies”. When consultative institutions are established in order to present a facade of consultation (such as the Departmental Consultative Commissions for Travellers established in each French Department), Travellers and Gypsies are in all or nearly all cases a small minority on these Commissions and their voices generally carry little weight.

1.2 Assault on a Way of Life: Laws, Policies and Practices Related to Travelling, Halting and Living Conditions of Travellers and Gypsies

Much of French territory is legally off-limits to Gypsies and Travellers. Provisions in a number of recently adopted laws effectively outlaw Gypsies residing in caravans from stopping on most of French territory. Especially at issue are Article 9 of Law no. 2000-614 of 5 July 2000 relating to the Welcome and Housing of Travellers (“Besson Law”); the Law of 18 March 2003 for Interior Security (“Security Law”); and Law no. 2003-210 of 1 August 2003 on the Orientation and Planning of Municipalities and Urban Renovation (“Borloo Law”).

Article 9 of the Besson Law institutes a far-reaching ban, whereby Gypsies and Travellers cannot stop outside of designated areas, except in certain very specific situations. Simultaneously, regardless of the obligation imposed by the Law on municipalities with more than 5000 inhabitants to establish a “halting area” for Travellers to temporarily reside, on the whole, municipalities have not created such halting areas. Current estimates put the number of existing halting areas at around 6000, despite calculations that 35,000 are the minimum believed to be required. Of the 6000 existing places, less than half meet the legal requirements pertaining to infrastructure provision and environmental adequacy.

The Security Law, adopted by France in March of 2003, includes a provision – in Article 53 – penalising Gypsies and Travellers who exercise a fundamental aspect of their culture: travel. This Article makes it a criminal act to park in a group with the aim of constituting a residence, even temporarily:

- On land owned by a municipality that has conformed to its obligations under the Departmental Plan developed in accordance with the Besson Law;

- On land owned by a municipality that is not included in the Departmental Plan (thus the majority of towns with less than 5000 residents and those with more than 5000 that are not included in the Plan);
- Or on any other land (private, State, Regional, Departmental) without being able to produce proof of permission to do so, or of the permission granted to the person holding the right for use of the land.

Penalties for the above infractions are severe: six months imprisonment, a fine of 3,750 Euros and the suspension of a person's drivers license for a period up to three years.² In addition, any vehicles used to carry out the act of illegal stopping (as is generally the case for Gypsies who tow their mobile homes with vehicles) can be seized and confiscated, unless the vehicles themselves constitute the person's home.

The Borloo Law makes a list of twenty-eight French cities with less than 20,000 inhabitants that are completely off-limits for Gypsies and Travellers to halt. Many of these large French cities are, evidently, cities in which many generations of Gypsies and Travellers have always resided and where they have family, social and professional ties.

In fact, the available spaces for Travellers and Gypsies to stop their mobile homes for shorter or longer periods are considerably fewer than even these legal restrictions would indicate. In reality, it is not just parts of the territory that seem to be off-limits for Travellers and Gypsies to reside, but almost all of the territory, except areas that are particularly unhealthy or out of sight. Families find themselves constantly evicted from places where they halt, sometimes forced to drive for days before they are able to stop somewhere, and then these sites are often far from the place they need to be.

The vulnerability of Travellers and Gypsies to illegal evictions is exacerbated by the inconsistent track record of French Courts in ensuring that Travellers' and Gypsies' basic rights are respected. Empirical data gathered by the ERRC in the course of research toward this Country Report indicates that French Courts rule inconsistently in cases where municipalities carry out evictions despite their own failure to fulfil their legal obligations to provide places for Travellers and Gypsies to halt. Furthermore, Travellers' and Gypsies' basic right to a fair hearing, including an adversarial

² Article 53(1) and Article 53(2), Security Law.

procedure, is frequently infringed by the so-called “request procedure”, allowing a judge to issue a decision without hearing the other party.

Those Travellers and Gypsies who seek to buy property encounter considerable difficulties, particularly due to “pre-emptions” of their purchase by local officials – interventions which block the purchase transaction. They also continue to live with the threat of eviction due to the considerable number of French laws and regulations that severely limit the territory on which caravans can legally remain, even on private land, and that often impose highly restrictive conditions on the few existing possibilities.

1.3 Denying Travellers and Gypsies Adequate Housing

Gypsies and Travellers experience severe violations of their right to adequate housing regardless of their mode of life – on the continuum from nomadic to settled; regardless of whether they reside on official halting sites or on their own land; regardless of whether they are well-off and can afford decent housing or are very poor and seek social support from French authorities. Belonging to a particular ethnicity often seems to be the sole reason for the authorities’ denial of adequate housing to Travellers and Gypsies.

Those few sites where families are able to halt are generally far below standards of decency. Halting areas are consistently segregated from the rest of the local population. They are generally situated as far away as possible from residential areas and at the very limit of municipalities. On some sites, the physical segregation of Travellers and Gypsies is concretised through a ring of mudhills encircling the halting area, thus physically cutting them off from the surroundings. Halting sites are systematically located near garbage dumps, waste treatment plants, high-risk or polluting factories, freeways, or railroad tracks with high tension wires frequently running overhead. All too often halting areas are more reminiscent of places of detention than places of residence. This effect is created through the physical appearance of the sites as well as through the checks and control of residents.

Furthermore, Gypsies and Travellers throughout the country who live on their own property are often denied water, electricity and sewage, even when there are critically ill individuals and children living on the site.

Some of the poorest and most marginalised Gypsies and Travellers have lived for decades in slum-like conditions in areas where they are “tolerated” by officials. Hidden from the rest of the population and totally lacking in basic infrastructure (such as water, electricity and sewage removal), Gypsies and Travellers are frequently exposed to severe environmental hazards as a result of proximity to garbage dumps, waste treatment plants, and high-risk polluting factories. Entering these neighbourhoods, one has the impression of passing from a first world neighborhood to a third world slum in the space of a few minutes.

Patterns of discrimination and segregation of Gypsies and Travellers are also widespread when it comes to the rental of social housing intended for those with low income (so-called “HLM”), despite national legislation explicitly forbidding such discrimination.

1.4 Discriminatory Treatment and Abuse of Travellers and Gypsies by Criminal Judicial Officials

Abusive police raids are a regular feature of life for French Travellers and Gypsies. Police characteristically arrive in large numbers, wearing combat gear and brandishing weapons. Forced evictions occur systematically and regularly take the form of abusive raids. In addition, when police carry out searches, checks or arrests involving a Gypsy or Traveller, they often systematically target all of the occupants of a given site rather than just the individual suspect. Police abuse during these raids frequently features insults (including racist remarks), degrading treatment and damage to property. It sometimes also includes the use of weapons in a threatening manner and physical ill-treatment of individuals.

Travellers and Gypsies experience discriminatory treatment by judicial authorities. They are regularly kept in pre-trial detention during the investigation and trial and are reportedly remanded into pre-trial custody more often than non-Gypsies. Furthermore, there are widespread allegations that criminal sentencing results in disproportionately longer sentences for Gypsies than non-Gypsies.

1.5 Discrimination in Access to Social and Public Services

Due to the non-recognition of caravans as a form of housing, hundreds of thousands of Gypsies and Travellers are excluded from a range of social assistance avail-

able to French citizens for renting or acquiring housing. In order to benefit from social assistance Travellers and Gypsies are also sometimes obliged to turn to a network of parallel institutions catering only to them, since State agencies are unable or unwilling to serve them.

Travellers and Gypsies are frequently refused entry to public places, such as nightclubs, bars, stores and restaurants. They are also regularly denied service by insurance companies. Despite existing legislation penalising discrimination in the provision of goods and services, the ERRC is unaware of cases where those refusing services to Travellers and Gypsies have been sanctioned.

1.6 Discrimination in Access to Employment

Many Gypsies and Travellers earn their livelihood through forms of work connected with travel. The laws, policies and actions of local officials that make it increasingly difficult for Gypsies and Travellers to stop their caravans, even temporarily, in many municipalities in France, have a detrimental impact upon their ability to work. Furthermore, over the last decades, the discriminatory effect of regulations concerning various occupations they commonly exercise have made it increasingly difficult for Gypsies and Travellers to earn their living in the manner that they choose. Travellers and Gypsies also experience discrimination in obtaining salaried employment and constitute a particularly favoured workforce for jobs that involve health hazards.

1.7 Violations of the Right to Education of Traveller and Gypsy Children

Participation levels of Traveller and Gypsy children are very low, with many children not attending school at all and others dropping out at an early age. A shockingly small number of Gypsy and Traveller children above the age of twelve attend schools and only a very small minority complete secondary education. Furthermore, even when they attend school, Gypsies and Travellers often receive a very substandard education, often not even equipping them with basic literacy skills. Regular evictions make it extremely difficult for many Traveller and Gypsy families to send their children to school. Traveller and Gypsy children are also refused admission to schools by mayors or school directors, despite their legal right and obligation to attend school. Various forms of segregated schooling such as segregated schools,

segregated classes, and mobile schooling units, also remain a reality for many Traveller and Gypsy children. This situation often results from a lack of flexibility and of “bridge” programs in the mainstream school system and from an inadequate adaptation to certain special needs of Travellers (such as putting in place an effective system of recording and evaluating the schooling of children who travel so that they may continue their schooling from place to place). Traveller and Gypsy children are also disproportionately placed in so-called “Applied General and Vocational Education” (“SEGPA”) secondary classes providing specialised education designed for children experiencing learning difficulties due to social, cultural or intellectual reasons.

The clear guidelines set out in Circular No. 2002-101 of 25 April 2002 on the “Schooling of Traveller Children and Non-Sedentary Families” aim to increase the participation of Gypsy and Traveller children in the French education system. However, these guidelines thus far, have remained more of a symbolic step forward than an actual one. Innovative initiatives remain highly localised and centralised co-ordination is sorely lacking.

1.8 Anti-Discrimination Legislation

In recent years, in part in response to European developments, steps have been taken to introduce new anti-discrimination legislation and to improve the application of existing legislation. However, convictions nonetheless remain few compared to the scope of the problem of discrimination. The ERRC is not aware of a single case in which a legal person was convicted for discrimination against a Traveller or Gypsy based on existing penal law provisions.

Legislative changes have meant that the civil and administrative law framework for combating racial discrimination has been significantly reinforced. Nevertheless, French anti-discrimination law still does not cover all of the fields of life required by France’s international law commitments, including those under ICERD. The framework needs to be extended further to cover various rights including: the administration of justice, including protection of security of the person; political participation, including the right to vote, stand for election, take part in Government and in the conduct of public affairs at any level, as well as to have equal access to public service; the right to freedom of movement and residence within the border of the State; the right to freedom of peaceful assembly and of association.

1.9 Subjecting Romani Migrants to Inhuman and Degrading Treatment

France has adopted draconian and legally questionable policies towards the several thousand Romani migrants on its territory. Its principle aim has been to encourage the Romani migrants to leave the country. Thus Romani migrants experience serious violations of their rights in almost all fields of life, with a cumulative effect that is serious enough as to amount in many cases to inhuman and degrading treatment. Foreign Roma for the most part live in deplorable conditions in makeshift camps and are continuously forcibly evicted, either through police raids, often particularly violent, or through a pattern of constant threats, searches, destruction of property and other forms of harassment. When they exercise various activities in order to survive (such as selling flowers or newspapers, washing car windows, playing music or begging), they face constant harassment by police. Those who beg may be subject to severe penal sanctions, including forced expulsion from the country. Many children are denied access to education. Since the summer of 2002, there has also been a drastic increase in forced expulsions from France, even of Romani migrants living legally on French territory. Collective expulsions have also been carried out in violation of a number of provisions of law, notably Article 4 of Protocol 4 to the European Convention on Human Rights. Furthermore, Romani asylum seekers experience discrimination with respect to their possibilities for housing and social assistance with many obliged to live in slums and informal housing.

The ERRC report ends with recommendations to the French government calling on the authorities to respect their obligations under national and international human rights law as well as to undertake immediate measures to cease and prevent human rights violations and to ensure effective redress for the victims. Based on the findings of this report, the ERRC urges French authorities to act on the following recommendations:

1. Sign and ratify the Framework Convention for the Protection of National Minorities, expressly recognising Gypsies and Travellers as a national minority, and withdraw the reservation to Article 27 of the International Covenant on Civil and Political Rights.
2. Take immediate steps to end the current climate of impunity for racist speech relating to Gypsies, Travellers, and Romani migrants and to ensure that all expressions of anti-Gypsyism are promptly and effectively punished. Make clear to the French public that such expression will not be tolerated.

3. Publicly recognise and apologise for the internment of Gypsies and Travellers during WWII. Establish memorials on the sites of former internment camps and undertake measures to commemorate the Gypsy and Traveller victims of France's WWII policies. Support research aimed at bringing to light the WWII treatment of Travellers and Gypsies.
4. Ensure that the history of Gypsies and Travellers on French territory, including information about anthropometric booklets and their WWII internment, are included as a core component of the educational curricula.
5. Make available, in forms readily understandable to the lay public, data disaggregated by ethnicity, in order to make possible effective monitoring of the situation of Gypsies, Travellers and other minority groups in key areas of life, such as political participation, housing, education, social services, health care, justice, relations with police, etc. Such monitoring is essential in order to identify problems faced by minority groups and to develop appropriate solutions. The monitoring should be carried out in accordance with the principles of data protection and confidentiality, on the basis of a system of voluntary self-identification, clearly explaining the reasons why the information is collected.
6. Undertake specific research to assess the number and frequency of acts of racial discrimination occurring against Gypsies, Travellers and Romani migrants in sectoral fields such as education, employment, housing (including social housing), health care and the provision of social assistance and services. Such research should also provide information as to the number of persons sanctioned for acts of racial discrimination against Gypsies, Travellers and Romani migrants.
7. Immediately repeal all racially discriminatory aspects of "Law no. 69-3 of 3 January 1969 relating to the exercise of ambulant activities and the regime applicable to persons circulating in France without a fixed domicile or residence."
8. Identify and repeal all discriminatory regulations and administrative obstacles that hinder Gypsies and Travellers in obtaining national identity cards.
9. Eliminate discriminatory conditions relating to the right of Gypsies and Travellers to vote, arising from the Law of 3 January 1969, including those aspects relating to the 3-year period of attachment and the 3% quota of persons with

circulation documents allowed to vote in a given municipality. Take positive steps to ensure that the voices of Gypsies and Travellers are duly represented at all levels of French political life.

10. Take immediate steps to ensure that Gypsies and Travellers are able to exercise their right to participation in public affairs at local and national level, in conformity with Article 25 of the International Covenant on Civil and Political Rights and UN Committee on the Elimination of Racial Discrimination “General recommendation XXVII on discrimination against Roma”.
11. Take positive steps to create conditions that ensure that Travellers and Gypsies may pursue their way of life, whether sedentary or nomadic lifestyles, according to their free choice, in conformity with the principles of equality and non-discrimination.
12. Ensure that Travellers and Gypsies who travel are able to fully exercise their right to freedom of movement and right to adequate housing, including protection against forced evictions. In this regard:
 - Repeal, without delay, Articles 53 and 58 of the “Law of 18 March 2003 for Interior Security” as well as Article 15 of Law no. 2003-710 of 1 August 2003 on the “Orientation and Planning of Municipalities and Urban Renovation”.
 - Ensure that halting areas are established in municipalities across the country as required by the “Law no. 2000-614 of 5 July 2000 concerning the Welcome and Housing of Travellers” (hereinafter “Besson Law”). Also ensure that these halting areas conform to norms of decency, notably requirements concerning the availability of services, facilities and infrastructure; location and habitability.
 - Take positive steps to ensure that Gypsies and Travellers have a sufficient number of places to halt that conform to basic standards of decency.
 - Ensure that Travellers and Gypsies are not relegated to parts of the territory in which they are exposed to severe health and environmental hazards as well as the severe harm of racial segregation.
 - Cease all practices of forced evictions of Gypsy and Traveller families halted in municipalities carried out in violation of the right to adequate housing.
 - Ensure that campsites that implement discriminatory regulations and policies with respect to the access of Travellers and Gypsies are duly sanctioned.

- Immediately undertake genuine and widespread grassroots consultations with Gypsies and Travellers so that appropriate responses might be developed to their housing needs, both on halting areas and through other necessary responses.
 - Urgently develop alternative responses to short-term halting areas in order to meet Travellers and Gypsies housing needs, such as establishing family sites.
13. Ensure that the right to adequate housing, including protection against forced evictions is fully guaranteed to Travellers and Gypsies who buy land. In this regard:
- Ensure that the many laws and policies regulating land use, urban planning, and access to the public infrastructure make appropriate provision for the way of life and particular needs of Gypsies and Travellers, including living on their land in a caravan, and that they do not result in discrimination against members of these communities.
 - Ensure that municipalities do not make illegal use of their powers of ‘pre-emption’ to prevent the sale of property to Travellers and Gypsies.
 - Ensure that the security of tenure is guaranteed to Gypsies and Travellers and that in the application of urban regulations due consideration is given to fundamental human rights such as the right to adequate housing, the right to the schooling of children, the right to health and the right to non-interference in private and family life.
 - Recognise caravans as a form of housing.
 - Order local authorities to provide without delay water, electricity, sewage and solid waste removal services and other basic facilities to the families who are being so denied on grounds of being in violation of urban regulations.
14. Take immediate steps to bring conditions in Traveller and Gypsy settlements up to basic standards of decency and to regularise the housing situation of those who have been long-term residents of unauthorised settlements. Or, provide alternate housing possibilities that respect standards of decency. All measures and their implementation should be developed and implemented with the consultation and participation of those Gypsy and Traveller families concerned.
15. Ensure that Romani migrants are fully guaranteed all aspects of the right to housing, including basic facilities, a healthy environment and security of tenure. Develop coherent policies at Departmental, Regional or State level aimed

at providing decent housing solutions for Romani migrants currently living in unauthorised camps or squats. Immediately cease practices of forced evictions that send Romani migrants from one municipality to the next.

16. Undertake measures to put an end to practices of discrimination and segregation of Gypsies and Travellers in their access to HLM (social housing) and ensure the effective application of anti-discrimination legislation against those who perpetrate such discrimination.
17. Carry out thorough and timely investigations into all alleged instances of abusive police behaviour towards Gypsies, Travellers, and Romani migrants, and promptly bring to justice perpetrators and provide due compensation to victims. Put an end to practices of collectively targeting groups of Gypsies, Travellers or Romani migrants during searches, checks or arrests as well as practices of racial profiling.
18. Ensure that reports of police harassment of Romani migrants are fully investigated and that police officers who abuse their authority are appropriately punished.
19. Take appropriate measures to ensure that persons who may have been victims of ill treatment by law enforcement officials are not intimidated or otherwise dissuaded from lodging a formal complaint, such as by practices of bringing retaliatory charges against those who complain.
20. Carry out detailed research into judicial treatment of Gypsies, Travellers and Romani migrants in order to identify discriminatory practices and develop appropriate measures to end such practices.
21. Ensure that Gypsies and Travellers have equal access to social assistance. Include caravans and mobile homes as forms of housing for purposes of housing assistance, so that persons living in them may qualify for all types of housing assistance available to individuals living in other forms of housing. As an alternative, develop special assistance to ensure that Gypsies and Travellers are able to receive the same level of housing assistance as other French citizens.
22. Develop special loan programs in order to assist Gypsies and Travellers, who may be otherwise unable to procure a loan, in buying property.

23. Carry out thorough-going measures to ensure that Gypsies and Travellers may have full and equal access to social services within public offices, and are not, in fact, channeled into a segregated system of social services. Ensure that all officials in social service offices receive adequate training to meet the particular needs of Travellers and Gypsies and that these officials see it as their responsibility to provide any assistance and support that Travellers and Gypsies require in order to gain equal access to social services. Investigate allegations that the files of Travellers and Gypsies have been systematically transferred away from the state institutions in some Departments and take appropriate measures to remedy this problem.
24. Ensure that the right to health of Romani migrants is fully guaranteed, including their possibilities for accessing health care and living in a healthy environment.
25. Ensure that all allegations of discrimination against Travellers and Gypsies in their access to public services, including insurance and public service establishments, are fully investigated and are appropriately sanctioned and that victims compensated. Existing anti-discrimination legislation covering this area should be fully applied making clear to all public service providers that discrimination against Gypsies and Travellers will not be tolerated.
26. Take proactive steps to ensure that Travellers and Gypsies are able to benefit equally from the right to work. Ensure that Travellers and Gypsies are able to halt in municipalities across the country. Undertake measures to remedy the discriminatory impact that numerous regulations relating to a range of occupations have upon Travellers' and Gypsies' work possibilities, such as Law no. 96-603 "Relating to the Development and Promotion of Commerce and Trades". Ensure that all allegations of discrimination in access to salaried employment are fully investigated and all instances of discrimination are appropriately punished and that victims compensated. Existing anti-discrimination legislation covering this area should be fully applied, making clear to all employers that discrimination against Gypsies and Travellers will not be tolerated.
27. Ensure that Gypsy, Traveller and Romani migrant school children have equal access to education in a desegregated school environment. In this regard:
 - Ensure that a child's right and obligation to attend schools is duly considered in all forced evictions of Travellers, Gypsies and Romani migrants.

- Undertake a range of positive actions across the country in a coordinated manner in order to ensure that when they travel, Traveller and Gypsy children's participation in school is facilitated and that the continuity of this schooling may be ensured.
 - Ensure that local officials systematically enrol Traveller, Gypsy and Romani migrant children in local schools regardless of the regularity of their residence on municipal territory and regardless of whether parents are immediately able to produce all necessary documents.
 - Thoroughly investigate all complaints of discrimination against Traveller, Gypsy and Romani migrant children within the school system and ensure that disciplinary measures and anti-discrimination legislation are fully applied in such instances.
 - Provide anti-discrimination training and information about relevant anti-discrimination legislation to teachers and school officials across the country.
 - Include materials on the history and situation of Gypsies and Travellers in France in the school curriculum as a central component of different subject matter. Involve Gypsies and Travellers themselves in the preparation of such materials and ensure that they are free from racist stereotypes.
 - Without delay, take steps to end different forms of segregated schooling and instead integrate school Traveller and Gypsy children within the mainstream school system with other children. Where bridge programs and special support is necessary, ensure that schools have sufficient resources for such programs and that these do not themselves become forms of segregation.
 - Provide the necessary resources to ensure that Traveller and Gypsy children who reach college age and are behind in their schooling may receive the needed support within mainstream schools, instead of simply being channelled into Segpa classes.
28. Without delay, implement Circular No. 2002-101 of 25 April 2002 on the "Schooling of Traveller Children and Non-sedentary Families" in a coordinated manner across the country.
29. Without delay, adopt further anti-discrimination legislation in conformity with current European and international standards, in particular, covering the following areas: the administration of justice, including protection of security of the person; political participation, including the right to vote, stand for election, take part in government and in the conduct of public affairs at any level, as well as to have equal access to

public service; the right to freedom of movement and residence within the border of the State; the right to freedom of peaceful assembly and association.

30. Ensure that existing anti-discrimination legislation is effectively implemented. Raise the awareness of judges and prosecutors about problems of racial discrimination and difficulties of proof. Provide thorough information to magistrates and law enforcement officials across the country about new anti-discrimination provisions and the importance of their thorough application. Carry out an information campaign directed at the general public in order to raise awareness about France's anti-discrimination legislation.
31. Ensure that the "High Authority for the fight against discrimination and for equality" will have adequate resources, independence and competency in order to fulfil its mandate.
32. Without delay, ratify Protocol No. 12 to the European Convention on Human Rights.
33. Cease discriminatory expulsions of Romani migrants and collective expulsions targeting Romani migrants.
34. Facilitate the return of persons illegally expelled from France and provide compensation for material and emotional or other damage caused by illegal forcible removal from France.
35. Cease discriminatory treatment of Romani migrant and asylum seekers.
36. Ensure the full applications of the standards of protection set out in the Geneva Convention relating to the Status of Refugees as concerns all Romani asylum seekers, keeping in mind that the Office of the United Nations High Commissioner for Refugees (UNHCR) has made clear that refugees are not only those persons fleeing torture or other serious harm on racial, ethnic or religious grounds, but that non-violent discriminatory measures may also rise to the level of persecution.
37. At the highest levels, speak out against racial discrimination against Gypsies, Travellers, Romani migrants and others and make clear that racism will not be tolerated.

2. INTRODUCTION: A CLIMATE OF RACISM AGAINST TRAVELLERS AND GYPSIES

France prides itself in being the guardian and indeed the birthplace of human rights – home to the French Revolution, proclaimed the freedom and equality of all men, and considered the common good as the only acceptable basis for social distinctions. “Freedom, Equality and Brotherhood” – these revolutionary declarations remain at the heart of the French Republic. Each successive Republican Constitution has reiterated France’s commitment to human rights and equality. And these values have a primary place in national self-consciousness.

The Preamble of the most recent Constitution proclaims the solemn attachment of the French people to human rights. Its Article 1 declares:

France is an indivisible, secular, democratic and social Republic. It ensures equality before the law for all citizens without distinctions based on origin, race or religion...³

Unfortunately, when viewed from the perspective of Gypsies and Travellers in France, the reality is a far cry from these egalitarian declarations. Instead, they experience a reality driven by racism that has resulted in Gypsies and Travellers being treated as sub-citizens, subject to racial discrimination, rejection, repression and assimilation. While many of the discriminatory laws, policies and practices remain disguised, the anti-Gypsyism at their root is often openly expressed.

On 31 July 2002, during discussions in the French Senate of the text of the Law of 18 March 2003 for Interior Security (Security Law), including criminalisation and penalties for Travellers who park their caravans outside of designated areas, Mr Dominique Leclerc, Senator from the Department⁴ of Indre-et-Loire,⁵ declared:

³ French Constitution of 1958. Unofficial translation by the ERRC.

⁴ Departments are an administrative territorial division in France. France is divided into ninety-five Departments.

⁵ According to France’s political system in which local government is represented within the Senate, many Senators are also local level elected officials, such as mayors.

We also spoke of the Travellers. They are the plague of tomorrow... but for God's sake, we need to become conscious of the fact that the halting areas are only a first step and that they cater to persons who, tomorrow, will cause us enormous problems. They are anti-social people who have no respect for private property, no references, and for whom the words we use have no meaning. For instance, we ask a rural municipality to receive their children in its schools. This isn't possible. Instead we need to offer them assistance where they are, in the halting areas, in order for them to practice the ABCs in scholastic terms, but also in social and medical terms, because we are faced with extraordinary pathologies.

We, the mayors, who carry out patrols, we see that every evening three, four, or five trucks of Travellers come "fuck" – I have no other words – young girls of twelve or thirteen years almost right in front of their parents' eyes, and this doesn't interest anyone!

This comment was met by applause from parties of the centre and right.⁶

The statement was not particularly noted or commented upon by other Senators or the French media. No major voice condemned the statement. The Senator himself benefited from immunity from all forms of disciplinary action.

Only two and a half months later, Mr Paul Girot de Langlade, the Prefect⁷ of Vaucluse, this time at a public meeting with other elected officials in his Department, stated:

You can ask my former colleagues... I have no particular tenderness for those people. They live at our expense; from pillage too, everyone knows it. When they invade a piece of land, believe me, I am always ready to use all means to expel them. But there is a law that imposes a halting area in each commune of more than 5000 residents, and it is necessary to respect

⁶ Complete record of Senate Debates 31 July 2002, on Internet at: <http://www.senat.fr/seances/s200207/s20020731/st20020731000.html>.

⁷ In France, a Prefect is named in each Department by the Government through a decree of the President, based on propositions from the Prime Minister and Minister of the Interior. The Prefect is the representative of the Prime Minister and all of the Ministers in the Department and thus acts as a link between the State, the Government and the Department.

it... Don't worry, I know how to behave with respect to this subject. We already found people with 8 bank accounts in Luxembourg. Some drive in Mercedes that I myself couldn't afford. I know what you are thinking – it irritates me as well.⁸

The Prefect was not subject to any disciplinary sanctions. He was reportedly castigated for his statement by Mr Sarkozy, the French Minister of the Interior, but despite appeals by Gypsy and human rights associations, Mr Girot de Langlade remained in his official position until July 2004, when he was named Prefect of Guadeloupe.

A complaint was lodged against the Prefect for “public defamation directed against an individual” by Mr Michel Débart a Traveller.⁹ On February 10, 2004, the First Instance Court of Paris's 17th Chamber found the Prefect not guilty of the charges against him ruling that the words in question did not directly target Mr Débart as an individual, but Travellers as a whole, thus not constituting the act alleged by the complainant.¹⁰ Another complaint accused the Prefect of “public defamation against a group of persons on the grounds of their origin or their belonging or non-belonging to an ethnicity, nation or race”.¹¹ On January 21, 2005, this complaint was rejected by the Court of Appeal of Paris on procedural grounds, due to the supposedly imprecise nature of the complaint.¹²

These instances of racist speech by high-profile political personalities are by no means exceptions. On the contrary, they are illustrative of the current climate of anti-Gypsyism, in which open expressions of racial hatred by prominent political personalities, the media, as well as by ordinary citizens, are commonplace throughout the country.

⁸ See the official Internet site of the Ministry of Interior, Internal Security and Local Freedoms at: http://www.interieur.gouv.fr/rubriques/c/c4_les_prefectures/c43_organisation/Les_Prefets_-_Presentation.

⁹ The charges were based on Articles 23, 29(1), and 32(1) of the Law of 29 July 2881 on the Freedom of the Press. The non-governmental organisations League for Human Rights (LDH) and Movement Against Racism and For Friendship Between Peoples were also civil parties to this complaint.

¹⁰ Girot de Langlade v. Debart, First Instance Court of Paris (Tribunal de Grande Instance de Paris), 17th Chamber, Judgement of February 10, 2004.

¹¹ The non-governmental organisation S.O.S. Racism was a civil party to this complaint.

¹² Agence France Presse, “Confirmation en appel d'un non-lieu pour l'ex-préfet du Vaucluse”, January 21, 2005.

In municipalities of all sizes throughout France, expressions of anti-Gypsyism have become such regular occurrences as to make it difficult if not impossible to monitor them with any degree of accuracy. In fact, anti-Gypsyism has become so acceptable that often the local press does not even report that such racist incitement has taken place. In general, few persons interviewed in the course of research toward this report recognised such speech as the racist speech that it is.

Mayors and local officials regularly propagate longstanding popular prejudices against Gypsies, clearly believing that it is politically expedient to be seen by the public as defenders of the town against “Gypsy invasions” – in other words having groups of French citizens who are Travellers and Gypsies stop in the town.

Most of this hate speech occurs in the context of local level discussions about the creation of “halting areas” (aires d’accueil) for Travellers, an obligation imposed on municipalities of more than 5,000 inhabitants under Law no. 2000-614 of 5 July 2000 concerning the welcome and housing (habitat) of Travellers (Besson Law).¹³ Such speech is also frequent when a group of Travellers stop their mobile homes in a given municipality. Rather than explain to their communities the importance of providing somewhere for Travellers to reside in decent conditions, local mayors and officials instead take it upon themselves to encourage the racist stereotypes and prejudices of the local inhabitants and to lead the resistance to establishing decent places for Travellers to halt.

Many local officials do not hesitate to express their anti-Gypsy opinions openly – at public meetings, through distributing information in citizens’ mailboxes, or by posting public notices.

For example, local mayors in Essonne, South of Paris, organised a protest on April 3, 2004 against the creation of a “site for large passage” (aire de grand passage) in the area. This site would host approximately 100 or 200 caravans once or twice a year for religious gatherings of Travellers and Gypsies.¹⁴ The mayors placed public posters and

¹³ See detailed discussion of this law under Chapter 5 of this report.

¹⁴ Catholic and Evangelical Christian Travellers and Gypsies hold religious assemblies in different parts of the country in order to perform religious rituals. On such occasions hundreds or even thousands of persons gather for a few days and halting areas of sufficient size are therefore necessary.

notices across the region encouraging citizens to come out and protest. In the municipality of Echarcon, a town of approximately 700 residents, a large banner stated in small letters “No to the Site for Large Passage”, and in bigger letters “No to Travellers”. A group of Travellers followed by a hidden camera from the TV station Canal Plus brought the banner to Mr Robert Coquide, the town’s mayor. With the banner placed in front of him, he tried to deny its contents. He then told them if they wanted they should lodge a complaint. Another municipal official told the Travellers: “What do you want from us? It’s what people from here desire.” He went on to tell them that what bothers local residents is insecurity. When the Travellers asked him if the municipality of Echarcon had ever had problems because of Travellers, he answered “No, not yet... it’s better to anticipate problems.” At the protest, attended by various mayors and other officials, racist signs and slogans portraying Travellers as thieves and delinquents were openly expressed.¹⁵

A municipal counsellor from the Department of Seine-et-Marne told the ERRC that:

At local Council meetings, you have people who think they are in the town pub and spew out racist speech. It is like this in all of the local villages in the Department.¹⁶ Here, it is the Travellers who are the scapegoats. I could not have imagined the base level of many local officials before becoming a municipal counsellor. For instance, in an informal meeting at the town hall in August of 2003, the mayor of the town of C. proposed holding a meeting to prepare a political force uniting 52 mayors against the Departmental Plan. Speaking of the halting areas he said ‘It is not halting areas that we need, it is prisons that need to be built.’ He also noted that he systematically refused Traveller children in the town schools and that he rented fallow land to private individuals in order to be able to expel Travellers who halted in the municipality more easily.¹⁷

Other officials act in a more covert fashion by working behind the scenes for the creation of local citizens’ associations that then carry out a variety of actions

¹⁵ Documentary “Gens du voyage: la répression et l’absurde, une enquête de Pascal Catuogno avec Jérôme Pin et Steeve Bauman”, aired by the TV Channel Canal Plus on 10 May 2004.

¹⁶ She is referring to the Department of Seine-et-Marne, east of Paris.

¹⁷ ERRC interview with Ms P.D., January 20, 2004.



“Future halting area for Travellers right here, meeting in Naveil, May 10th, 20h, Reception Hall, Shame for the village”. This sign was placed by villagers protesting against the creation of a halting area in Naveil.

PHOTO: JOSE BRUN

to protest against the creation of halting areas and the presence of Travellers and Gypsies in their town. These associations, many the initiative of citizens themselves, have been created throughout France. They generally have names such as “the association for the protection of the security and environment of the town”, or “association for the preservation of the residents’ well-being”, or similar. Besides perpetuating hostility and negative stereotypes about Travellers and Gypsies, these associations organise a variety of actions, generally ranging from petitions to demonstrations against the presence of Gypsies and Travellers in the municipality, and particularly, against the creation of halting areas.

Popular prejudice against Gypsies and Travellers has a long tradition in France. However, many Gypsies the ERRC encountered expressed a great deal of anxiety and fear that today this hostility is reaching proportions reminiscent of pre-World War II.

Citizens’ demonstrations of anti-Gypsy hostility are not only increasingly frequent but also seem to be increasingly violent. A tract distributed in the spring of 2004 in mailboxes in the Southern French region of “Provence Alpes-Côte d’Azur” by a group calling itself the “Front for the Liberation of Provence” is illustrative of this worrisome development. In the tract, illustrated by a hooded resident holding a gun, are the words:

Sick of the Gypsies, who steal our cars, rob our houses and destroy our environment? And our politicians, what are they doing? They couldn’t give a damn about all of this – all that interests them is to win the next regional elections. So, let’s solve the problem ourselves, since they are not able to. Take up arms and exterminate this vermin up to the last of them – no pity – men, women, children and babies.¹⁸

The media, for its part, is currently playing an important role in exacerbating and perpetuating the widespread racism against Gypsies and Travellers. All too often, when reference is made to this population, it is in the context of crime and delinquency, where the Gypsy ethnicity of perpetrators, supposed perpetrators – or sometimes simply acquaintances of perpetrators – is noted.

¹⁸ The Phare les Oliviers Chapter of the League for Human Rights lodged a complaint to the Prosecutor about this tract, but by the time of writing he had received no response. The complaint seems to have been filed without further action.

A recent case of the disappearance and murder of a number of local girls in Alsace has been an occasion for the press to revive the old stereotype of Gypsies as “child thieves”. In countless articles, the press has mentioned the Yenish ethnicity¹⁹ of a family accused of being involved in one of the killings and of having collaborated with the killer by not reporting the death of one of the girls to the police. In an illustrative article, the widely read left-leaning newspaper *Liberation* took the opportunity, on the same page as the main article explaining the death and the investigation, to provide the public with information about the Yenish.²⁰

In another typical example, a leading right-leaning newspaper *Le Figaro*, provided several pages of information in a sensationalist manner linking Travellers to all sorts of delinquent activities, going so far as to provide a chart of crimes committed. The introduction to the first article, entitled “Travellers under the Eye of Sarkozy”, reads:

More numerous, more efficient, more impulsive: itinerant delinquents, crooks of a particular sort, recruiting from amongst the Travellers, every day further devastate France through their sensational predation. This is often to the prejudice of banks whose branches are attacked, of transporters whose trucks are robbed of their contents, of the elderly whose every belonging is taken, or also of supermarkets methodically pillaged. As the *Figaro* is able to reveal, some 8900 serious crimes were last year attributed to these very mobile bands, capable of covering several thousand kilometres before taking action. This means 25 criminal acts each day.²¹

The article proceeds to provide details of crimes, including torture of an elderly couple, that cannot but have the effect of encouraging in the readers’ mind a false and racist association between all Travellers and criminality.

With the arrival of new Romani migrants from eastern Europe since the early 1990s, the press has produced countless articles linking Romani migrants, as well as French Gypsies and Travellers, to a range of violent and sensational crimes, in-

¹⁹ The Yenish are held by many to be Travellers of Germanic origin.

²⁰ Calinon, Thomas et Blandine Grosjean. “Des familles manouches maudites de tous”. *Liberation*, July 30, 2004.

²¹ Cornevin, Christophe. “Les gens du voyage dans le collimateur de Sarkozy”. *Le Figaro*, April 18, 2003.

cluding trafficking in women, children, and handicapped individuals. In much of the coverage the “foreign origin” of the Roma is also emphasised and extended to all Gypsies, thereby reinforcing an existing stereotype that Gypsies are not French, despite the fact that the overwhelming majority of Gypsies on French soil are French, and many have lived in the country for generations, if not centuries.

That this open anti-Gypsy racism by local officials, local populations and the media can be so widespread as to be almost banal in a country that prides itself on its record of respecting human rights and equality is a telling sign of the place of Gypsies and Travellers within French society.

Officially, France refuses to recognise the existence of minority groups on its territory. French authorities base this refusal on the guarantee of Republican equality at the root of French society, interpreting this guarantee to mean that in the public domain, citizens should only be considered as “individuals”, abstracted of all their specific characteristics such as ethnicity, religion and culture. According to this view, laws and policies are to be “universal” and not take into account particularities of minority groups. Likewise, any measures or policies aimed at preserving or promoting cultural, linguistic, ethnic or other groups are seen to be incompatible with the French Republican model of equality. This interpretation of the equality principle is not in accord with the principle of equality in international law that requires similar situations to be treated similarly and dissimilar situations differently.²²

²² While affirming that “Non-discrimination, together with equality before the law and equal protection of the law without any discrimination, constitute a basic and general principle relating to the protection of human rights”, the United Nations Human Rights Committee also noted that “The enjoyment of rights and freedoms on an equal footing, however, does not mean identical treatment in every instance.” See United Nations Human Rights Committee, General Comment 18, “Non-Discrimination”, 10/11/1989, paragraphs 1 and 8, available at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/3888b0541f8501c9c12563ed004b8d0e?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/3888b0541f8501c9c12563ed004b8d0e?Opendocument). Furthermore, the Explanatory Report of Protocol 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms states that: “[I]t should be noted that the non-discrimination and equality principles are closely intertwined. For example the principle of equality requires that equal situations are treated equally and unequal situations differently. Failure to do so will amount to discrimination unless an objective and reasonable justification exists.” See Explanatory Report available at: <http://conventions.coe.int/Treaty/EN/Reports/Html/177.htm>. This notion is also reflected in the prohibition in international law of acts and actions which have the purpose or effect of undermining equality. (See detailed description of the respective legal provisions further in this chapter.)

The French authorities recently explained their position in a response to a report of the European Commission Against Racism and Intolerance (ECRI), which had raised this issue as something leading to the restriction of rights of members of minority groups.²³ The French authorities wrote:

...the authors appear to question the French republican model based on the principles of the indivisibility of the nation and the equality of all citizens before the law, which stem from a legal tradition dating back two hundred years. In this respect, attention should be drawn to Article 1 of the Declaration of the Rights of Man and the Citizen of 26 August 1789, which has served as a reference for many peoples fighting for their freedom throughout the 19th century and was the primary source of inspiration for the Universal Declaration of Human Rights:

“Men are born and remain free and equal in rights. Social distinctions may be founded only upon the general good.”

This concept is also to be found in Article 1 of the French Constitution, which provides that: “France shall be an indivisible, secular, democratic and social Republic. It shall ensure the equality of all citizens before the law, without distinction of origin, race or religion. It shall respect all beliefs.”

In the case of *Thlimmenos v. Greece*, the European Court of Human Rights opined that: “The Court has so far considered that the right under Article 14 not to be discriminated against in the enjoyment of the rights guaranteed under the Convention is violated when States treat differently persons in analogous situations without providing an objective and reasonable justification (see the *Inze* judgement cited above, p. 18, § 41). However, the Court considers that this is not the only facet of the prohibition of discrimination in Article 14. The right not to be discriminated against in the enjoyment of the rights guaranteed under the Convention is also violated when States without an objective and reasonable justification fail to treat differently persons whose situations are significantly different.” *Thlimmenos v. Greece*, ECHR, Application no. 34369/97, 6 April 2000.

²³ In its Second Report on France, adopted 10 December 1999, made public on June 27, 2000, ECRI commented that: “France approaches cultural diversity from within the Republican model, which rejects distinctions on the basis of ethnicity, class and religion and considers the common will to live together as the only foundation of society. This approach results in policies which aim at integration into the host society recognising the existence of cultural differences, but not wishing to promote them. France therefore considers the cultural integration of all individuals based upon a singular

The French Republican structure is therefore founded on a social pact which transcends all differences and to which every individual can willingly adhere, whatever his or her biological characteristics or personal convictions. It follows that the legal concept of “minority” does not exist in French law, which does not mean that the specific characteristics of people’s identities are not recognised. But they lie within the realm of individual, private choice governed by freedom of thought and conscience and are not based on objective criteria...

The French government is obviously not unaware of the limits of the French model for integration, but it considers that the fight against racism and intolerance must continue to be waged according to this model. This is why any approach that attempts to introduce quotas or recognise communities within society in defiance of the principle that all persons are equal before the law is unambiguously rejected...²⁴

The ERRC’s research on the situation of Gypsies and Travellers in France reveals that their non-recognition has in no way resulted in them being treated equally with other citizens. Instead, they are citizens apart. They fall outside of and below the Republican guarantee of equality that is the cornerstone of the French state. They experience severe violations of a wide range of basic political, civil, economic, social and cultural rights. They experience discrimination in fields as diverse as voting, political participation, access to personal identity documents, access to justice, housing, employment, education, public places, services, and social insurance. And they

notion of citizenship as the ultimate goal. This has resulted in a reluctance to use the categories of ‘minority group’ and ‘community’ as concerns French citizens. However, ECRI considers that, de facto, such groups exist and that [...] the rights of individuals connected with the identity of these groups of the population of France are limited.” CRI (2000)31, (paragraph 25).

²⁴ Observations provided by the French authorities concerning ECRI’S report on France, in CRI (2000) 31. France has also articulated this position in its reservation to Article 27 of the International Covenant on Civil and Political Rights, guaranteeing rights of ethnic, religious or linguistic minorities. The French Reservation States: “Article 2 of the Constitution of 4 October 1958 declares that France shall be a Republic, indivisible, secular, democratic and social. It shall ensure the equality of all citizens before the law, without distinction as to origin, race or religion. It shall respect all beliefs. Since the basic principles of public law prohibit distinctions between citizens on grounds of origin, race or religion, France is a country in which there are no minorities and, as stated in the declaration made by France, article 27 is not applicable as far as the Republic is concerned.”

are also singled out for negative treatment by a range of racist laws and policies. The combined effect of the various laws, policies, rules and regulations that negatively affect Travellers and Gypsies leads to an extreme degree of marginalisation and exclusion. Furthermore the ERRC's research indicates that a variety of actions of the French State over recent years amount to an assault on the culture of many Gypsies and Travellers.

Racist and discriminatory laws and policies cannot be too openly directed at an ethnic or cultural group as they would then manifestly contradict the French Constitution. Thus they are generally disguised – albeit thinly. Discriminatory laws and policies on their face often appear to be “the same for all”. However, in fact, as the specific situation and way of life of Gypsies and Travellers are completely invisible to policy-makers, Gypsies and Travellers in practice often find themselves excluded or particularly harmed by what are said to be “neutral” laws.²⁵ In addition, discrimination and racism are frequently concealed within a cloud of hypocrisy. French policymakers have been particularly creative in finding ways to single out Gypsies for negative treatment without doing so explicitly. Thus racist laws and policies are not openly aimed at an ethnic or cultural group, but instead at a “way of life.”

²⁵ French laws and policies are therefore often typical examples of “indirect discrimination” which is prohibited by European and international law. Directive 2000/43/EC adopted June 2000 by the Council of the European Union bans indirect discrimination which is defined to occur “where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.” See Council Directive 2000/43/EC of 29 June 2000 on “implementing the principle of equal treatment between persons irrespective of racial or ethnic origin”, Official Journal of the European Communities, July 19, 2000, available at: http://www.era.int/www/gen/f_13049_file_en.pdf. The prohibition of discrimination in Article 1(1) International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) also extends to “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose **or effect** [emphasis added] of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.” This definition encompasses both direct discrimination and indirect discrimination, in that it looks to the “purpose or effect” of the actions in question. In its General Recommendation XIV on the Definition of Racial Discrimination, (Forty-second Session, 1993), the UN Committee on the Elimination of Racial Discrimination (CERD) – the body which supervises the observation of States Parties obligations under ICERD – specified: “In seeking to determine whether an action has an effect contrary to the Convention, it will look to see whether that action has an unjustifiable disparate

Earlier examples of this approach singled out “nomads”, evolving to “those exercising ambulant activities” or “those circulating in France without a fixed domicile or residence”, to the most recent terminology of “Travellers” (*Gens du voyage*).²⁶ According to legal historian Jacqueline Charlemagne, the term “Travellers” initially appeared in 1978 in a Circular on conditions for halting in municipalities.²⁷ Although including primarily Gypsies, each of these various categories also includes some other segments of the population. For instance, the most recent term, “Travellers”, was defined in the Delamon report as those “who live and travel in mobile homes or are likely to do so, during all or part of the year, that is to say those who are nomadic and sedentary who identify themselves as Travellers.”²⁸ The recent Besson Law defines as Travellers whose traditional habitat is constituted by mobile homes. Those persons who fit this definition on French territory are, in their majority, Gypsies. Certain other segments of the French population, such as persons who have adopted a travelling lifestyle, also fit within this category. The fact however remains that a number of laws and policies single out a part of the population – disproportionately persons of Gypsy origin – for specific negative treatment.

No information exists that makes it possible to estimate the number of Gypsies and Travellers in France with any degree of accuracy. As it is generally considered to be illegal to collect statistics on ethnicity in France, there have been no recent censuses or scientific studies to provide such data. The most relevant data from the last national census in 1999 provides information as to the number of persons living in mobile homes, putting this number at 140,949.²⁹ The Ministry of Defense also

impact upon a group distinguished by race, colour, descent, or national or ethnic origin.” (See CERD General Recommendation No. 14: Definition of discrimination (Art. 1, par.1), 22/03/93, at: <http://www.unhcr.ch/tbs/doc.nsf/0/d7bd5d2bf71258aac12563ee004b639e?Opendocument>.

²⁶ Following WWII, the word ‘nomad’ had to be replaced by another term as it had become too politically charged after the persecutions during (and after) the Vichy period. See Courthiade, Marcel. *Les Roms dans le contexte des peuples européens sans territoire compact*. (INALCO – Univ. de Paris & IRU – Commissariat à la langue et aux droits linguistiques).

²⁷ Charlemagne, Jacqueline. “Tsiganes et gens du voyage.” *Regards sur l’actualité*. No. 255, November 1999.

²⁸ Delamon, Arsène. “La situation des ‘Gens du Voyage’ et les mesures proposees pour l’ameliorer”. *Rapport de Mission de Monsieur Arsène Delamon à Monsieur le Premier Ministre*. 13 Juillet 1990. (Unofficial translation by the ERRC.)

²⁹ Census March 1999, INSEE. This census found the total population of Metropolitan France to be 58,518, 395.

maintains records as to the number of persons with circulation documents, a number totalling 156,282 on 19 March 2002.³⁰ In a report presented in January 2000, Senator Delavoye cited the figure of 140,000 persons that then possessed circulation documents and noted that it is necessary to add the number of Travellers who are less than 16 years-old to this figure, noting that they constitute 45% of the nomadic population. He therefore estimated the total number of Travellers at more than 300,000 persons.³¹ None of these figures can be taken to provide an accurate estimate of Gypsies and Travellers in France, as many Gypsies and Travellers neither live in mobile homes nor possess circulation documents. Given the mobility of those in mobile homes, and marginal locations to which they are often relegated, it is also likely that a certain number are not counted in such records. Furthermore both figures include a certain number of persons who are not Gypsies and Travellers.

According to the publication *Le Courrier des maires et des élus locaux*: “Associations close to Gypsies estimate that the settled population in France is around 400,000 to 500,000 persons. Those who still travel are approximately 300,000.” This would mean a total of between 700,000 and 800,000 persons (around 1.2-1.36% of France’s population).³² The publication notes though, that in the absence of a specific census, these figures are uncertain.³³

Mr Nara Ritz, representative of the Gypsy association *Regards*, told the ERRC that the number of Gypsies and Travellers far exceeds official estimates and is likely much closer to 1,200,000 or 1,300,000. He said, “The number of persons with circu-

³⁰ Ministère de la Défense – Direction générale de la gendarmerie nationale. “Nombre de titres de circulation détenus par les personnes circulant en France sans domicile ni résidence fixe (SDRF), au 19 Mars 2002”. It should be highlighted that those under 16 do not possess circulation documents. Given that the average family size amongst Travellers is widely estimated to number at least five persons, including three children per family, numbers of persons belonging to families with circulation documents are considerably higher than these figures indicate.

³¹ Senator Delevoye, Jean-Pierre, Report No. 188, presented at ordinary session of French Senate 1999-2000, session of January 26, 2000, available at: <http://www.senat.fr/rap/199-188/199-1881.html>.

³² An article recently published in the French Magazine *Géo* by Dany Péto-Manso, President of the non-governmental Gypsy association *Regards* cites the figure 800 000. Péto-Manso, Dany. “Droit de réponse.” *Géo*, No. 313, March 2005.

³³ Kis, Martine. “Qui sont réellement les “gens du voyage”?” *Le Courrier des maires et des élus locaux*, No. 152, November 2002.

lation documents needs to be multiplied by at least three, using a very conservative estimate of average number of children per family. This amounts to approximately 600,000. Then you have to add those persons who travel without circulation documents as they have an identity card and those persons with a Gypsy origin who do not have a nomadic lifestyle. These groups are at least equal in number to those with circulation documents bringing the total to at least 1,200,000 or 1,300,000.³⁴ In addition to French Gypsies and Travellers, a few thousand Romani migrants (approximately 5,000) without French citizenship are currently in France.

It is widely accepted that the vast majority of Gypsies and Travellers in France are French nationals.³⁵ Despite this fact, the false perception lingers on that they are foreigners. This notion has been given new life in recent years with the arrival, beginning in the early 1990s, of several thousand Romani migrants from the former Yugoslavia and other parts of eastern Europe. The media as well as officials have capitalised on their presence in order to extend and reinforce old stereotypes about Gypsies and Travellers more generally, including their supposed foreign-ness to France.

This report is structured as follows: The next chapter provides a brief history of Gypsies and Travellers in France, bringing to light the pattern of their rejection, repression and control evidenced throughout this history. Chapter 4 details violations of basic civil and political rights, including the right to vote and to participate in public affairs. Chapter 5 describes the considerable difficulties Travellers and Gypsies face finding places to halt when they travel, the repeated forced evictions they experience, and the indecent and segregated locations to which they are relegated. And, on the other hand, it also describes the continuing difficulties Travellers and Gypsies face when they try to buy land and their continued harassment and expulsion when they are landowners. The Chapter reveals the considerable obstacles interfering with Travellers' and Gypsies' ability to preserve their way of life. Chapter 6 brings to light the indecent living conditions of many Travellers and Gypsies on halting areas, private land that they own and areas where they have permanently settled. It also addresses the discrimination that Travellers and Gypsies experience in the social hous-

³⁴ ERRC interview with Mr Nara Ritz, March 22, 2005, Paris.

³⁵ The Delamon Report of July 1990, for instance, states that "The quasi totality of Travellers have French nationality." Delamon, Arsène. "La situation des 'Gens du Voyage' et les mesures proposées pour l'améliorer". Rapport de Mission de Monsieur Arsène Delamon à Monsieur le Premier Ministre. 13 Juillet 1990.

ing sector. Chapter 7 describes abusive police treatment of Travellers and Gypsies, including collective raids, racial profiling and ill-treatment of Traveller and Gypsy individuals and their property. Chapter 8 provides an overview of discrimination Travellers and Gypsies face in their access to social assistance and a range of public services. Chapter 9 focuses on discrimination against Travellers and Gypsies in employment. Chapter 10 discusses problems Traveller and Gypsy children encounter in the French education system. Chapter 11 assesses France's legal framework in the area of anti-discrimination. Chapter 12 turns its attention to Romani migrants in France and sets out the multiple human rights violations that they face. The report concludes with recommendations to the French government aimed at improving its human rights record with respect to Travellers, Gypsies and Romani migrants.

3. GYPSIES AND TRAVELLERS IN FRANCE: A HISTORY OF REJECTION, CONTROL AND REPRESSION

The history of Gypsies in France, as elsewhere, relies to a significant extent on reports made by persons who were not part of Gypsy communities. This history is therefore coloured by myths and stereotypes, reflecting external perceptions of these communities.³⁶ Today, however, scholars have reached a broad consensus as to the Indian origins of Gypsy populations, in particular through tracing the Indic roots of the Romani language, which is closely related to other major Indic languages, such as Hindi.³⁷

The first record of Gypsies in France dates back to the early 1400s with the arrival in 1419 of a group of Gypsies in Macon, France. Chroniclers of the day lost no time in promoting a fearful image of the newcomers as: “people of a great size as to person, hair and otherwise, that lie in the fields like beasts.”³⁸ They were reportedly lead by

³⁶ Liégois, Jean-Pierre. *Gypsies and Travellers*. Strasbourg: Council of Europe, 1987, p. 13. Liégois, Jean-Pierre. *Tsiganes*. Paris: La Découverte/Maspero, 1983, p. 9, pp. 17-19.

³⁷ Fraser, Angus. *The Gypsies*, Oxford: Blackwell, 1995, pp. 21-28. The various groups that can be categorised broadly as Kale, Sinti and Roma share this Indian origin. However, in France, Yenish - a group that does not share this Indian origin - are generally also included under the term “Gypsies”, by academics, media as well as some members of Gypsy communities. The Yenish are Travellers of a Germanic origin. For instance, ethnologist Alain Reyniers states that: “Two other Gypsy groups moved to France from the beginning of the XIX century, from the borders of the North-East. This concerns the Sinti or Manus and the Yenish. The former, often named “Zwarte Zigeuners” [Black Gypsies] by germanophone populations, speak a Romanes dialect (of Indian origin) strongly influenced by German and, to a lesser extent, Alsatian. The latter, generally viewed as “White Zigeuners” [White Gypsies] adopted *rotwelš* - a slang of ambulant Germans - interspersed with Manus terms (especially for things concerning family life) and Yiddish (for business relations).” Reyniers, Alain. “Les populations tsiganes en France.” *Passarelles*, no. 6 Printemps 1993, p. 15. Jean-Pierre Liégois comments that: “The first influx of Gypsies eventually spread over the whole of western Europe, with some becoming settled or moving about on a smaller scale. Travellers of Indian origin also encountered native travellers, on occasion.... Cultural exchanges sometimes resulted from encounters with travellers from India, so that from the sixteenth century on “mixed” groups formed in the British Isles and other parts of Europe, with characteristics of Indian origin being absorbed and reinterpreted by native nomads or with nomads from India absorbing and reinterpreting native characteristics. All north-western European Gypsy groups are of this nature.” Liégois, *Gypsies and Travellers*, pp. 17-18.

³⁸ Reyniers. *Les populations tsiganes en France*, p. 11; Liégois. *Gypsies and Travellers*, p. 90.

a man named Andre who said that he was a duke from Little Egypt.³⁹ According to ethnologist Alain Reyniers, the relatives of these Gypsies passed through Bulgaria and Moldavia and Wallachia around the years 1386-1387, then into Serbia around 1399 before arriving in Bohemia in the early 1400s.

Over the next years, chroniclers report the arrival of other Gypsies in other towns. In historical documents of this early period, they are commonly referred to either as Egyptians, due to their stories related to Little Egypt,⁴⁰ or as “Bohemians”, due to the documents of safe passage they carried, delivered by Emperor Sigismund of Bohemia-Moravia.⁴¹

While they were reportedly well-received at first, their itinerant lifestyle was quickly viewed with suspicion by the local populations and officials. The ongoing legacy of policies aimed at their expulsion and control soon began.⁴² For instance, a royal ordinance issued on the 15th of July 1504 by Louis XII ordered viscounts to “chase out all of those who called themselves or were named Egyptians.” An edict of 1529 ordered the banishment of “Bohemians”, and in 1682 Louis XIV issued a “Declaration against the Bohemians” threatening to punish lords who welcomed them.⁴³

³⁹ Aubin, Emmanuel. “La Commune et les Gens du Voyage”. Berger-Levrault, 2003, p. 11.

⁴⁰ Gypsies were often designated as “Egyptians” in the early period of their arrival in Western Europe, due to mistaken beliefs of their origin in “Little Egypt”. This notion seems to have arisen from a story spread by some groups of Gypsies arriving in Western Europe in the early 1400s, in order to account for their appearance. According to accounts, they “presented themselves as pilgrims from “Little Egypt”, sentenced by the pope to seven years of wandering as punishment for betraying the Christian faith following alleged Muslim conquest.” Petrova, Dimitrina. “The Roma: Between a Myth and the Future”. *Social Research*, Vol. 70, No. 1 Spring 2003, p. 120. See also Reyniers, Alain, and Patrick Williams. “Permanence tsigane et politique de sédentarisation dans la France de l’après-guerre”. *L’habitat saisi par le droit. Les virtualités de la loi Besson du 5 juillet 2000. Etudes tsiganes*, Volume 15, Deuxième semestre 2001, pp. 10-11.

⁴¹ Aubin, p. 11.

⁴² See Aubin, Emmanuel. “L’évolution du droit français applicable aux Tsiganes. Les quatre logiques du législateur républicain”. *L’habitat saisi par le droit. Les virtualités de la loi Besson du 5 juillet 2000. Etudes tsiganes*, Volume 15, Deuxième semestre 2001, p. 26. For further examples of measures taken against Bohemians from the 16th to the 19th century, see Liégeois, *Tsiganes*, pp. 156-158.

⁴³ Aubin, “L’évolution du droit français applicable aux Tsiganes”, p. 26. For further examples of measures taken against Bohemians from the 16th to the 19th century, see also Liégeois, *Tsiganes*, pp. 156 – 158. “The preoccupation of the authorities was always to make them disappear: from the

The French Revolution, bringing with it the Declaration of Human Rights and Citizens of 26 August 1789, seemed to auger the beginning of an era of better treatment for Gypsies in France. Its 1st article, still at the root of the French Constitutional order, declared boldly:

Men are born free and remain free and equal in rights. Social distinctions can only be based on the common good.

Such hopes proved short-lived. Republican laws and policies, while reportedly in the early period less repressive than monarchic laws, soon sought to control and restrict the movements of Gypsies, along with vagabonds and beggars – groups perceived as dangerous and threatening, particularly for bourgeois society.⁴⁴ By the end of the 1800s, the French Republic began to put in place policies aimed at expelling Gypsies from French territory by making it illegal for them to stop anywhere. For instance, a circular issued in June 1889 encouraged prefects to expel nomads from their department:

As far as the nomads are concerned, generally foreigners... whose professional activity prevents them from being classified in the category of vagabonds, it would be appropriate to extend measures already used in some departments and which involve expelling them, purely and simply, to the border of the department. The prefect of the neighbouring department, immediately informed of this measure, will then proceed in the same manner so that nomadic bands will be successively led to the border of our territory.⁴⁵

The Gypsies targeted by these measures were in large majority not foreigners but French nationals.⁴⁶

geographical horizon (by expelling or detaining them), from the social horizon (by assimilating or exterminating them).” Reyniers and Williams, “Permanence tsigane et politique de sédentarisation dans la France de l’après-guerre”, p. 11.

⁴⁴ Rothéa, Xavier. *France pays des droits des Roms? Gitans, “Bohémiens”, “Gens du voyage”, “Tsiganes...face aux pouvoirs publics depuis le 19e siècle*. Lyon : Carobella ex-natura, February 2003, pp. 47-53.

⁴⁵ Rothéa. *France pays des droits des Roms*, p. 51.

⁴⁶ The general census of “Nomads and Bohemians” carried out in 1895 demonstrated the French nationality of most “Bohemians and Nomads” on French territory. Rothéa. *Ibid.*, p. 52.

Such measures failed to deter new groups of Gypsies and other Travellers from coming to France. For instance, ethnologist Alain Reyniers notes that from the beginning of the 19th century, Sintes and Yenish began arriving in France. Likewise, from the early 19th century, Kale began to arrive in Southern France from the Iberian Peninsula. In 1866, a group of Roma with German passports reportedly arrived in France. They are believed to have left the Romanian principalities of Moldavia and Wallachia after having been released from slavery in 1856. These Roma were followed by others from Transylvania, and from the Balkans.⁴⁷ Gypsies in France crossed paths and sometimes mixed with Travellers of European origin.⁴⁸

Anthropometric booklets

On July 16, 1912, a law was passed that for the next fifty-seven years institute strict surveillance and restrictions of the movements of Gypsies and Travellers in France. The then-Minister of Interior summarised the law shortly after it was passed as follows: “It is necessary to identify, track and drive out the nomads covered by the law of 16 July 1912 and whose presence in France threatens the peace of our countryside.”⁴⁹

This law required all nomads to carry an anthropometric identity booklet with them at all times. In addition, the head of each family or group had to have a collective booklet including all persons travelling with the head of the family. This booklet had to be stamped by the police chief, commander of the gendarmery, or mayor in each town in which the group stopped, upon its arrival and departure.⁵⁰ Adopting a method created by Mr Alphonse Bertillon during the 1880s in order to track criminals,⁵¹ each anthropometric booklet included personal information about the holder,

⁴⁷ Reyniers. “Les populations tsiganes en France”, pp. 15-19.

⁴⁸ Liégeois, *Gypsies*, p. 6.

⁴⁹ Cited in Aubin, “L’évolution du droit français applicable aux Tsiganes”, p. 29.

⁵⁰ Some municipalities refused permission for groups to stop, thus not delivering the required stamp. In this way, these documents served not only to control movement, but also to make it increasingly difficult for Gypsies to work, as their economic activities depended on stopping. Carrere, Violaine. “Des papiers pour stationner, des papiers pour circuler”. *Plein Droit*, No. 35, Septembre 1997.

⁵¹ Filhol, Emmanuel. “La mémoire et l’oubli: L’internement des tsiganes en France. 1940-1946”. Paris: Conference presentation, 2 June 2004. Available at: <http://aphgcaen.free.fr/cercle/tsiganes.htm#filhol>.

such as his or her full name, nicknames, place of birth, and other information relevant to establishing his or her identity. It also included physical details such as the height of the waist and the chest; the length and width of the head; the length of the right ear, the left elbow and the left foot; and eye colour. In addition, the booklet included spaces for the holder's fingerprints and two photographs (profile and portrait).⁵² Along with these booklets, cars belonging to nomads were to bear special license plates, with a number 10 centimetres in height, the inscription "Law of 16 of July 1912" and the stamp of the Ministry of Interior.

It is true that on its face this law does not directly single out "Gypsies". Instead it targets all individuals "... whatever their nationality, circulating in France without a fixed domicile, and who are not ambulant salesmen or fairground stallholders, even if they have resources and claim to exercise a profession."⁵³ In drafting this law, as with various laws and policies to follow, French policymakers concealed the racist nature of the law through supposedly simply regulating "a way of life" as opposed to addressing a specific group of persons based on their culture, ethnicity or origin – which would be contrary to the French Constitution.

However, despite the cloak covering the racist nature of the law legislators were fully aware that it targeted Gypsies.⁵⁴ For instance, during discussions in the French Senate concerning this law, Senator Etienne Flaudin stated that the nomads are:

⁵² Article 8, Law of 16 July 1912. Bulletin officiel du ministère de l'intérieur. February 1913, pp. 79 – 82, available at: <http://barthes.ens.fr/cli/revues/AHI/articles/preprints/asseo.html>.

⁵³ Article 3, Law of 16 July 1912, cited in: Senator Delevoye, Jean-Pierre. Report 188 (1999-2000) on the draft law adopted by the National Assembly concerning the welcome and housing of Travellers, and on the legal proposition of Mr Nicolas About aimed at strengthening the prefect's and mayor's means of eviction in cases of illegal occupation by Travellers of industrial, commercial, or professional sites. Ordinary Session of the French Senate (1999-2000), available at: <http://www.senat.fr/rap/199-188/199-1881.html>.

⁵⁴ The public law jurist, Marcel Waline commented with respect to this law that "it was based upon racist considerations, instituting a derogatory regime against a whole race, a regime which could apply to others, but which is principally directed against this race... despite its title, despite the two first articles relating to ambulant salespeople and fairground stallholders, it is nonetheless a law of protection against the public danger presented by Bohemians, Romanichels or Gypsies". Aubin, "L'évolution du droit français applicable aux Tsiganes", p. 28.

vagabonds with an ethnic character [who] live on our territory as in a conquered country, not wanting to follow either the rules of hygiene or the edicts of our civil laws, demonstrating an equal disdain for our criminal laws and our fiscal laws (...) the Bohemians are the terror of our countrysides where they exercise their depredation with impunity.⁵⁵

Several parliamentarians reportedly spoke out against the fact that a Republican government could pass such legislation. For instance, one Deputy stated that “a political system arising out of a revolution of natural rights that does not allow for any sort of discrimination, particularly ethnic, should only recognise individuals as subjects of rights and only sanction transgressions.”⁵⁶

The thinly-veiled hypocrisy of this law is a key feature of the subsequent treatment of Gypsies and Travellers by the French Republic – an intricate construction of laws and policies aimed at controlling, tracking, driving out and assimilating Gypsies and Travellers, all the while formally denying the discriminatory character of such regulations.

World War II

The history of Gypsies, French and foreign, on French territory during World War II, is a chapter which France seems determined to keep hidden from public knowledge. Important archival information remains closed to public scrutiny; most places in which Gypsies were interned are not indicated or commemorated; and official public recognition and apology for the events of this period has not been forthcoming.⁵⁷

⁵⁵ Aubin, “L’*évolution*” p. 27. The words ‘nomads’ and ‘Bohemians’ were at that time frequently used as synonyms.

⁵⁶ Deputy Jourde, cited in Aubin, “L’*évolution*” p. 27.

⁵⁷ Commenting on the absence of information on this period of French history, historian Emmanuel Filhol states: “But what did I know about the internment inflicted in France on Manus, Gitan and Roma communities during the Second World War? Absolutely nothing, because nobody ever spoke to me about it, not those close to me, not my professors... One would expect that historians preserve the memory of the Gypsies as a category of interned persons a majority of whom were French. But this is not the case. Forgetting has here imposed itself with as much success, even more successfully. The historical discourse in France has until the present ignored the internment of Gypsies. Besides the rare studies previously cited, history books on the Vichy regime directed at specialists or schools are silent about its existence...” Filhol, Emmanuel. *La mémoire et l’oubli l’internement des Tsiganes en France, 1940 – 1946*. Paris: Centre de recherches tsiganes, l’Harmattan, 2001, pp. 12 and 16.

On 6 April 1940, two and a half months before France surrendered to Germany, a decree was issued by the President of the French Republic forbidding the circulation of “nomads” and ordering their residency in designated locations under police supervision.⁵⁸

In a circular issued to Prefects on 29 April 1940, the Minister of the Interior clarified that those falling under the scope of this decree included nomads as defined by the Law of 16 July 1912. This meant those persons who “are or should be holders of an anthropometric booklet”. Furthermore, those persons who did not have such a booklet but were suspected of being nomads could also be assigned to residence. In this way, the decree also covered nomads who had managed to register themselves as fairground stallholders or ambulant salesmen.⁵⁹ The circular also described the reasons behind this measure:

Their continual movements, during which the nomads can gather considerable and important information, can be a very serious danger for national security... It wouldn't be the smallest benefit of this decree if it were to allow for the stabilising of the errant bands which, from a social perspective, constitute a clear danger, and to create in some of them, if not the taste at least the habit of regular work.⁶⁰

Gypsies in France were placed in internment camps following an ordinance of the German occupying power in France of 4 October 1940 ordering the internment of Gypsies. The French authorities were charged with arresting and interning the Gypsies, as well as managing the internment camps. As the term “Gypsies” did not

⁵⁸ Article 2 of the Decree of 6 April 1940 provides: “Nomads, that is all persons so-reputed under the conditions provided in Article 3 of the Law of 16 July 1912, are ordered to present themselves to the gendarmery or police station closest to the location where they find themselves in the fifteen days following the publication of the present decree. They will be obliged to go to a locality where they will be required to reside under police surveillance. This location will be designated for each department by ruling of the prefect.” In Hubert, Marie-Christine. “Les réglementations anti-tsiganes en France et en Allemagne, avant et pendant l'occupation”. *Histoire de La Shoah. Les Tsiganes Dans l'Europe Allemande*, No. 167, Sept-Dec 1999, Centre de Documentation Juive Contemporaine, p. 43.

⁵⁹ Hubert, *Ibid.*, p. 43.

⁶⁰ Auzias, Claire. “Samudaripen, le génocide des Tsiganes”. *l'Esprit frappeur*, 2000, p. 184, cited in Rothéa, *France pays des droits des Roms*, pp. 65-66.

exist in French legislation, the German ordinance made reference to the terms of the French law of 16 July 1912.⁶¹

Various researchers who studying this period point out that the anti-Gypsy policy of the Vichy regime was internal to its own ideology, not imposed by the Nazis, even though it was in line with Nazi doctrine. Gypsies were interned in camps on both sides of the demarcation line – of the 30 internment camps established, 5 were located in unoccupied France.⁶² Historians estimate the number of French Gypsies interned at over 6000.⁶³ Many of those interned died due to the extreme conditions and in particular a lack of sanitary facilities, as well as due to starvation.⁶⁴

Those Gypsies interned were not all released from the camps at the end of the war. According to available records, the last Gypsies were only released from the internment camps in May 1946, once again due to the racist belief that they represented a danger to national and public security.⁶⁵

Many Gypsies whom the ERRC interviewed during research towards this report expressed their anger and frustration that these events are not appropriately recognised. Mr Jose Brun, a young Gypsy activist, told the ERRC:

For me, WWII was yesterday. One of my uncles was interned in the Montreuil-Bellay camp. Today this site belongs to a pharmacist from the vil-

⁶¹ Hubert, “Les réglementations anti-tsiganes en France et en Allemagne, avant et pendant l’occupation”, pp. 49-50.

⁶² Filhol, Emmanuel. *La memoire et l’oubli l’internement des Tsiganes en France, 1940 – 1946*. Paris : Centre de recherches tsiganes, l’Harmattan, 2001, p. 12.

⁶³ See for instance, Hubert, “Les réglementations anti-tsiganes en France et en Allemagne, avant et pendant l’occupation”, p. 39.

⁶⁴ See Hubert, Marie-Christine. “1940-1946 ‘l’Internement des Tsiganes en France”. *Hommes et Migrations, Tsiganes et Voyageurs*, No. 1188-1189, Juin-Juillet, 1995.

⁶⁵ See Rothéa, *France, pays des droits des Roms*, pp. 68-69. A circular issued by the Minister of the Interior on 27 March 1945 noted: “internment is not a punishment aimed at sanctioning, in the same manner as legal penalties, activities of collaboration or other anti-national activities. It is a derogatory police measure of a preventive nature aimed at putting out of a state to harm those individuals who you believe to be dangerous for national defence and public security.”



Sheep grazing at the site of WWII internment camp Montreuil-Bellay. In March 2005, a billboard placed on the site advertised the “Zoo de Doué-la-Fontaine”.

PHOTO: JOSE BRUN

lage, who rents it to a farmer, whose sheep graze there. Things have also gone so far that there are now advertisements for supermarkets located on the site. Today, there are discussions about a proposal to use part of the former camp (where a prison remains) in order to build a traffic circle.

In the local collective consciousness, the camp is a taboo. Quite a few locals are descendants of camp guards. If you ask in the village where the camp is, everyone pretends not to know. People used to go to look at the ‘people in the camp’. It was the Sunday outing...

The French State hasn’t been honest concerning this camp – the archives are closed for fallacious reasons. A researcher, Jacques Sigot, managed to undertake research in a furtive manner. The treatment of this camp is not an isolated case. The French State is obviously aware of its responsibility and it doesn’t want to assume it.⁶⁶

In March 2005, there was still no memorial but a large billboard advertisement for the “Zoo de Doué-la-Fontaine” on the site of this former internment camp.⁶⁷

Post-World War II

Policies of tracking and controlling Gypsies in France continued after WWII through what has been labelled by many commentators as a more “liberal” or “humane” regime regulating personal status than the law of 16 July 1912. In 1969, a new law, still in effect today, eliminated the need for nomads to carry anthropometric booklets (Law of 3 January 1969). However, it replaced these booklets with different types of circulation documents for persons “without a fixed domicile or residence who live in vehicles, trailers, or other mobile shelters”. This new language to describe Gypsies and Travellers served to replace the word “nomads” which had fallen into disrepute after World War II, while once again hiding the ethnic nature of those primarily affected by its provisions. Different degrees of administrative control and surveillance apply to holders of circulation documents

⁶⁶ ERRC interview with Mr Jose Brun, February 23, 2004, Tours.

⁶⁷ E-mail and photo from Mr Jose Brun, March 18, 2004.

depending on the type of document that they possess. The strictest controls are applied to those most marginalised.⁶⁸

Policies of consecutive expulsions also continued following WWII, with mayors using their police powers to issue decrees banning the stopping of nomads on their territory. However, in 1963, the Courts intervened. The Prefect of the Department of Alpes-Maritimes had issued a circular forbidding the stopping of nomads who possessed anthropometric booklets in more than 79 municipalities in his department. The Administrative Court of Nice annulled this decree. The Council of State (Conseil d'Etat) upheld this judgement, ruling that such a permanent and absolute ban on stopping on all or part of the territory of a department infringed upon individual liberties.⁶⁹

In the period following this judgement, a change came about in France's approach to Gypsies and Travellers. It sought not only to keep Gypsies and Travellers out and to control them, but also to encourage their "integration". An interministerial Circular of 20 February 1968 is illustrative of this shift in policy that continues to the present day. It states that municipalities should establish designated halting areas of two types: areas for short-term stay (*terrains de passage*) and areas for long-term stay (*terrains de séjour*). The first type seeks to provide a place for Gypsies to halt for short periods, while ensuring public peace and order through limiting their halts to designated and controlled areas. The second type aim at the assimilation of Gypsies through their sedentarisation. It was hoped that remaining in a given halting area for longer periods of time would serve as a sort of apprenticeship for sedentary life. During their stay, Gypsies could "become accustomed to remaining several months in the same place and also to carrying out regular work". Furthermore "socio-educative" teams were to play an important role on the halting areas for long-term stay by "educating" Gypsies in the ways of society.⁷⁰ This goal of sedentarisation was further reinforced by the Law of 3 January 1969 that required those persons with circulation

⁶⁸ Law n° 69-3 of 3 January 1969. This law and its effects are described in detail in Chapter 4 of this report.

⁶⁹ CE, arrêt du 20 janvier 1965, Min. de l'Intérieur c/dame Vve Vicini, Rec. Lebon 41. See Charlemagne, Jacqueline. "Le droit au logement des gens du voyage: Un droit en trompe l'œil ? L'habitat saisi par le droit. Les virtualités de la loi Besson du 5 juillet 2000". *Etudes tsiganes*, Volume 15, Deuxième semestre 2001, p. 63.

⁷⁰ See Reyniers and Williams, *Permanence tsigane et politique de sédentarisation dans la France de l'après-guerre*, p. 14.

documents to select a “municipality of attachment” to which they were to return for various administrative acts. It was hoped that this would lead to their progressive sedentarisation, and thus “normalisation”, in a non-coercive manner.⁷¹

Municipalities were not, however, eager to develop halting areas. Therefore, only a few were developed in the twenty years following the passage of the Circular of 20 February 1968, mostly in the departments of Western France.⁷² In 1990, the obligation upon municipalities to create halting areas was reinforced, this time as a final article (Article 28) inserted into the Law of 31 May 1990 relating to the implementation of the right to housing.⁷³ This article required each department to develop a detailed plan setting out the conditions in which Travellers were to be hosted in the department, including short-term stay, long-term stay, the schooling of children, and the exercise of economic activities. It also required each municipality with more than 5,000 residents to provide facilities for short and long-term stay on its territory, through establishing areas reserved to this effect. As soon as municipalities did this, they were permitted to forbid the halting of Travellers on the rest of the territory of their municipality.

The Law of 31 May 1990 already contains the basic elements later developed in greater detail in Law no. 2000-614 of 5 July 2000 concerning the welcome and housing (habitat) of Travellers (Besson Law), currently at the forefront of French public debate.⁷⁴ And, like the Besson Law, it represents a positive development in that it seeks to oblige municipalities to consider the housing needs of Travellers. However, it also leads to violations of the freedom of movement and the right to adequate housing, by effectively forbidding Gypsies and Travellers from halting outside of “designated areas”. In fact, Article 28 was a response to requests by mayors to be able to expel Travellers more easily. A 1985 judgement of the Council of State recalled that the police powers of mayors could not be used to completely forbid the stopping of Travellers in a given municipality and that they were to be permitted to stop for the

⁷¹ See Aubin, “L’évolution du droit français applicable aux Tsiganes”, pp. 32-33.

⁷² See Reyniers and Williams, “Permanence tsigane et politique de sédentarisation dans la France de l’après-guerre”, pp. 19-20.

⁷³ Loi no. 90-449 du 31 mai 1990 visant à mettre en oeuvre le droit au logement, JO 2 juin 1990.

⁷⁴ This law is discussed in detail in Chapter 5 of this report.

minimum time that they required.⁷⁵ Thus, Article 28 sets out conditions by which mayors could meet their legal obligations through relegating Travellers to a controlled and limited area, and then be allowed to expel them from everywhere else. Once again, even with this incentive, municipalities were not eager to develop halting areas, and by 2000 only one quarter had done so – and these generally in locations unfit for living and segregated from the rest of the population.

⁷⁵ Ville de Lille c/Ackermann, 2 decembre 1983, D.S. 1985. J.388, note R. Romi., cited by Charlemagne, in *Etudes Tsiganes*, Volume 15, Deuxième semestre 2001, pp. 63-64.

4. SECOND-CLASS CITIZENS: INEQUALITY OF TRAVELLERS AND GYPSIES IN THE EXERCISE OF BASIC CIVIL AND POLITICAL RIGHTS

France is renowned as the source and guardian of modern democracy and innovator of the very notion of individual rights and freedoms. It is therefore surprising that in today's France, hundreds of thousands of French citizens are subject to severe violations of the most basic civil and political rights causing even a ripple of protest, let alone public outcry at the challenge posed to the very foundations of the French Republic. A large part of those affected by these violations are Gypsies and Travellers, indicating that these violations are in fact racist in character.

Furthermore, these violations are not simply the spontaneous or unplanned acts of unscrupulous individuals, but to a large extent actually stem from legal regulations debated and adopted by French policymakers. At the core of these violations is Law no. 69-3 of 3 January 1969 relating to the exercise of ambulant activities and the regime applicable to persons circulating in France without a fixed domicile or residence.

Certain aspects of this Law have led to a regime of surveillance and police control of those who "live in a permanent manner in a vehicle, a trailer or any other mobile shelter," a large percentage of whom are Travellers and Gypsies. The persons falling under the scope of this law are obliged to carry special circulation documents, with criminal sanctions applying in cases of non-compliance. Those most marginalised or otherwise arousing the suspicions of the authorities must also present their documents for regular police control or be subject to fines and imprisonment. These regulations bring about severe violations of the freedom of movement and right to respect for private and family life of those persons subject to their provisions.⁷⁶

⁷⁶ These basic rights are guaranteed in numerous international human rights instruments to which France is a party. For instance, Article 12 of the International Covenant on Civil and Political Rights (ICCPR) provides that: 1) "Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.[...] 3) The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant." France ratified the ICCPR on 4 February 1981.

Furthermore, special conditions imposed by this Law infringe upon the right to vote of many Travellers and Gypsies, thus interfering with one of their most

General Comment N° 27 by the UN Human Rights Committee on Article 12 of the International Covenant on Civil and Political Rights has clarified the contents of the right to freedom of movement as well as legitimate restrictions upon this right. Paragraph 5 of the Comment states that “The right to move freely relates to the whole territory of a State, including all parts of federal States. According to article 12, paragraph 1, persons are entitled to move from one place to another and to establish themselves in a place of their choice. The enjoyment of this right must not be made dependent on any particular purpose or reason for the person wanting to move or to stay in a place. Any restrictions must be in conformity with paragraph 3.” Paragraph 7 states that “Subject to the provisions of article 12, paragraph 3, the right to reside in a place of one’s choice within the territory includes protection against all forms of forced internal displacement. It also precludes preventing the entry or stay of persons in a defined part of the territory.”

As far as restrictions, the General Comment states in paragraph 11 that “Article 12, paragraph 3, provides for exceptional circumstances in which rights under paragraphs 1 and 2 may be restricted. This provision authorizes the State to restrict these rights only to protect national security, public order (*ordre public*), public health or morals and the rights and freedoms of others. To be permissible, restrictions must be provided by law, must be necessary in a democratic society for the protection of these purposes and must be consistent with all other rights recognized in the Covenant...” Furthermore, “it is not sufficient that the restrictions serve the permissible purposes; they must also be necessary to protect them. Restrictive measures must conform to the principle of proportionality; they must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve the desired result; and they must be proportionate to the interest to be protected. (para 14) The principle of proportionality has to be respected not only in the law that frames the restrictions, but also by the administrative and judicial authorities in applying the law. States should ensure that any proceedings relating to the exercise or restriction of these rights are expeditious and that reasons for the application of restrictive measures are provided.” Human Rights Committee, General Comment 27, Freedom of movement (Art.12), U.N. Doc CCPR/C/21/Rev.1/Add.9 (1999), on the internet at: <http://www1.umn.edu/humanrts/gencomm/hrcom27.htm>.

The right to freedom of movement is also guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). Article 2 of Protocol 4 to the ECHR guarantees the right to freedom of movement. Limitations placed on this right must be in accordance with law and necessary in a democratic society in the interests of national security or public safety, for the maintenance of public order for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. The ECHR is in force in France since 3 May 1974.

Article 17 of the ICCPR guarantees that “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.”

basic rights as citizens of a democratic society. This injustice is further aggravated through the more general exclusion of Gypsies and Travellers in France from other avenues of representation and participation in public affairs, even when they are directly concerned by the topics at the forefront of public and political debate.⁷⁷

4.1 Discriminatory Control Over the Movement of Travellers and Gypsies: Circulation Documents

Many French Gypsies and Travellers, unlike other citizens, are obliged to obtain special circulation documents, which they must carry with them at all times. This situation is created by Law number 69-3 of 3 January 1969, relating to the exercise of ambulant activities and the regime applicable to persons circulating in France without a fixed domicile or residence (Law of 3 January 1969).⁷⁸ While its title may seem to imply that this Law is simply about regulating economic activities, it in fact also establishes specific police controls for persons without a fixed domicile or residence who live in vehicles, trailers, or other mobile shelters (for the most part Gypsies and Travellers). The Law of 3 January 1969 is an example of blatant racial discrimination, hidden by a thinly veiled pretence of simply regulating a “mode of life” and “the

Article 8 of the ECHR guarantees respect for private and family life. It provides that: 2) “There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

⁷⁷ The ICCPR provides in its Article 25 that “Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; (c) To have access, on general terms of equality, to public service in his country. Article 2 imposes on States an obligation to ensure that the rights recognised in the Covenant are guaranteed to all individuals without distinctions based on grounds such as “race, colour...national or social origin...”.

⁷⁸ Law number 69-3 of 3 January 1969 relating to the exercise of ambulant activities and to the regime applicable to persons circulating in France without a fixed domicile or residence, J.O. 5 janvier 1969.

exercise of specific types of economic activities”.⁷⁹ The majority of those negatively affected by it are Gypsies and Travellers.⁸⁰

The Law of 3 January 1969 in fact eliminated and replaced the anthropometric cards for nomads established by the Law of 16 July 1912. However, like the Law of 1912 that it replaced, the Law of 3 January 1969 also instituted a special regime of control and surveillance of Gypsies based on the same underlying stereotypes relating to the supposed criminality and delinquency of this population.

Although circulation documents no longer include all of the physical data formerly on anthropometric cards, physical signs still appear on these cards. The most recent version of these documents includes near the photo a space for height as well as “particular signs” in which information about skin colour, eye colour, body type, hair colour and other particular physical traits are included.⁸¹

There are different categories of “circulation documents”, each implying different levels of administrative control and surveillance. The strictest controls apply to those persons most marginalised or otherwise arousing the suspicions of the authorities. Thus those persons unable to provide proof of their professional activities and regular revenue must present their circulation documents (circulation cards) to the police sta-

⁷⁹ The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), to which France is Party, binds State Parties to guarantee civil rights, including the freedom of movement and residence within the border of the State, without distinction as to race, colour, or national or ethnic origin. (Article 5(d), (i)). France ratified the ICERD on 27 August 1971.

⁸⁰ As with official statistics on Travellers and Gypsies generally, there are no official statistics that indicate how many amongst those with circulation documents are Travellers and Gypsies. However, the ‘Delamon Report’ of 13 July 1990 provided data on the number of persons holding different types of circulation documents at that time: a total of 83,050 persons, with 53,677 holding special booklets, 4,348 holding circulation booklets, and 25,025 circulation cards. The report commented that “...the persons surveyed as holding one of these administrative documents are not all Gypsies and Travellers, and it is not, in the end, possible to survey the Travellers with precision on this basis. However, we are able to affirm that Gypsies and Travellers figure primarily amongst those holders of special booklets and circulation cards where they constitute the large majority.” Delamon, Arsène, “La situation des ‘Gens du Voyage’”, p. 12.

⁸¹ “Order of 18 January 2001 modifying the Order of 21 August 1970 establishing the modalities for applying the legislative and regulatory dispositions relative to the exercise of ambulant activities and the regime applicable to persons circulating in France without a fixed domicile or residence.”

tion or gendarmery⁸² for validation every three months. Those who are able to provide proof of regular revenue, but are not enrolled on the Repertory of Trades or Registry of Commerce must present their circulation documents (circulation booklets) for validation every year. Those who are enrolled on the Repertory of Trades or Registry of Commerce do not need to present their document (special booklet) for regular “validation”; they need to renew it after five years as do the holders of other types of circulation documents. According to the most recent publicly available data, in March of 2002, a total of 156,282 persons had circulation documents.⁸³ Of these, 70,484 had circulation cards, 9,689 had circulation booklets, and 76,109 had special booklets.⁸⁴

A journalist recently wrote in the *Monde Diplomatique*:

On a fundamental level, it remains true that, contrary to the Republican concept of citizenship, the nomads continue to be approached as a minority within the State. And that France is one of the only Western countries to impose on itinerants administrative documents such as a circulation booklet and card. A discrimination within a discrimination which, as the sociologist Jacqueline Charlemagne explains, ‘creates differences within this population: those that are in an extreme state of marginalisation (seasonal workers, door-to-door sellers) have the circulation card; the others, less marginalised (enrolled on the Registry of Commerce, salaried workers) benefit from the special booklet.’⁸⁵

Failure to fulfil the obligations set out in the Law of 3 January 1969 falls within the domain of criminal law. Thus, persons who circulate in the country without the

⁸² The French police forces include different units. Gendarmerie is a military force under the authority of the Ministry of Defense. They operate primarily in rural towns and towns with a population of less than 10 000 and have some responsibilities at border areas. Their principal duty is the maintenance of order.

⁸³ It should be noted that only those over 16 have circulation documents. The total number of persons, including children, belonging to families with circulation documents is thus significantly higher than these figures indicate.

⁸⁴ Ministère de la Défense – Direction générale de la gendarmerie nationale. “Nombre de titres de circulation détenus par les personnes circulant en France sans domicile ni résidence fixe (SDRF), au 19 Mars 2002.”

⁸⁵ Aubry, Chantal. “Fragile statut pour les Tziganes français”. *Le Monde Diplomatique*, May 2003.

appropriate circulation document in their possession may find themselves subject to a prison sentence of between three months and one year. Those who neglect to present their document for validation within the appropriate time period may be fined (a maximum of 1,500 Euros) and imprisoned for between 10 days and a month.⁸⁶

Many Gypsies and Travellers told the ERRC that when they take their circulation documents for “validation”, they are sometimes insulted and treated as criminals by the officials. Sometimes the validation process can take hours. While they wait, their “file” is pulled up. If they owe any fines or tickets, they have to pay them on the spot. Sometimes people are immediately arrested. In the town of Merignac,⁸⁷ Mr Pierre Delsuc, a local pastor who acts as a mediator for local Travellers, told the ERRC: “I just met with a person who had come to see someone in hospital. He stopped by the police station to have his circulation card validated. The file said “arrest warrant”

⁸⁶ The need for Gypsies and Travellers to possess special circulations documents in order to circulate within France and to present these documents at regular intervals to the police or gendarmery interferes with both their freedom of movement and right to respect for private and family life. In its General Comment No. 27 on Article 12 of the ICCPR relating to the freedom of movement, the UN Human Rights Committee comments that: “States have often failed to show that the application of their laws restricting the rights enshrined in article 12, paragraphs 1 and 2, are in conformity with all requirements referred to in article 12, paragraph 3. The application of restrictions in any individual case must be based on clear legal grounds and meet the test of necessity and the requirements of proportionality. These conditions would not be met, for example, if an individual were prevented from leaving a country merely on the ground that he or she is the holder of ‘State secrets’, or if an individual were prevented from travelling internally without a specific permit.” See Human Rights Committee. General Comment No 27: Freedom of Movement (article 12): 2/11/1999, available at: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/6c76e1b8ee1710e380256824005a10a9?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/6c76e1b8ee1710e380256824005a10a9?Opendocument).

These requirements with respect to circulation documents also violate Article 2(1) of Protocol 4 to the ECHR, which stipulates: “Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.” Although they are provided by law, the serious interference they entail with the freedom of movement of many Gypsies and Travellers cannot arguably be held to be necessary in a democratic society for the fulfilment of any of the broader interests listed in paragraph (3) of this Article (national security, public safety, the maintenance of the *ordre public*, prevention of crime, the protection of health or morals, or the protection of the rights and freedoms of others). Parallel reasoning would surely apply to the interference these requirements entail with respect to the right to private and family life protected under Article 8 of the ECHR, placing them in violation of this article as well.

⁸⁷ A town near Bordeaux in the Department of Gironde.

(‘mandat d’arret’). He was immediately put in prison. He asked to at least know what for, of what he was accused. They didn’t tell him. He is in prison and will be transferred to Lyon.”⁸⁸ Amongst a group of women stopped in the official halting area in Aix les Milles,⁸⁹ one woman, Ms T.D., had forgotten to take her document for visa. She said: “I am afraid to go now. I forgot to have it stamped. If you forget, they yell at you like you’re a dog. They can put you in prison.”⁹⁰

4.2 Discrimination in Access to Identity Card

Obtaining a national identity card is a legal right for all French citizens, including those with circulation documents. However many Gypsies the ERRC encountered during its research lacked national identity cards. This was the case for the overwhelming majority of those who have circulation documents. This situation results in large part from discriminatory regulations and administrative obstacles.

In one case, the ERRC met Ms Ginette Mencarelli, a young Gypsy, at her home in an empty lot in Picarel in an industrial neighbourhood of Toulouse that is inhabited by twenty families (approximately one hundred people). She lives along with her husband and 2 children in the back of a heavy-duty truck that no longer has wheels. Before living here she lived in the Ginestous camp,⁹¹ also in Toulouse. Her experience is typical of many the ERRC heard:

It is extremely difficult to get an identity document. I don’t have the right to an identity card. I would like an identity card for my two children. The officials want to give me a circulation document, but I don’t want it. I do not want a special card and, in addition, you have to get it

⁸⁸ ERRC interview with Mr Pierre Delsuc, March 3, 2004, Merignac.

⁸⁹ A neighbourhood of Aix-en-Provence, in the Department of Bouches-du-Rhône.

⁹⁰ ERRC interview with Ms T.D., May 4, 2004, Aix les Milles. Full name on file at the ERRC. In some instances throughout this report the ERRC has withheld the names of victims and/or witnesses. The ERRC is prepared to release names if the interests of justice so require and if it is satisfied that the safety and privacy of persons concerned would be respected.

⁹¹ Many Gypsies previously lived in this camp in Toulouse that existed from 1951 until 2000 when it was shut down due to a flood.

stamped every three months at the gendarmery. I refuse to accept a circulation card and they will not give me an identity card. With the circulation card they survey you. Depending where you go, they can keep you three or four hours in the police station... I was born in Toulouse. My birth certificate says Toulouse. I have an address of domicile with an association. But for an identity card, I need to prove that I have a fixed residence... nobody who lives on this lot has the right to have an identity card.⁹²

The ERRC met Ms Jeanne M. on the same lot. She commented, “I have been fighting for an identity card for my children for six years. But the authorities say they cannot give it to me as I have no address. I am domiciled at 44 chemin des Izards. So, for now, I only have a birth certificate for my children.”⁹³

The need to provide proof of residence is a significant hurdle preventing many Gypsies and Travellers from obtaining an identity card. As indicated on the website of the French public service, in presenting a request for an identity card it is necessary to provide at least one document providing proof of domicile, such as a certificate of taxation or non-taxation; proof of rent payment; an electricity, gas or fixed telephone bill; a property title; or a certificate of home insurance. An exception is made for those without a fixed residence – they are able to use the address of an accredited association.⁹⁴ However, those falling under the law of 3 January 1969, are formally precluded from benefiting from this procedure.⁹⁵

Even those able to provide the required proof of residence sometimes run into difficulties obtaining an identity card when officials recognise that they are Gypsies.

⁹² ERRC interview with Ms Ginette Mencarelli, March 9, 2004, Toulouse.

⁹³ ERRC interview with Ms Jeanne M., March 9, 2004, Toulouse. This is the address of a local non-governmental organisation. In some instances in this report, the ERRC used initials in the place of full names. The ERRC is prepared to release full names if the interests of justice so require.

⁹⁴ Service-public.fr le portail de l'administration française. On the internet at: <http://vosdroits.service-public.fr/particuliers/N358.html?n=Papiers&l=N21>.

⁹⁵ Circular No. NOR INT/D/02/00062/C of 14 March 2002, Minister of Interior. Letter of 3 August 1999 from Minister of Interior to Prefects. Both the Circular and letter make clear that Travellers can only make use of special procedures of domiciliation at an accredited association for purposes of social assistance benefits and that otherwise they fall under the Law of 3 January 1969, including for delivery of administrative documents.

For example, Mrs B.B. told the ERRC that when she married in September 2003 she went to the city hall of the town of Venissieux to ask for a new identity card with her married name. She was informed that she needed to provide proof of residence. She provided a photo, her previous identity card and an electricity bill with her address on “Chemin de la Glanière” – the long-term halting area, owned by the city, where she lives in a caravan with her husband. She was asked to bring her circulation booklet and that of her mother. After responding that she had never had such a booklet, the local officials answered that they would carry out an investigation. She told them to go ahead. As of March 24, 2004, when the ERRC met her, she still had not received an identity card and did not believe that she would receive one. “We have to live in an apartment or house to be like them in order to get an identity card,” she told the ERRC.⁹⁶

Although not legally obligatory for French nationals, a lack of an identity document immediately stigmatises Gypsies and Travellers who are obliged to present other personal documents, such as circulation documents.

4.3 Obstacles to the Political Participation of Gypsies and Travellers

The right of a citizen to participate in the public life of his or her country is one of the most fundamental individual rights in a democratic society. However, in France, Gypsies and Travellers face violations of this most basic human right, finding themselves sidelined from effective participation in the country’s political life.

Many Gypsies and Travellers are unable to vote in elections under the same conditions as other French citizens, due to discriminatory conditions stemming from the Law of 3 January 1969. Furthermore, quotas as to the number of persons with circulation documents that can vote in each municipality ensure that many Gypsies and Travellers will never make up more than a minority voice in any elections.

Gypsies and Travellers also find themselves unable to access other avenues of participation in public affairs. National or local level officials consistently neglect to consult Gypsies and Travellers, even with respect to matters that directly and specifically concern them, such as the Besson Law and its application. Officials tend to prefer turning to intermediaries whom they consider to have expertise about Gypsies

⁹⁶ ERRC interview with Ms B.B., March 24, 2004, Vénissieux.

and Travellers, rather than to solicit the individual opinions of Gypsies and Travellers themselves. Furthermore, institutional forums for consultation, such as the Departmental Consultative Commissions of Travellers established under the Besson Law, consistently present only an appearance of consultation, while in practice giving Gypsies and Travellers no more than a limited role and influence in their discussions.

4.3.1 Infringement of Travellers' and Gypsies' Right to Vote

Article 3 of the French Constitution provides that:

National sovereignty belongs to the people, who exercise it through their representatives and through the method of referendum... Voting can be direct or indirect under conditions foreseen by the Constitution. It is always universal, equal and secret...⁹⁷

Despite this specific Constitutional guarantee, Gypsies and Travellers face discrimination with respect to their ability to exercise the right to vote on the same terms as other French citizens.

This discrimination arises from the Law of 3 January 1969, which stipulates that those with circulation documents may only exercise their right to vote after a 3-year period of attachment to a given municipality.⁹⁸ This is considerably longer than that applied to all other French citizens who are able to vote after 6 months of residence in a given municipality. Those citizens without a fixed residence who do not live in vehicles, trailers or mobile shelters (homeless individuals) are able to vote after 6 months of links with a given municipality.⁹⁹ Once again, despite on its face applying to all of those with “circulation documents” as opposed to Gypsies

⁹⁷ Article 3, Constitution of 4 October, 1958. Unofficial translation by the ERRC.

⁹⁸ Article 10, law of January 1969.

⁹⁹ Article L15-1 of the Electoral Code stipulates that those who cannot provide proof of a fixed domicile or residence, and who are not subject to rules concerning a “municipality of attachment”, may be enrolled on the electoral list in the municipality of a host organisation if such an organisation appears on their identity cards for at least six months or provides them with a declaration indicating links with the town for six months. Article L 15 of the Law establishes special conditions for voting without any time limitations for persons living on boats (bateliers) without a fixed residence or domicile.

and Travellers, this rule in fact has a disproportionate impact upon Gypsies and Travellers and as such results in racial discrimination.¹⁰⁰

Another aspect of the Law of 3 January 1969 makes it impossible for the many Gypsies and Travellers who fall under its scope to elect officials that represent their interests at any level of government. According to this Law, those with circulation documents may vote in the municipality that they select as their “municipality of attachment”.¹⁰¹ However, the number of persons who may be “attached” to a given municipality may not exceed 3% of any town’s population. If a town has already fulfilled its quota of persons with circulation documents attached to it, others can be refused (unless the Prefect makes an exception).¹⁰² Evidently, this means that those Gypsies and Travellers without a fixed domicile or residence can never elect a representative, as they can never constitute more than 3% of the vote in a given location. No alternative arrangements exist in order to provide this population with the possibility of electing representatives.

In its annual report of 2000-2001, the former National Consultative Commission of Travellers¹⁰³ commented that the 3% quota was of a discriminatory character and re-commended that it be eliminated. It stated that “This legal threshold is rarely attained. Its elimination would not likely cause major changes in the distribution of this

¹⁰⁰ Article 5(c) of the ICERD stipulates that State Parties to the Convention are to ensure that there be no racial discrimination in the enjoyment of “Political rights, in particular the right to participate in elections – to vote and to stand for election – on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service.”

¹⁰¹ Their municipality of attachment is designated as the location where those with circulation documents are able to exercise a variety of rights and obligations: performance of marriages; enrolment on the electoral list; carrying out of fiscal obligations; and obligation of national military service.

¹⁰² The Prefect may make an exception to the 3% quota, after receiving the opinion of the mayor, for family or economic reasons. Article 25, Décret no. 70-708 du 31 juillet 1970. Article 8, Law of 3 January 1969.

¹⁰³ This Commission, which functioned from June 2000 to the end of 2002, was composed of: elected officials (10); representatives of different Ministries (10); representatives of Travellers named by the Minister responsible for social affairs (10); and qualified persons named by the Minister in charge of social affairs (10). A new decree was passed on 24 November 2003 re-establishing this Commission, however at the time of writing its members had not yet been selected.

population on the national territory. On the other hand, it would have a strong symbolic impact in the aim of a better integration of Travellers.”¹⁰⁴

This recommendation was opposed by the Directorate of Territorial Administration and Political Affairs (DATAP) of the Ministry of Interior due to risks of “electoral manipulation”. The Directorate General of the National Gendarmerie also opposed its elimination.¹⁰⁵

In addition to these interferences in their right to vote based in law, Gypsies and Travellers also sometimes face obstruction in their ability to exercise their right to vote by mayors or other local officials who refuse to enrol them on voting lists. According to Mrs Danielle Mercier, Secretary General of the non-governmental Association Social-Educative Union of Gypsies of Aquitaine (USETA),¹⁰⁶ “the majority of Travellers are not enrolled on voting lists because mayors refuse or place administrative obstacles in their path. They say things like ‘but you aren’t here the whole year and you won’t be here for the elections anyway.’ They discourage them. They also ask for administrative documents such as an electricity bill and tax form, proof that they pay the ‘housing tax’.¹⁰⁷ Or they say ‘but you don’t have an identity card.’ It is like this everywhere.”¹⁰⁸ Problems arise both in the case of people who are “attached” to a given municipality and with respect to families that have lived in a municipality for years but in areas that are not zoned for habitation (as is the case of a great many Travellers).

In order to exercise their right to vote, Gypsies and Travellers often have to be willing to bring significant levels of pressure on officials and to undertake measures which non-Gypsies generally do not. For instance in the town of Isle-St.-Georges, a town of approximately 530 residents in the Department of Gironde, the municipality refused to enrol the Winterstein family on the electoral list despite the many years that they have lived in the town. They are now enrolled after turning up on election day in June of

¹⁰⁴ Saint-Julien, Sylvette, Rapporteur. Rapport annuel Commission nationale consultative des gens du voyage, June 2000 – June 2001. Ministère de l’Emploi et de la Solidarité, Octobre 2001, p. 26.

¹⁰⁵ Saint-Julien, *Ibid.*, p.26.

¹⁰⁶ Union Socio-Educative Tzigane d’Aquitaine.

¹⁰⁷ The housing tax (tax d’habitation) is an annual tax imposed on anyone who occupies housing on the 1st of January of each year.

¹⁰⁸ ERRC interview with Ms Danielle Mercier, March 1, 2004, Pessac.

2002 with Ms Isabelle Courbin, a representative of the non-governmental organisation Doctors of the World (MDM).¹⁰⁹ Ms Courbin asked how it was possible that the family did not have the right to vote given that they had lived in the town for fifteen years. The mayor reportedly told them to “go upstairs and register.” Ms J. Winterstein had also taken the “circulation cards” of five youth attached to the commune so that they could also be registered. The mayor refused this request.¹¹⁰

Another Traveller, Ms Sandra Bayer ended up going to Court in order to exercise her right to vote. In January of 2003, the municipality of Gouvernes refused to enrol her on the electoral lists despite the fact that she lived in Gouvernes with her husband and children on property they owned since October of 2000. She took the case to the First Instance Court of Lagny, which ordered the municipality to enrol her on the electoral lists. They did so fifteen days later.¹¹¹ However, most Travellers and Gypsies are not able or willing to go to the Courts. Local officials are aware of this and so act illegally on occasion.

4.3.2 Obstacles to the Participation of Gypsies and Travellers in Decision-Making

Travellers and Gypsies in France are to a great extent excluded from public affairs, even when the issues debated, such as the Besson Law, directly and specifically concern them. Adding to the discrimination that they already experience with respect to the right to vote, Gypsies and Travellers also find themselves cut off from other avenues of participation in public affairs.¹¹²

¹⁰⁹ Médecins du Monde.

¹¹⁰ ERRC interview with Ms J. Winterstein, March 4, 2004, Isle-St.-Georges.

¹¹¹ ERRC interview with Ms Sandra Bayer, February 10, 2004, Gouvernes. Letter RG No. 15-03-000001 from the First Instance Court of Lagny to Ms Sandra Bayer.

¹¹² Under international law France is obliged to ensure that its citizens, including Gypsies and Travellers, are able to participate on an equal footing in the conduct of public affairs. In its General comment No. 25 on Article 25 (Participation in public affairs and the right to vote) ICCPR, the Human Rights Committee noted that: “Citizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves. This participation is supported by ensuring freedom of expression, assembly and association.” See General Comment No. 25: The right to participate in public affairs, voting rights and the right of equal access to public service (Art. 25): 12/07/96. CCPR/C/21/Rev.1/Add.7, at: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/d0b7f023e8d6d9898025651e004bc0eb?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/d0b7f023e8d6d9898025651e004bc0eb?Opendocument).

Numerous Gypsy and Traveller Associations told the ERRC of their deep frustration over the fact that they are unable to express their opinions directly to national and local officials and civil servants. Furthermore they frequently find their legitimacy as “representatives” of Travellers and Gypsies called into question.

A significant obstacle comes from the fact that instead of listening to them, public authorities to a significant extent turn to the large number of non-Gypsy Associations that “specialise” in the Gypsy and Traveller population, either by conducting “social and educative” activities or studying this population. It is these associations and specialists that are deemed by authorities to be able to “speak for” Gypsies and Travellers.¹¹³

Furthermore, the UN Committee on the Elimination of Racial Discrimination in its “General recommendation XXVII on discrimination against Roma”, set out measures to be taken by States concerning the participation of Roma in public life. These include:

- Taking the necessary steps, including special measures, to secure equal opportunities for the participation of Roma minorities or groups in all central and local governmental bodies.
- Developing modalities and structures of consultation with Roma political parties, associations and representatives, both at central and local levels, when considering issues and adopting decisions on matters of concern to Roma communities.
- Involving Roma communities and associations and their representatives at the earliest stages in the development and implementation of policies and programmes affecting them and to ensure sufficient transparency about such policies and programmes.
- Promoting more awareness among members of Roma communities of the need for their more active participation in public and social life and in promoting their own interests, for instance the education of their children and their participation in professional training.
- Organising training programmes for Roma public officials and representatives, as well as for prospective candidates to such responsibilities, aimed at improving their political, policy-making and public administration skills.

Committee on the Elimination of Racial Discrimination, General Recommendation 27, “Discrimination against Roma”, (Fifty-seventh session, 2000), U.N. Doc. A/55/18, annex V at 154 (2000), available at: <http://www1.umn.edu/humanrts/gencomm/genrexxvii.htm>.

¹¹³ In his book *Tsiganes*, Professor Jean-Pierre Liégois evaluates the situation as follows: “The Gypsy and nomad associations and committees are regularly criticised. In a political context where cultural particularities are negated, it is looked upon negatively to organise in order to defend a culture that others consider as non-existent or at the least disturbing. ‘They aren’t able to organise themselves’ has become a commonplace expression, based once again on a lack of knowledge about the internal dynamics of another society, coupled with an ethnocentric attitude that consists in wishing the Gypsy to organise in the same way as the non-Gypsy...” Liégois, *Tsiganes*, p. 269. (Unofficial translation by the ERRC).

Illustrative of this attitude is the response of Mr Bernard Garandeu, Adjunct to the Mayor of Mérignac and Vice-President of the General Council of Gironde, when the ERRC asked him about the consultation of Travellers and Gypsies in the implementation of the Besson Law. He responded that:

To find an ‘official’ representative of the Travellers is extremely difficult. They aren’t necessarily ready to designate one representative. This means that their representation is ensured by a pastor for instance... or Travellers brought by Catholic priests. These are the persons that act as representatives of those people. We, on the other hand, vote for one mayor...As far as I am concerned the only place I turn for advice with respect to Travellers is the Association of Friends of Travellers – Mrs Beaupère.¹¹⁴ She has really absorbed the culture of Travellers. She can speak with them, for them. And they accept. We find few interlocutors who know the Travellers sufficiently well to speak.¹¹⁵

Another local official, Ms M.M. commented: “They do not have the same mode of representation as us. They are not ‘representative’ like us. For instance, on a parent-teacher Commission, parents do not just represent themselves, but also speak for others, whereas they do not have this concept. They do not have spokespersons.”¹¹⁶ This sort of reflection is often used to dismiss Gypsy and Traveller actors that legitimately represent the interests of their communities when they seek to participate in decision-making processes concerning them.

Countless reasons are found by French authorities to discredit those from Gypsy and Traveller communities who seek to express the concerns of their communities, ranging from their lack of “real” representativity to not promoting a dangerous “move toward communitarianism.” And instead, with an attitude underpinned by racist stereotypes and imbued with paternalism, various “experts”, “social workers”, “researchers” or other individuals who are not from Gypsy and Traveller communities are consulted as if they legitimately “represent” Gypsies and Travellers.

¹¹⁴ Ms Beaupere is the Director of the non-governmental organisation Friends of Travellers Association of Gironde (AAVG).

¹¹⁵ ERRC interview with Mr Bernard Garandeu, March 3, 2004, Mérignac.

¹¹⁶ ERRC interview with Ms M.M., March 3, 2004, Pessac.

Such consultations, where others speak in the place of Gypsies and Travellers, are also presented as consultations with Gypsies and Travellers themselves.

Dany Peto-Manso, President of the non-governmental Gypsy association Regards, told the ERRC that with respect to participation, “the current situation is disastrous... they think that we cannot be part of the life of a country; that we are asocial....”¹¹⁷ In a letter addressed to the National Union of Social Action Institutions for Gypsies (UNISAT), Regards stated: “The question of representation has barely evolved while in parallel our conditions of existence have never been so threatened since WWII.”¹¹⁸

A press conference on December 9, 2004 attended by the ERRC was revealing of the barriers to the participation of Travellers and Gypsies in French public life, and the importance of this problem in a climate where Gypsies and Travellers feel that their very existence is increasingly threatened by the policies and actions of the French state. The press conference was called to announce the creation of a new federation (FNASAT)¹¹⁹ composed of two existing federations of associations engaged in activities “for the benefit or study of Gypsies and Travellers”,¹²⁰ together with the Roma research organisation Etudes Tsiganes. Representatives of Gypsy and Traveller Associations from across the country came to the press conference to denounce FNASAT. They in their turn announced the creation on November 20, 2004 of a new group aimed at fighting for democracy, and in particular fighting a “system that uses associations and federations to supposedly work for Travellers”.¹²¹ The 20 November group qualified the FNASAT as the wall preventing their effective participation and integration in French society.¹²² The impression given by the reactions of the majority of non-Gypsies at the table was that they did not take the statements of the Travellers and Gypsies as more than angry

¹¹⁷ ERRC telephone interview with Mr Dany Peto-Manso, November 22, 2004, Paris.

¹¹⁸ Peto-Manso, Dany, Letter to President of UNISAT, March 23, 2003.

¹¹⁹ National Federation of Associations of Action Solidarity with the Gypsies and Travellers.

¹²⁰ National Union of Social Action Institutions for Gypsies (UNISAT) and National Union for Social Actions aimed at Travellers (UNAGEV).

¹²¹ “Brief concerning the Creation of the FNASAT-Travellers”, Press Brief, Travellers Collective of 20 November.

¹²² Mr Nara Ritz, Meeting on December 9, 2004, Paris. See also “Brief concerning the Creation of the FNASAT-Travellers”, Press Brief, Travellers Collective of 20 November.

talk, emitted by a handful of extremists. A great number of the existing Traveller and Gypsy Associations across the country joined the 20 November group.¹²³

4.3.3 The Absence of the Voices of Gypsies and Travellers in the Application of the Besson Law

Although their living conditions, way of life and daily existence will be directly and significantly affected by “Law no. 2000-614 of 5 July 2000 concerning the welcome and housing of Travellers” (Besson Law),¹²⁴ the voices of Travellers and Gypsies are at best marginal in discussions surrounding the implementation of this Law.¹²⁵ They have been largely excluded from the procedures for developing the Departmental Plans that set out key decisions such as where “halting areas” for Travellers are needed, how many places are to be created in each, the infrastructure and type (duration of stay permitted).¹²⁶

While these Departmental Plans are supposed to reflect the needs of Travellers based on a “needs assessment”, these assessments have for the most part been developed

¹²³ Press Conference. December 9, 2004.

¹²⁴ Loi no 2000-614 du 5 juillet 2000 relative à l'accueil et à l'habitat des gens du voyage.

¹²⁵ The United Nations Committee on Economic, Social and Cultural Rights made clear in its General Comment No. 4 on the right to adequate housing that extensive genuine consultation of those affected is an important component of the right to adequate housing. See The Right to Adequate Housing (Article 11(1)): 13/12/1991. CESCR GeneralComment 4, available at: [http://www.unhchr.ch/tbs/doc.nsf/\(symbol\)/CESCR+General+comment+4.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(symbol)/CESCR+General+comment+4.En?OpenDocument).

In a recent recommendation on “improving the housing conditions of Roma and Travellers in Europe”, the Committee of Ministers of the Council of Europe has specified that: “Roma should be involved as early as possible in the process of planning and setting up of their future settlement areas or permanent housing units, so as to assess as precisely as possible what their particular needs are, or will be, in the future. Member states should also ensure that Roma residing on their territory – whether sedentary, nomadic or semi-nomadic – are given an appropriate assistance to define their specific needs in terms of housing, as well as access to appropriate welfare and social services (health, education, employment, culture, and so on).” The recommendation makes clear that the term “Roma” as used “refers to Roma/Gypsies and Traveller communities and must be interpreted as covering the wide diversity of groups concerned.” Committee of Ministers. *Recommendation to Member States on Improving the Housing Conditions of Roma and Travellers in Europe*, Rec (2005) 4, Paragraph 30.

¹²⁶ Law of 5 July, 2000, Article 1, II.

without significant consultation or involvement of the Travellers and Gypsies themselves. None of the Travellers whom the ERRC met on existing stopping areas or halted in unauthorised locations had been consulted in the development of any Departmental Plans. It seems that in a large number of cases the persons or institutions responsible for carrying out the assessment have relied on their own expertise and consulted other experts, such as associations offering various forms of assistance (social and educational) to Travellers, but they have not carried out direct grassroots consultations with Travellers and Gypsies themselves.

For instance, the Regional Association for Study and Actions Concerning Gypsies (AREAT)¹²⁷ has carried out the needs assessment and developed at least 30 Departmental Plans (of a total of 95 Departments in Metropolitan France). The ERRC asked Mr Denis Klump, director of AREAT, whether Gypsies and Travellers were directly consulted during the development of these Plans. He responded that it wasn't necessary to carry out a specific consultation as AREAT has been managing halting areas and working with Travellers for ten years. He commented: "We have known them for 10 years... we are well-placed as technicians." According to Mr Klump AREAT does not have Gypsies within its Administrative Board (Conseil d'Administration) or as managers of halting areas.¹²⁸

Regardless of how much expertise associations such as AREAT possess, this cannot in a democratic society replace grassroots consultation and the participation of those actually concerned. It is unimaginable that if specific forms of housing were to be created for another ethnic or cultural group within the French population that this could occur without extensive meetings directly with those concerned and their representative associations. The fact that in the case of the Gypsies and Travellers it is believed to be sufficient to involve experts and intermediaries reflects the extent of paternalism towards and exclusion of this population in French society.

Ms Karine Moreau, Director of the National International Gypsy Social Association (ASNIT),¹²⁹ in the Department of Bouches-du-Rhône commented to the ERRC,

¹²⁷ Association Régionale d'Etudes et d'Actions auprès de Tsiganes.

¹²⁸ ERRC interview with Mr Denis Klump, May 3, 2004, Marseille.

¹²⁹ Association sociale nationale internationale tzigane.

“Normally according to the Besson law there should be an evaluation of needs in developing the Departmental Plan ... A priori the Travellers were not consulted here. We find it interesting to what extent the Departmental Plan does not take into account the Travellers. Everything is about ‘halting areas’. We know that this is one response, but not the only one...”¹³⁰

According to the Besson Law, the participation of Travellers is to be ensured through the establishment in each Department of a Consultative Commission of Travellers “including notably representatives of the municipalities concerned, representatives of Travellers, and associations providing services to Travellers.” These “Departmental Consultative Commissions of Travellers”(CDCGV) in each Department are to be “involved in the elaboration and implementation of the Plan.”¹³¹ A Decree lists twenty-two persons (according to their function) to be represented on the Commission in each Department. For the most part, these persons are to be elected municipal officials or representatives of different State services. Five places are reserved for “personalities designated by the Prefect of the Department based on the propositions of Associations representing Travellers, and Associations providing services to Travellers present in the Department, or, where this is not possible, amongst persons qualified as a result of their knowledge of Travellers.”¹³²

The result in practice is that in the majority of Commissions across the country at most two or three persons out of the twenty-two on the Commission actually come from Traveller or Gypsy Associations. And their minority voice tends not to carry much weight on the Commissions.

¹³⁰ ERRC interview with Ms Karine Moreau, May 4, 2004, Marseille.

¹³¹ “In each Department, a Consultative Commission, comprised notably of representatives of municipalities concerned, representatives of Travellers and associations that work with Travellers, is associated with the elaboration and implementation of the Plan. It is presided jointly by the representative of the State in the Department and by the President of the General Council or by their representatives. Each year the Consultative Commission carries out an assessment of the application of the Plan. It can designate a mediator responsible for examining any difficulties encountered in the implementation of the Plan and develop recommendations for resolving such difficulties.” Article 1, IV, of Law of 5 July 2000. Unofficial translation by the ERRC.

¹³² Decree no. 2001-540 of 25 June 2001 relating to the composition and functioning of the Departmental Consultative Commission of Travellers.

Mr Dany Peto-Manso, President of Regards, told the ERRC: “Many Departmental Commissions have one single and unique Gypsy as a member. But whether there are five representatives of Travellers or one it amounts to the same thing – if we say something the majority decides anyway. The representatives of various institutions are, like us, on the Commission – what do you want our voice to mean amongst those people – we merely serve as tokens.”¹³³

In the Bouches-du-Rhône, for example, two representatives of Travellers have seats on the Consultative Commission. A meeting had been held a few days prior to the vote on the Departmental Plan in which two of the Traveller representatives had brought other Travellers in order to express to the sub-Prefect their concerns over the proposed Departmental Plan. The impression was given to the Travellers that their comments would be taken into consideration. However, the proposed Departmental Plan was put to vote without modification.¹³⁴

In the Consultative Commission in the Department of Gironde, there are three Travellers. Ms Rosie Winterstein, one of the Travellers on the Commission, told the ERRC: “We said ‘no’ to the current Departmental Plan. We speak but we are not listened to... we were on the Consultative Commission, but our words are not taken into account...What we say is not reflected in the report of the working group. We, we do not exist for them.”¹³⁵

In an example in the Department of l’Hérault, the ERRC was informed that well-known local Gypsy Mr Maurice Ruiz was refused a seat on the Commission as his degree of “representativity” was questioned. Mr Ruiz, who is vice-president of the National Catholic Association of Travellers (ANGVC) as well as vice-President of Regards, both important national associations whose membership is composed of Gypsies and Travellers, received the following response from the Prefect to his request to participate on the Commission: “...This candidacy has been studied, but not retained, the degree of representativity of the person concerned does not seem evident. In addition, some partners have been brought to officiously express their hesitations with respect to the presence of Mr Ruiz... These are the reasons that it was

¹³³ ERRC telephone interview with Mr Dany Peto-Manso, November 22, 2004, Paris.

¹³⁴ ERRC interview with Mr Alain Fourest, President non-governmental association Rencontres Tsiganes, May 3, 2004, Marseille.

¹³⁵ ERRC interview with Ms Rosie Winterstein, March 2, 2004, Pessac.

not possible for me to proceed with his designation. In the end, it seemed preferable to designate representatives of non-contested institutions, which are not involved in local rivalries concerning representativity.”¹³⁶ Of those persons designated to the five available seats, at least three seats are held by non-Gypsy representatives of associations that offer various services and assistance to Travellers and Gypsies.

¹³⁶ Mr Philippe Vignes, Letter to Mr Jacques Donergue, Deputy of Hérault, April 9, 2003.

5. ASSAULT ON A WAY OF LIFE: LAWS, POLICIES AND PRACTICES RELATING TO TRAVELLING, HALTING AND LIVING CONDITIONS OF GYPSIES AND TRAVELLERS

“A world without vagabonds – that’s the utopia of the tourist society.”¹³⁷

Zygmunt Bauman

Human rights obligations upon States with respect to minorities go beyond simply a negative right not to interfere with a minority’s way of life. In fact, States have a positive obligation to facilitate this way of life. Recently, the European Court of Human Rights clearly stated this responsibility in a decision on May 27, 2004, relating to the eviction of a Gypsy family from a local authority Gypsy site in the United Kingdom:

The vulnerable position of gypsies as a minority means that some special consideration should be given to their needs and their different lifestyle both in the relevant regulatory framework and in reaching decisions in particular cases (Buckley judgement cited above, pp. 1292-95, §§ 76, 80 and 84). To this extent, there is thus a positive obligation imposed on the Contracting States by virtue of Article 8 to facilitate the gypsy way of life [...].¹³⁸

The Council of Europe’s Committee of Ministers, in a recommendation of February 23, 2005 on “Improving the Housing Conditions of Roma and Travellers in Europe”, emphasised the obligation upon Council of Europe Member States to create conditions so that Roma and Travellers are able to “pursue sedentary or nomadic lifestyles, according to their own free choice.”¹³⁹ The recommendation also states that

¹³⁷ Bauman, Zygmunt. “Le Cout humain de la mondialisation”, Hachette, coll. “Pluriel”, 1999.

¹³⁸ Connors v. The United Kingdom, Judgement by the European Court of Human Rights of May 27, 2004, application number 66746/01, para 84.

¹³⁹ Committee of Ministers. *Recommendation to Member States on Improving the Housing Conditions of Roma and Travellers in Europe*, Rec (2005) 4, paragraph 3. The paragraph provides that: “Member states should affirm the right of people to pursue sedentary or nomadic lifestyles, according to their own free choice. All conditions necessary to pursue these lifestyles should be made available to them by the national, regional and local authorities in accordance with the resources available and to the rights of others and within the legal framework relating to building, planning and access to private land.”

“national housing¹⁴⁰ policies should seek to address their specific problems as a matter of emergency, and in a non-discriminatory way.”¹⁴¹

French laws, policies and practices related to travelling, stopping and urban planning and regulation not only do not facilitate the Gypsy and Traveller way of life but in fact directly infringe upon it.

The ERRC’s research indicates that the situation in France has currently reached crisis levels in which Gypsies and Travellers feel that their culture is under direct attack by the French state. As a result of various regulations, Travellers and Gypsies are in many cases in fact trapped in the dilemma of being neither able to travel nor allowed to stop travelling.

On the one hand, they find it increasingly difficult to lead a travelling lifestyle, as halting anywhere has become a near impossibility. On the other hand, they also encounter considerable difficulties residing long-term in any one place, due to the combined impact of racism and various laws, policies and practices relating to urban planning and regulation. Even in the cases when Travellers and Gypsies want to buy land and settle in a community, regulations and actions by local authorities often thwart such efforts, while those Travellers and Gypsies who manage to buy land continue to be exposed to forced evictions and harassment by local authorities.

This situation leads to the violation of a large number of rights of hundreds of thousands of Gypsies and Travellers, such as their right to freedom of movement; the right to access adequate housing; the right to an adequate standard of living; the right to health; the right to non-interference in home, private and family life; and the right to education.

5.1 Excluding Travellers and Gypsies from Most of French Territory

Commenting on the situation of Gypsies and Travellers, Mr Frédéric Lievy of the Gypsy Association Goutte d’Eau, told the ERRC: “In France we have always had the right to travel and never to stop.”

¹⁴⁰ The recommendation stipulates that the term “housing” includes different modes of accommodation, such as houses, caravans, mobile homes or halting sites.

¹⁴¹ Committee of Ministers. *Recommendation to Member States on Improving the Housing Conditions of Roma and Travellers in Europe*, Rec (2005) 4, paragraph 2.

In researching the situation of Gypsies and Travellers across France, the ERRC began to realise that according to the logic of the French authorities and much of French society, Gypsies and Travellers should travel – constantly. Underlying French laws, policies and treatment of Gypsies is a stark phantasmatic division of the world into two categories – “nomadic” and “sedentary”. And, according to this division, nomadic means a state of constant motion. It is a way of life that is perceived as at best “incompatible” with and at worst “a grave danger” to “sedentary” life and communities.

In practice such an understanding has meant that when French Gypsies stop, they generally find themselves breaking the law and living in precarious, unhealthy and segregated conditions. Furthermore, they are constantly subjected to forced evictions even from such unwelcoming areas. Despite existing legislation, very few sites are actually “designated” for Gypsies and Travellers to stop. Those sites that are “designated” are generally located near garbage dumps, water treatment plants, polluting factories, freeways, or railroad tracks. They are also systematically hidden and removed from local communities, and in an environment where those who stop are well surveyed and “assisted” in learning the ways of “normal” citizens. To make the situation worse, large portions of the territory have become legally or factually off-limits for Gypsies to halt or reside, with risks of severe criminal sanctions if they do so. Thus when Gypsies and Travellers wish to live a lifestyle that preserves their culture and identity, they may find themselves prosecuted or threatened with prosecution for criminal acts.

Journalists introducing a documentary on Travellers in France commented:

First we should say that they are cornered in a Kafkaesque absurd situation of the type the French administration is so good at creating. Here is the summary. There is a law – the Besson law – which requires each municipality of 5,000 residents to create a stopping area for gitans, the Travellers. But only one municipality out of four has done so, which basically means that 80% of Gypsies or four Gypsies out of five find themselves without a place to stop. Into this situation is added a second law, which is repressive in nature, which is the Sarkozy Law, and it criminalises them – it sends them to prison if they are not on a legal halting area. So, it is as if you have a game



The town of Saint Priest. The sign reads: “Parking forbidden for heavy duty trucks and nomads, except in reserved parking areas”.

PHOTO: LANNA Yael HOLLO

of musical chairs with one chair for five persons and the four that remain standing risk of six months of prison.¹⁴²

In addition, as policies continue to be based on stereotypical notions of Gypsies and Travellers, rather than upon real consultation and involvement of the communities concerned, even “progressive” policies remain out-of-step with individuals’ needs. Viewing Gypsies and Travellers primarily through the “nomadic-sedentary” prism, along with the various stereotypes of their delinquency and non-respect of society, French policymakers ignore the reality, needs, desires and individual and minority rights of many French Gypsies.

In many cases France’s regulations, policies and practices with respect to travelling and stopping have the effect of an assault on the dignity as well as the physical and mental well-being of Travellers and Gypsies, implicating a violation of the prohibition of inhuman and degrading treatment.¹⁴³

¹⁴² Catuogno, Pascal , Jérôme Pin, and Steve Bauman. “Gens du voyage: la répression et l’absurde”. Aired on May 10, 2004 by the French television channel Canal Plus.

¹⁴³ The prohibition of torture or cruel, inhuman or degrading treatment or punishment is a non-derogable norm of international human rights law. In addition to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the prohibition is also contained in Articles 4 and 7 of the ICCPR, and in Articles 3 and 15 of the ECHR. In the jurisprudence it has developed with respect to Article 3, the European Court of Human Rights has indicated that ill-treatment must attain a minimum level of severity to fall within the scope of Article 3. The assessment of this minimum is relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical and/or mental effects and, in some cases, the sex, age and state of health of the victim. (See for example *Soering v. the United Kingdom*, Judgement by the European Court of Human Rights of July, 7 1989, application no. 1/1989/161/217, para 100). Furthermore the Court has made clear that notions of ill treatment evolve with time. (See *Selmouni v. France*, Judgement of July 28, 1999, application no. 25803/94, para 101). Although not yet having occasion to rule on severe difficulties for Travellers to stop and their continual eviction, the Court has ruled that the destruction of houses and the eviction of those living in them constitutes a form of ill-treatment in violation of Article 3. See *Seçuk and Asker v. Turkey*, Judgement by the European Court of Human Rights of April 24, 1998, application numbers 00023 184/94 and 00023 185/94; See also *Bilgin v. Turkey*, Judgement by the European Court of Human Rights of April 24, 1998, application numbers 00023 184/94 and 00023 185/94.

5.1.1 Territory Legally Off-limits to Gypsies and Travellers

Previously, municipalities that did not want Gypsies to stop on their territory did not hesitate to put up a sign “Nomads forbidden”. These signs have now been removed from all but a few municipalities.¹⁴⁴ However, provisions in a number of national laws effectively outlaw Gypsies residing in caravans from stopping on most of French territory: Article 9 of Law no. 2000-614 of 5 July 2000 relating to the welcome and housing of Travellers (Loi no 2000-614 du 5 juillet 2000 relative à l’accueil et à l’habitat des gens du voyage); the Law of 18 March 2003 for Interior Security (Security Law); and Law no. 2003-210 of 1 August 2003 on the Orientation and Planning of Municipalities and Urban Renovation (Loi d’orientation et de programmation pour la ville et la rénovation urbaine)

Besson Law

Current national discussions about the living situation of Gypsies and Travellers in France are predominately focused on the implementation of Law no. 2000-614 of 5 July 2000 concerning the welcome and housing of Travellers (hereinafter “Besson Law”). This Law obliges all municipalities of more than 5,000 inhabitants to establish a “halting area” (aire d’accueil) for Travellers to temporarily reside. It sets out a complex procedure in which each French department is obliged to develop a Departmental Plan setting out the number of places to be created, the type,¹⁴⁵ and in which towns.¹⁴⁶

¹⁴⁴ In the town of Saint Priest on March 24, 2004, the ERRC saw a sign indicating “no nomads outside of the designated area”. There is not, however, a designated area for Travellers to halt temporarily. There is an old run-down, polluted and dangerous ‘halting area’ where the current residents have lived for decades.

According to the non-governmental association Regards, in the city of Saint-Pierre-des-Corps, a sign at the marketplace where Gypsies sometimes go to sell their goods indicates “forbidden for nomads”. Ironically, the sign is right next to another sign indicating the street name “Street of the Deported” (Rue des Déportés). Regards sent a letter in February 2003 requesting the removal of the sign banning nomads to the mayor of the city, Ms Marie-France Beaufils, who is also a Senator for the Department of Indre-et-Loire belonging to the Communist Republican Citizen group. As of March 15, 2005, Regards had received no response to its letter and the sign remained at the marketplace. ERRC interview with Mr José Brun, February 23, 2004, Tours. E-mail from Jose Brun March 15, 2005.

¹⁴⁵ In addition to “halting areas” (aires d’accueil), the Besson Law provides for the designation of grounds available for large gatherings (Article 1 (II)).

¹⁴⁶ Article 1(1) provides that: “Municipalities are to participate in hosting persons considered as Travellers and whose traditional housing is constituted by mobile homes.” According to Article 1(2) “In

These Plans were to have been completed within a period of 18 months from the official publication of the Besson Law¹⁴⁷ (by January 5, 2002) and each town involved was then to have equipped and made available one or more halting areas on its own or in cooperation with other municipalities within a period of two years (by January 5, 2004).¹⁴⁸ However, in a circular dated 11 March 2003,¹⁴⁹ each Department was given a further delay of one year to approve the Departmental Plan. And, on 30 July 2004, while much of France was already on summer vacation, the Senate inserted an article towards the end of a Law on Local Freedoms and Responsibilities granting municipalities an additional two years to fulfil their obligations (thus where both delays apply, the deadline for completion of halting areas is January 5, 2007).¹⁵⁰

After this time period, and a warning by the Prefect not given effect within a three-month period, the State may take possession of municipal land in order to create a “halting area” at the municipality’s expense. The municipality then loses out on the State financing for which it would otherwise have been eligible.¹⁵¹

each Department, based on a preliminary evaluation of needs and the existing offer, especially with respect to the frequency and length of stay of Travellers, possibilities for schooling their children, access to health care and the exercise of economic activities, a Departmental Plan will set out the geographical sectors in which permanent halting areas are to be established and the municipalities in which these are to be created. Municipalities with more than 5000 residents must be included in the Departmental Plan. It specifies the type of permanent halting areas and their capacity. It defines the nature of social measures to be aimed at Travellers who frequent them.” Unofficial translation by the ERRC.

¹⁴⁷ The Besson Law was officially published on 6 July 2000.

¹⁴⁸ Article 1(3), Law of 5 July 2000.

¹⁴⁹ Minister of the Interior, Internal Security and Local Freedoms, Minister of Social Affairs, Work and Solidarity, and Minister of Equipment, Transportation, Housing, Tourism and the Sea, “Circular letter relating to departmental measures for the hosting of Travellers”, March 11, 2003.

¹⁵⁰ Municipalities may benefit from this delay as long as they have demonstrated the willingness to meet their obligations. This willingness can be demonstrated either by: transmitting to the representative of the State a copy of the deliberation or a letter of intention including the location of the site to be developed or rehabilitated into a welcome stopping area for Travellers; acquiring the necessary land or beginning a procedure for acquiring the land on which the site is to be located; carrying out a preliminary study. Law no. 2004-809 of 13 August 2004 Relating to Local Freedoms and Responsibilities (Loi n° 2004-809 du 13 août 2004 relative aux libertés et responsabilités locales), Article 201, J.O n° 190 du 17 août 2004. Unofficial translation by the ERRC.

¹⁵¹ If a municipality meets the deadlines specified, the State will cover 70% of the expenses for developing or rehabilitating the halting area. Article 4, Besson Law.

According to Article 9 of the Besson Law, once a municipality has fulfilled its obligations as set out in the Departmental Plan, it may then forbid Travellers from stopping their mobile homes anywhere on its territory outside of the designated halting areas. If Travellers nonetheless stop elsewhere, on either private or public land, they may be forcibly evicted by Court order, unless they are stopped on land which they own or are stopped on a piece of land for which special permission has been granted for the stay of mobile homes, either for camping (Article L433-1 of the Urbanism Code) or as the permanent housing of their users (Article L 433-3 of the Urbanism Code).¹⁵² If Travellers are stopped on public land owned by the municipality, the mayor can act to evict those stopped if they interfere with public health, security, or peace.

The Besson Law is a very positive development to the extent that it imposes an obligation on some municipalities with over 5,000 inhabitants to create sites for Travellers to reside temporarily in their municipalities. Although not presented as such in France, this law can be viewed as a necessary measure that makes special provision for a minority's way of life in order to actually treat them equally with others, in line with the equality principle. It is evident that in order for Gypsies and Travellers who lead a travelling lifestyle to enjoy the same right to adequate housing and freedom of movement as others, they need places to halt for shorter or longer periods in various municipalities throughout France. The provisions of this law – if adequately implemented – aim to ensure that such sites exist throughout the country.

Another positive aspect of the Besson Law is the fact that its title mentions “housing”, indicating an important shift from treating temporary stays of Gypsies and Travellers as simply akin to “parking”, and instead recognising that this is about a fundamental human right, at the core of human dignity. Unfortunately, the law remains tenuous, if not contradictory, in this regard by reverting to the language of parking and stopping in the text itself.

However, Article 9 of this law considerably changes the law's nature from a facilitative measure to a restrictive one by forbidding Gypsies and Travellers from halting outside of “designated areas”. It thus leads to severe violations of the freedom of movement and the right to housing.¹⁵³ Article 9 reflects the restrictive spirit

¹⁵² Article 9 (II and III), Besson Law.

¹⁵³ For Gypsies and Travellers whose home is their caravan, the policies and regulations that restrict freedom of movement also bring about severe violations of their housing rights.

that has predominated throughout French history in local policies aimed at Gypsies and Travellers – in particular the desire of mayors to keep them out of their municipalities. This law, like the previous Article 28 of the Law of 31 May 1990,¹⁵⁴ in fact responded to the wish expressed repeatedly by many mayors to be able to expel caravans from their municipality more easily. Court jurisprudence had made it illegal for mayors to use their administrative police powers to prohibit in a general and absolute manner the stopping of Gypsies on municipal territory.¹⁵⁵ Article 9 provides mayors with the possibility of limiting the halting of caravans to a controlled area – and banning it from almost everywhere else in their municipality.¹⁵⁶

Article 9 is often presented by officials as a legitimate restriction of freedom of movement in order to protect public order, public health and safety. Many of the arguments put forward to substantiate its legitimacy, however, rely on purely racist stereotypes about Gypsies and Travellers being dirty, delinquent and troublemakers. Such racist stereotypes are not valid reasons for restricting rights in a democratic society.

A more nuanced form of argumentation, itself not devoid of racist stereotypes, blames Gypsies and Travellers for the consequences of the actions, or lack thereof, of public officials. For instance, concerns over health are said to arise from the piles of garbage that they leave at the sites on which they stop. Many Travellers and Gypsies pointed out to the ERRC that they are frequently blamed for leaving garbage, but that municipal officials in fact often refuse to provide them with

¹⁵⁴ Law No 90- 449 of 31 May 1990 aiming to implement the right to housing, JO, 2 June 1990.

¹⁵⁵ In the case of *Ville de Lille v. Ackerman*, the Council of State ruled that mayors cannot use their policing powers in such manner as to “imply a complete ban on stopping and stay nor in practice make it impossible for nomads to stop during the minimum time that is necessary for them.” *Ville de Lille c/Ackermann*, 2 décembre 1983, unofficial translation by the ERRC.

¹⁵⁶ “...we should not forget that the Besson Law was primary drafted in order to give to municipalities strengthened police means against the Gypsies. The primary fear expressed by Travellers concerning this Law is sure enough the end of travel: ‘Will they forbid us from going to all of the small towns?’ is one of their recurrent questions along with those about the qualitative control that will be carried out on future halting areas, or again the legal obligation for sites to have guards.” Monnin, Luc. “Enfin réaliser l’habiter? Quelles solutions pour loger les gens du voyage après les lois Besson et SRU de 2000?” *L’habitat saisi par le droit. Les virtualités de la loi Besson du 5 juillet 2000. Etudes tsiganes*, Volume 15, Deuxième semestre 2001, p. 135.

garbage bins, even when they offer to pay, and when they are provided with such bins, the garbage trucks do not empty them. This evidently leads to garbage bags overflowing from the bin, a pungent odour and even rats and other health hazards. Likewise, concerns over public order are said to arise from the noise of the electrical generators that Travellers use in order to obtain electricity or problems caused when they “steal” electricity from existing wires. Once again, many Travellers and Gypsies pointed out to the ERRC that they only use electrical generators or hook up to the electricity supply illegally as local officials refuse to install temporary electrical boxes allowing them to obtain electricity in a legal manner without creating noise or other hazards. A further example of such argumentation highlights public order and security concerns raised by “conflictual relations” with residents. Such conflicts are themselves often the result of anti-Gypsy racism or factors such as piles of garbage and noise that themselves result from the de facto situation in which Travellers and Gypsies are placed by local officials.

The Besson Law as a whole is presented as striking an equitable balance between the rights and freedoms of Gypsies and Travellers and those of other citizens, for instance to peaceful enjoyment of their property.¹⁵⁷ Officials often stress that if halting areas are created for Gypsies and Travellers, the fair counterpart is that they not park elsewhere. The far-reaching provisions of Article 9, later reinforced by the Law of 18 March 2003 for Interior Security (Security Law), however, go well beyond a proportionate ‘balancing’ of interests. A fairer balance could, for instance, be achieved by allowing halting elsewhere, except in certain areas defined by law and as long as those who halt respect certain conditions. However, Article 9 instead uses the opposite logic instituting a far-reaching ban, whereby Gypsies and Travellers cannot stop outside of designated areas, except in certain very specific situations (land owned by those stopped; a site on which special permission has been granted for the stopping of mobile homes).

¹⁵⁷ According Deputy Louis Besson’s presentation to the National Assembly on the purpose of the Law of 5 July 2000, it aims at: “defining a satisfactory equilibrium between, on the one hand, the constitutional freedom to come and go and the legitimate aspiration of Travellers to be able to park in decent conditions, and, on the other hand, the equally legitimate concern of local elected officials to avoid illegal stopping which causes difficulties of cohabitation with their constituency.” Louis Besson, *exposé des motifs*, Doc. AN no 1598 (1999) cited in Zentner, Franck. “Les communes et l’accueil des gens du voyage: la loi no 2000-614 du 5 juillet 2000.” *L’habitat saisi par le droit. Les virtualités de la loi Besson du 5 juillet 2000. Etudes tsiganes*, Volume 15, Deuxième semestre 2001, p. 75.



Sign near the marketplace in the city of Saint-Pierre-des-Corps saying, "Forbidden to Nomads". The sign is right next to another sign indicating the street name "Street of the Deported".

PHOTO: JOSE BRUN



Two Gypsy activists, protesting along with thousands of other Gypsies and Travellers, against the adoption of the Security Law.

PHOTO: REGARDS

At the very root of Article 9 is the racist conception that Gypsies are not persons like any others (who are not subject to such far-reaching restrictions as to where they may or may not reside), but rather delinquents who are dirty and a threat to public health, order and safety. Creating halting areas is not seen for what it is: simply allowing Gypsies and Travellers to begin to enjoy the same right to housing and freedom of movement as others. Instead it is presented as a particular favour to Gypsies and Travellers, for which they should be grateful and as a result of which they should not seek to reside elsewhere. The ERRC finds such discriminatory logic particularly disturbing.

Where local authorities have not refused to implement the Besson Law or led opposition to it, they have generally relied on Article 9 to convince local residents of the benefits of creating a halting area. Thus, their main argument runs along the following lines: “if we designate an official halting area, we can then prevent Travellers from halting anywhere else.” This type of argument is generally accompanied by reasoning to the effect that security and order can be better guaranteed this way as these areas can be easily controlled.

The comments of the mayor of Gisors at a recent public town hall meeting are illustrative of such reasoning. Discussions concerned the creation of a halting area 1.5 km from the municipality. In response to concerns raised by residents over the “security threats” this would pose, the mayor responded that grouping them together in a guarded and equipped area allows for better management of the Travellers.¹⁵⁸ Such arguments clearly reinforce public fears and rejection of Gypsies and Travellers.

The majority of Gypsies that the ERRC encountered in France view the Besson Law with an anxious eye. The comments of Mr Robert Zigler, President of the Gypsy Association Goutte d’Eau (Goutte d’Eau), illustrate these fears:

The Besson Law is a law that we didn’t approve of. The mayor or Prefect base themselves on this law, and when we express our feelings, they don’t listen. It goes in one ear and out the other... Our culture will start evaporating. Our children will become settled by force. Even with the halting areas the State gives us, travel will disappear. In 10-

¹⁵⁸ “Mauvais accueil aux gens du voyage”, *Paris Normandie* newspaper, June 1, 2004.

15 years when there will be halting areas across the country, you will have to find out in advance if there is space to halt – otherwise you will be punished.”¹⁵⁹

The restrictive aspects of this law, reinforced by subsequent legislation, transformed it from something which could ensure that Gypsies and Travellers are able to continue to lead a travelling lifestyle into something perceived as a significant threat to this lifestyle.

Security Law

The restrictive aspects of the Besson Law were considerably reinforced and extended by the Law of 18 March 2003 for Interior Security (hereinafter “Security Law”). The prospect of the passing of this law brought thousands of French Gypsies and Travellers into the streets of Paris to protest in January 2003. Many of the slogans that were displayed made an appeal for a respect for basic rights: “the right to travel;” “respect for our culture;” “the right to difference;” “justice equal for all.” They also made reference to Vichy, expressing what many elderly Gypsies who lived through World War II told the ERRC – the repressive actions and climate against Gypsies today remind them of the Vichy period.

Frédéric Bone, President of the non-governmental organisation National Catholic Association of Travellers stressed this feeling amongst younger Travellers he knows as well. “It reminds them of what their grandparents knew. It’s more underhanded than at that time. They aren’t put in the oven, but their life is made terrible.”¹⁶⁰

As its title indicates, the Security Law is aimed at increasing security in France and covers a wide range of areas from police powers with respect to investigations to anti-terrorism measures. Included in its Chapter 10 relating to “public peace and security” are a number of racist articles specifically aimed at Gypsies and Travellers that in essence mean that it is a criminal act for them to stop on most of French territory outside of designated halting areas.

¹⁵⁹ ERRC interview with Mr Robert Zigler, March 6, 2004, Toulouse.

¹⁶⁰ ERRC interview with Frédéric Bone, September 27, 2004, Saint-Denis.

Article 53 penalises Gypsies and Travellers who exercise a fundamental aspect of their culture: travel. This article makes it a criminal act to park in a group with the aim of constituting a residence, even temporarily:

- On land owned by a municipality that has conformed to its obligations under the Departmental Plan developed in accord with the Besson Law;
- On land owned by a municipality that is not included in the Departmental Plan (thus the majority of towns with less than 5,000 residents and those with more than 5,000 that are not included in the Plan);
- Or on any other land (private, State, Regional, Departmental) without being able to produce proof of permission to do so, or of the permission granted to the person holding the right for use of the land.

In addition, Article 58 of the Security Law provides that in those municipalities that are not included in the Departmental Plan, the mayor can also apply to the courts for an order of forced eviction of mobile homes halted on private land when this halting is deemed to threaten public health, security or peace.¹⁶¹ The latter means that in such municipalities even the owner of private land, living in a mobile home, can be forcibly evicted from his or her own land on the grounds of threatening public health, security or peace.

Penalties for the above “crimes” are severe: six months imprisonment, a fine of 3,750 Euros and the suspension of a person’s driving license for a period up to three years.¹⁶² In addition, any vehicles used to carry out the act of illegal halting (as is generally the case for Gypsies who tow their mobile homes with vehicles) can be seized and confiscated, unless the vehicles themselves constitute the person’s home.¹⁶³

¹⁶¹ Article 58 of the Security Law provides that after Article 9 of Law No. 2000-614 of 5 July 2000, an additional Article 9-1 will be inserted providing as follows: “In the municipalities that are not included in the Departmental Plan, the mayor can, by subpoena delivered to the occupants and, where appropriate, to the owner of the property or the holder of the real right to use of the land, sieze the President of the Appeal Court to order the forced eviction of the mobile homes parked on a private property not belonging to the municipality, when the parking is of such nature as to infringe upon public health, safety or peace.” Unofficial translation by the ERRC.

¹⁶² Article 53(1) and Article 53(2), Security Law.

¹⁶³ It would be illegal under French law to confiscate a mobile home that serves as a residence, thus the Deputies were obliged to limit seizures to the vehicles used for towing.

The President of the non-governmental organisation League for Human Rights (LDH), Mr Michel Tubiana, commented that: “It is the first time since the reestablishment of the Republic, that a law singles out not only a social group, but a cultural group, that it penalises for the very fact of its origins or mode of life.”¹⁶⁴ Similarly a journalist wrote in the *Monde Diplomatique* newspaper that this law creates “a crime of existence” for Travellers.¹⁶⁵

There can be little doubt that this is a racist law that specifically targets a part of the population based on their ethnic and social origin. That this law is aimed specifically at Travellers and Gypsies is obvious to the public at large and was also obvious in the public and official discussions leading up to its adoption.

In a report presented to the National Assembly on behalf of the Commission on Constitutional Laws, Legislation and General Administration of the Republic, the Deputy rapporteur Mr Christian Estrosi, in introducing these provisions, presented a brief sociological overview of Travellers in France. He briefly presented their origins, a breakdown of the major groups in France (Manouches, Gitans, Roma), and discussed their degree of “sedentarisation”. He then explained that in addition to the Gypsies another group are the Yenish who are of Germanic origin but adopted the way of life and customs of the Gypsies.¹⁶⁶

Comments made by French Minister of the Interior, Nicolas Sarkozy, during the regional election campaign of 2004 are particularly revealing of the climate that characterised discussions about this law:

... the law creating the misdemeanour of illegal occupation of public and private land by Travellers...from now on the rule will be the same for all. When your vehicle remains beyond its time on the parking metre you get a fine. Well, for my part, I do not accept that one can install

¹⁶⁴ Cited in “Mobilisation contre le durcissement des lois Sarkozy-Perben”. *Le Monde*, January 10, 2003.

¹⁶⁵ Aubry, Chantal. “Fragile statut pour les Tziganes français”. *Monde Diplomatique*, May 2003.

¹⁶⁶ Estrosi, Christian. “Rapport fait au nom de la Commission des Lois Constitutionnelles, de la Législation et de l’Administration Générale de la République sur le projet de loi, adopté par le Sénat après déclaration d’urgence (No. 381), pour la sécurité intérieure”. National Assembly, Document No. 508, distributed December 26, 2002.

oneself in one's caravan on public or private land without the owner being able to do anything. The Republic means the respect of the right to property and, in permitting such stopping, we created the conditions for stereotyping and confrontation. But what does the word Republic mean if we are afraid to go home, if our land is illegally occupied, when one can earn more without working?¹⁶⁷

The insinuations about Travellers being delinquents were not lost on the audience. It broke into applause.

Surprisingly, despite the thinly veiled racist nature of this law and blatant violation of human rights it implies, France's Constitutional Council (Conseil Constitutionnel) ruled that these provisions of the Security Law do not violate the French Constitution. It found that the legislator did not commit a manifest error in balancing the interest of preventing interference with private property and public order against the exercise of constitutionally protected freedoms. It also found there to be no obvious lack of proportion between the offences stipulated in the law and the sanctions established. The Constitutional Council therefore decided that it should not substitute its judgement for that of the legislator.¹⁶⁸

According to Patrick Devedjian, Minister Delegated to Local Freedoms, as of December 3, 2003, 428 persons had appeared before the Courts due to the provisions of this Law, and more than 45 persons were placed in detention, one of whom was found guilty. Furthermore more than 10 vehicles were seized in three Departments.¹⁶⁹

¹⁶⁷ Speech aired in a television documentary presented on French TV station Canal Plus. Catuogno, Pascal, Jérôme Pin, and Steve Bauman. "Gens du voyage: la répression et l'absurde". Canal Plus, aired on May 10, 2004.

¹⁶⁸ See particularly paragraphs 70-72 of *Décision no. 2003-467 DC-13 mars 2003 – Loi pour la sécurité intérieure*.

¹⁶⁹ Minister Devedjian provided these figures in response to a comment by the Deputy mayor of Merignac, Michel Sainte-Marie, noting that the law was being applied in too restrictive a manner. Reported on Maire Info website at: <http://www.maire-info.com/fonction/envoyer.asp?param=37163>, December 2003.

Borloo Law

Passing almost unnoticed in the press, another law adopted on 1 August 2003, makes a list of twenty-eight¹⁷⁰ French cities with less than 20,000 inhabitants completely off-limits for Gypsies and Travellers to halt. These are cities in which at least half of the population lives in areas qualified as “sensitive urban zones” (ZUS).¹⁷¹ Article 15 of Law no. 2003-710 of 1 August 2003 on the “Orientation and Planning of Municipalities and Urban Renovation” (hereinafter “Borloo Law”) frees these cities from their obligations under the Besson Law.¹⁷² This means that they will not have to create a halting area for caravans to reside in the municipality, regardless of whether these are municipalities where Gypsies and Travellers generally stay for professional, family, medical or any other reasons. In addition, this means that these municipalities will immediately be able to apply all of the penal provisions of the Security Law. Many of these large French cities are, in fact, cities in which many generations of Gypsies and Travellers have always resided, and where they have family, social and professional ties.

The urban zones covered by this law are in essence urban ghettos, seen as particularly volatile, problematic and burdensome. Excluding these cities from any responsibilities to host Travellers is thus justified as a means of keeping out a population that will exacerbate tensions in an already delicate situation. This reasoning reveals in a stark manner the perception that where there are Travellers, there are problems and tensions with residents. And even more it reveals the proposed solution – keep out and exclude Travellers and Gypsies.

The overall tone of the Senate discussions over this law is captured by these comments by Senator Braye:

¹⁷⁰ This figure was provided by Minister Jean-Louis Borloo, ‘Minister delegated to the City’ during the Senate debate on the Law, July 23, 2003.

¹⁷¹ ZUS are defined in the law as zones characterised by the presence of significant groupings or neighbourhoods with low-quality housing and a marked imbalance between housing and employment.

¹⁷² “Municipalities with a population of less than 20 000, half of which live in a sensitive urban area as defined by paragraph 3 of article 42 of law no. 95-115 of 4 February 1995 on the Direction for the Planning and Development of the Territory, are excluded at their request from the scope of application of the provisions of law no. 2000-614 of 5 July 2000 relating to the welcome and housing of Travellers and particularly the obligation set out under Article 2 of this law.” Article 15, Borloo Law. Unofficial translation by the ERRC.

...in small cities, confrontations between Travellers and difficult populations are much more direct (Protests on the benches of the C.R.C.¹⁷³ group), ... in small cities we can no longer contain these excesses of violence. The population in difficult neighbourhoods suffers from it... The Travellers, it needs to be acknowledged, exercise the practice of 'the fait accompli', without any respect for the law. Our communist colleagues say that this is about difficult human problems. We would do better to make those people submit to more frequent fiscal controls and to teach them to respect the law. Because this situation creates tensions within our populations, who do not understand that the same law can be applied in two different ways. These people own cars, caravans equipped with dishwashers, washing machines and many other things. So, obviously we have to avoid bringing these populations into contact with each other. This is what explains why we want to exempt cities with less than 20 000 inhabitants from the scope of application of the law of 2000.¹⁷⁴

It is ironic and particularly revealing that this serious violation of the housing rights and freedom of movement of French Travellers and Gypsies occurs in the context of a law that is aimed at addressing social inequalities by renovating and improving the housing situation of those whose living conditions are particularly poor, and who find themselves marginalised and excluded from French society. Not only are Travellers and Gypsies invisible in urban planning, but they are in fact singled out for negative treatment.

This paradox was pointed out in the Senate debates with respect to this Article of the Law, by Mr Jean-Yves Mano, one of five members of the socialist group that presented an amendment for its deletion:

... What does it involve? Certainly, we are addressing a subject that is without a doubt sensitive: the place of Travellers in our country. If we start, through the policy of urban renovation, to accept the disappearance

¹⁷³ Republican Communist and Citizens Group (Groupe Communiste Républicain et Citoyen).

¹⁷⁴ Session of French Senate, July 23, 2003, discussion on Article 12 bis, on the internet at: <http://www.senat.fr/seances/s200307/s20030723/s20030723004.html>.

of spaces made available to Travellers, we turn them into the excluded amongst the excluded. Where then is their place in our society?¹⁷⁵

The non-governmental association Regards issued a press release with respect to this law commenting that: “The gap opened up by this targeted law is unqualifiable and will once again impact negatively on the collective imaginary that is already hostile to us... We are witnessing the legalisation, an updating to the tastes of the day, of the notion of *persona non grata*, which itself only applies to common delinquents.”¹⁷⁶

5.1.2 Territory Factually Off-Limits for Gypsies

In fact, the available spaces for Gypsies to stop their mobile homes for shorter or longer periods are considerably fewer than even these legal restrictions would indicate. In reality, it is not just parts of the territory that seem to be off-limits for Gypsies to reside, but almost all of the territory, except areas that are particularly unhealthy or out of sight. Families find themselves constantly evicted from places they halt, sometimes forced to drive for days before they are able to stop somewhere, and then these sites are often far from the place they need to be. Furthermore, those few sites where families are able to halt are generally far below standards of decency and often expose Gypsies and Travellers to severe environmental health hazards due to their close proximity to dumpsites, hazardous waste areas or areas in use by heavy industry.

In addition to violating their right to adequate housing and freedom of movement, this situation brings about severe interference with the right to respect for private and family life and home guaranteed by Article 8 of the European Convention on Human Rights. For instance, being unable to halt somewhere may mean being unable to visit friends and family, being unable to be near someone who is ill, or being unable to attend a wedding. Adding to the health risks posed by environmental hazards, this situation causes considerable emotional and psychological stress also harming individuals’ health. The inability to stop in a given municipality or area also interferes with work possibilities where such a stay is necessary for economic activities. And evidently it interferes with children’s education as well.

¹⁷⁵ Ibid.

¹⁷⁶ Regards, Press Release, 1 August 2003.

The Cycle of Forced Evictions

Travelling throughout France, the ERRC was alarmed at the number of Gypsies and Travellers living in a state of considerable instability – constantly evicted from place to place.¹⁷⁷ The ERRC visited a number of large cities, including Paris, Bordeaux, Lyon, Toulouse, and Marseille. In all of the cities the situation was the

¹⁷⁷ While Gypsies and Travellers might only occupy land for temporary periods, this land constitutes an essential element of their residence during these periods. Each eviction, while not removing families' shelter, removes the necessary environmental conditions and utilities for them to utilise their caravans as a home. The eviction of mobile homes from a site thus constitutes a forced eviction interfering with the right to adequate housing.

The most authoritative statement on the issue of forced evictions is to be found in United Nations Committee on Economic, Social and Cultural Rights (CESCR) General Comment No. 7 "The right to adequate housing (Art.11.1): forced evictions. 20/05/97."

According to paragraph 3 of the General Comment, "the term 'forced evictions'... is defined as the permanent or temporary removal against their will of individuals, families and/or communities from their homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection."

In its paragraph 4 the Comment recognises the interrelationship and interdependency which exist among all human rights, and that forced evictions therefore frequently violate other human rights. It states that: "...while manifestly breaching the rights enshrined in the Covenant, the practice of forced evictions may also result in violations of civil and political rights, such as the right to life, the right to security of the person, the right to non-interference with privacy, family and home and the right to the peaceful enjoyment of possessions."

Paragraph 10 of the Comment notes that: "Women, children, youth, older persons, indigenous people, ethnic and other minorities, and other vulnerable individuals and groups all suffer disproportionately from the practice of forced eviction. ... The non-discrimination provisions of articles 2.2 and 3 of the Covenant impose an additional obligation upon Governments to ensure that, where evictions do occur, appropriate measures are taken to ensure that no form of discrimination is involved."

Furthermore paragraph 13 provides that: "States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force. Legal remedies or procedures should be provided to those who are affected by eviction orders..."

Paragraph 14 adds that: "In cases where an eviction is considered to be justified, it should be carried out in strict compliance with the relevant provisions of international human rights law and in accordance with general principles of reasonableness and proportionality..."

same: hundreds of families “travel” around the outskirts of the city and nearby towns searching for some place to stop.

On the whole, municipalities have not applied the provisions of the Besson law that require them to create halting areas. It is generally agreed that there has been no noticeable increase in places since the Besson Law was adopted in July 2000. Official estimates from March 2005 put the number of existing places at around 20% of the required number, that is approximately 7000, of the 35,000 that are the minimum believed to be required.¹⁷⁸ According to Joseph Charpentier, President of the non-governmental organisation S.O.S. Gens du Voyage, of these places 3,000 are in inappropriate locations (such as near garbage dumps). He told the ERRC that he is not sure that there are even 2,000 places that meet the norms.¹⁷⁹ Ms Sylvette Saint-Julien, Secretary of the National Consultative Commission of Travellers (not functioning at present) told the ERRC in July of 2004 that there were only around 3,500 of the 35,000 places necessary that could in fact be considered as appropriate for halting; the rest did not meet standards.¹⁸⁰

In fact, most municipalities seem to have read the Besson Law in a highly selective manner, noticing primarily Article 9, along with the restrictions in the Security Law. Municipal officials therefore believe that they are entitled to invest considerable efforts into preventing Gypsies and Travellers from halting in their municipalities, while not establishing any halting areas. Thus, despite their own non-compliance with their obligations

Finally, paragraph 16 adds that “Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.”

The approach set out in the Comment is “reinforced by article 17.1 of the ICCPR, which complements the right not to be forcefully evicted without adequate protection. That provision recognizes, *inter alia*, the right to be protected against “arbitrary or unlawful interference” with one’s home. It is to be noted that the State’s obligation to ensure respect for this right is not qualified by considerations relating to its available resources.” (paragraph 8, General Comment). CESCR, “General Comment 7 on the Right to Housing (Art 11(1) of the Covenant): forced evictions”, available at: [http://www.unhchr.ch/tbs/doc.nsf/\(symbol\)/CESCR+General+Comment+7.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(symbol)/CESCR+General+Comment+7.En?OpenDocument).

¹⁷⁸ ERRC telephone interview with Ms Sylvette Saint-Julien, March 15, 2005, Paris.

¹⁷⁹ ERRC interview with Mr Joseph Charpentier, October 19, 2004, Drancy.

¹⁸⁰ ERRC interview with Ms Sylvette Saint-Julien, July 20, 2004, Paris.

to develop an area for Gypsies and Travellers to stop, they nonetheless forcibly evict Gypsies and Travellers who halt in their municipalities, sometimes violently. The State representatives are also generally willing to lend their support to these efforts, by authorising the police to carry out the evictions. The police sometimes also undertake to keep out Gypsies and Travellers through engaging in “preventive actions” such as blocking the path of caravans, or by escorting them to the limit of the municipality and effectively expelling them to the next town.

Despite this situation, the press and local officials continue to present Gypsies and Travellers as guilty of illegal stopping, “invading” municipalities, and disturbing the peace and well-being of residents. Thus, anti-Gypsyism is commonplace in the public sphere and sometimes municipal residents take it upon themselves to take action to kick out Gypsy families that have managed to stop in their towns.

The case of Ms M.D. is typical. She lives together with approximately 15 family members in four caravans. Among her family members are her 85-year old father Mi.D., who has a very serious illness for which he needs to take regular medication and follow ongoing treatment;¹⁸¹ her 33 year-old handicapped nephew, who is deaf and in a wheelchair subsequent to being burnt; and her 5-year old niece, who had a heart operation and is waiting for a transplant. The group “travels” around Lyon, where the family has lived for many generations in three mobile homes.¹⁸² Ms M.D. herself has lived in a truck since 2003. She explained to the ERRC that her mobile home was destroyed in a fire, and the insurance company refused to reimburse her as she did not have a fixed address (she is domiciled at a non-governmental organisation).¹⁸³

¹⁸¹ At Ms M.D.’s request, the ERRC cannot specify the name of the illness.

¹⁸² According to the assessment carried out between October 2000 and June 2001 that formed the basis of the Rhône Departmental Plan, between 830 and 990 mobile homes regularly halt in the Greater Lyon area, and between 1,800 and 1,900 in the Department. This does not include families that are classified as ‘sedentary’. Based on an average of 5 persons per mobile home (widely agreed to be a realistic estimate) this means that there are 4,150 and 4,950 persons that ‘travel’ around the Greater Lyon area looking for places to reside, and between 9,000 and 9,500 that do so in the Department. Préfecture du Rhône. Schéma Départemental d’Accueil des Gens du Voyage du Rhône, p. 9. April 2003; Préfecture du Rhône. Schéma Départemental d’Accueil des Gens du Voyage du Rhône Annexes, pp.13-19. April 2003.

¹⁸³ At the time of writing M.D. had an ongoing court case against the insurance company to attempt to be reimbursed for the loss of her caravan. She had paid fees to the insurance company for 15 years, and believed her coverage to include precisely such circumstances.

Throughout 2003 and 2004, the group did not manage to stay more than 3 or 4 days in one spot before being forcibly evicted. Sometimes they had to try 3 or 4 spots a day before being able to halt somewhere. Ms M.D. told the ERRC that apart from the difficulty in living without even basic amenities (such as water and electricity), the need to always look for a new place to halt makes it nearly impossible to work. And then the stress has a serious impact on their health. She described a day in March 2004:

We were parked in the municipality of Bron. It was on a Sunday, in the middle of the afternoon. We were chased out of the municipality by ten gendarmes' cars. We were three mobile homes at the time. We were parked behind the auction ground next to a wall. No water. No electricity. It was a place where there was garbage – even dirty needles lying around and beer cans. They came in the afternoon to chase us away. They made us hook up our mobile homes immediately. We said that we had someone handicapped with us, sick, etc. – they said, 'The law is the law'. They told us to 'Go home to your country.' I said, 'This is our country; we are French'. They said 'Shut up'. They even said that Hitler did not finish his work. They were about a dozen gendarmes. They had truncheons.

The gendarmes' cars chased us to the limit of Bron. We found a spot to stop on a parking lot in Décines, a neighbouring municipality in the evening. It was 7.00 PM. There was nowhere else to stop. My father and niece were exhausted. Then three truckloads of police arrived. They forbid us to get out of our vehicles. They said, 'You have to leave, you have to leave'. I said that my father needed to take his medication and that my niece had a sick heart and needed to rest. They said 'No. Do not get out of your vehicle – go away'. We pleaded with them. We said, 'Sir, be kind. Give us one hour.' They said 'No, we are sending other police.' Twelve more truckloads arrived. They encircled us holding their truncheons. By 7.20 we had left. We took another direction – still in Décines, but we did not realise that we were still in Décines. They blocked the road in front of us, told us to go somewhere else. Then they said 'Get out, get out, get out'. We tried to talk with them, to ask them to understand that we just need to give medication to a sick man. They simply said 'Go away'. You know where we slept? At Saint-Fons on the edge of the

road. Without electricity or anything else. It was a spot hidden from view. We left in the morning.¹⁸⁴

None of these municipalities had a halting area at the time of these events. This means that the forced evictions besides being in violation of fundamental human rights, were, in fact, illegal, under domestic French law.

Ms M.D. also described to the ERRC the difficulties that her family had in the summer of 2003, when a heatwave struck France, with the hottest period the country had experienced in 50 years. They were obliged to find a new place to reside approximately once every two days, and sometimes as often as four times a day. The family also suffered from a violent attack one night:

There were three mobile homes. Again my niece, nephew and sick father were with us. At 1:00 AM, a group of locals came. They hit our mobile homes with truncheons and electric lamps, and said ‘We will destroy your mobile homes if you do not leave’. My niece was terrified. My nephew on his wheelchair had a panic attack ... They were five. They said that they were above the police. At the time we were parked near the stadium of Chassieux. The events lasted three quarters of an hour. We had to pack up our caravans immediately, otherwise we would have been beaten. They said to us ‘do not take an hour to pack up’.

Other members of Ms M.D.’s family were similarly attacked in Chassieux at the end of August 2004. The group was composed of two men, a woman and three children (aged 7, 12 and 14). The 7-year old was seriously ill with a blood problem. They had come to visit from Nice but were not able to find the spot where M.D. was stopped. According to Ms M.D., the family stopped on the parking lot facing the post office. The gendarmes soon arrived and gave them permission to stay there for one night, until 7:00 AM. However, at 3:00 AM, four men came and told them to get out threatening that if they did not go immediately persons in another four cars parked nearby would come and assist in attacking them. The children were terrified. Ms M.D. thinks they were the same men involved in the attack the previous year.

¹⁸⁴ ERRC telephone interview with Ms M.D., September 1, 2004, Paris.

The ERRC asked Ms M.D. if the families had complained to the police about the attacks. She responded: “Do you think that they would believe us if we complained?”¹⁸⁵

More frequently than violence, residents write petitions and organise protests against groups of mobile homes stopped in their municipalities. For instance, one Traveller Mr M.R. told the ERRC in May 2004 that he had recently halted with a small group of caravans in front of the college of the town of Chantilly. He said that “about 100 women came and protested and brought tractors to block us. They shouted ‘Get out’, etc.” Chantilly is a city with about 2,500 residents that does not have an obligation to create a halting area.¹⁸⁶ The women reportedly included teachers from the school.¹⁸⁷

Relegated to Segregated, Dangerous and Unhealthy Sites

The ERRC quickly realised during its research that if it wanted to find French Gypsies, it needed to follow the signs to the local city garbage dump or sewage treatment plant. In approximately one out of every two instances, the ERRC found a group of Gypsy or Traveller families temporarily residing just next door. The only parts of French territory, outside of the very few designated halting areas where Gypsies and Travellers seem able to stop for short periods, are places others would not live, such as near the garbage dump or sewage treatment plant; in an industrial zone, especially near high risk and polluting factories; in the woods; or right beside (or at the edge of) busy freeways. Additionally, the spots are often beneath high tension wires and beside the train tracks. Mobile homes also sometimes stop for the night on the parking lots of shopping centres; however, when they do so they are generally immediately evicted in the morning. Sports stadiums are another option of last resort. Predictably, this causes furor amongst local officials and residents.

The case of Mr Daniel Winterstein is typical. Like many Gypsies and Travellers the ERRC encountered, he travels primarily around a very limited geographi-

¹⁸⁵ ERRC interview with Ms M.D., September 1, 2004.

¹⁸⁶ Municipalities not falling under the Besson Law cannot, however, completely forbid caravans from stopping. They are subject to jurisprudence according to which they have to permit stays of not less than 48 hours.

¹⁸⁷ ERRC interview with Mr M.R., May 6, 2004, Pertuis.

cal area – the Southern part of Bordeaux – with a small group of others. He considers himself a local and wishes to be able to reside with his family on a piece of land. When the ERRC met him on March 2, 2004, it asked him to describe the recent places the group had resided and the circumstances that made them leave. They were parked in an empty lot behind the now defunct Orléans train station in Bordeaux for one week before being forced to leave by the police. This is one of the few spots in Bordeaux that mobile homes manage to halt, next to a rusted, rotting old train. Then they looked for a place to halt in Bègles. The city has an official halting area, located between a river, a chocolate factory, freeway and train tracks. Residents report that the location attracts rats. A number of families remain permanently on this halting area, thus it is unavailable for short-term halts. The only place the group was able to stop in Bègles was next to a chimney that burns waste, between the highway and river. They left after 15-20 days due to health concerns as “people started scratching.” Next, they went to Canéjean for 4-5 days. The police came to expel the group, but a local Traveller, Ms R.W., had a copy of the Departmental Plan (the requirements of which the municipality had not fulfilled) and managed to contact the lieutenant. She also phoned the local Prosecutor. Meanwhile the group left as they did not want to be involved in a conflict. The group then spent the day moving from one place to another (3 places), evicted from each place they halted. In the end they spent the night in Cadaujac, in the woods on a dead end road. The police came to evict them in the morning.

Daniel Winterstein commented: “Police don’t bother to try to become familiar with the Departmental Plan. They know Article 9. They come in police (CRS)¹⁸⁸ trucks. Sometimes they come dressed as ‘robocop’ with their helmets and truncheons.”¹⁸⁹ However, not wanting to make waves as they are always at the mercy of the local police, and also lacking resources and time to constantly fight every illegal eviction, this group, like most others, simply leaves whenever the police arrive.

On May 5, 2004, the ERRC met a group of families stopped on the official halting area “Saint Menet” in Marseille that, in theory, has 45 places. However,

¹⁸⁸ The CRS (Compagnies républicaine de sécurité) are mobile police units that constitute the reserve of the national police. They are under the authority of the Minister of Interior. They have a wide number of responsibilities including: reestablishing and maintaining order; fighting small and medium scale delinquency; surveying ports, airports, borders and other links with foreign territories.

¹⁸⁹ ERRC interview with Mr Daniel Winterstein, March 2, 2004, Pessac.



Repairing makeshift electricity connection on the polluted site of the former AZF factory in Toulouse, where a nitrate ammonium explosion took place in September 2001. At the time of an ERRC visit in March 2004, hundreds of caravans were parked at this unhealthy site, with the industrial chimneys of the remaining high-risk factories looming nearby. This was the only place families were able to halt temporarily in the city without being immediately evicted by police.

PHOTO: LANNA Yael HOLLO

the site had been closed due to disrepair for many months. The halting area is in a flood zone and a zone registered as high-risk SEVESO.¹⁹⁰ It is located between two chemical factories, traintracks and a freeway. There were heaps of garbage around the entrance to the sanitary block with showers and toilets at the time of the ERRC visit in May. The showers were all closed, and there were swastikas on the building. Of the five toilets, two did not work and in one a strong stream of water sprayed out at whomever had the misfortune of flushing. The non-governmental organisation ASNIT Bouche du Rhône¹⁹¹ told the ERRC that it had received anonymous phone calls from various Travellers complaining of the dirt at the halting area, and especially of rats and worms. Families pay 35 Euros a week per mobile home to halt at the site. The halting area appears somewhat reminiscent of a detention camp, with a two-storey concrete building with bars on the windows and cameras on the roof. Several Travellers told the ERRC that the former manager used to patrol the site with big dogs.¹⁹²

Mr V.C. told the ERRC that they were there because there was nowhere else to go. “All winter we were harassed wherever we stopped,” he said. The ERRC asked the places the families had been over the last few weeks. “First we were in Cannes. We found an empty field and first went in with only our cars. We had barely arrived and the police were already on top of us. It was like this for two days continually in Cannes. We continued on to Antibes. We had permission to halt on a piece of land from the owner himself. The police came every day to tell us “we will chase you out.” Eventually they did, at 6.00 AM one morning the police came and we had to leave within the hour, despite the owner’s permission. So we went to Palmosa – it’s the designated halting area, but it is closed for repairs that are not being done. We called the League for Human Rights. They came and we managed to arrange to stay for one month. Then we came here. In

¹⁹⁰ SEVESO are zones in which there are industrial installations that are high-risk according to the standards of European Council Directive 82/501/EEC on the major-accident hazards of certain industrial activities, O.J. No. L 230 of 5 August 1982 – so-called Seveso Directive. These high-risk industries include chemical plants, refineries, storage of toxic products or liquid gas, liable to cause fires, explosions or the release of toxic gas.

¹⁹¹ Association Sociale Nationale Internationale Tzigane, this association is linked with the Gypsy Evangelist movement *Vie et Lumière*.

¹⁹² ERRC interview with Ms Karine Moreau, May 4, 2004, Marseille.

a few days we will go to Paris. We will face the same problem again. We cannot stay even on a campsite. They do not accept us.”¹⁹³

In order to illustrate the degree of difficulties Travellers and Gypsies face in halting anywhere, Mr Robert Zigler, President of Goutte d’Eau told the ERRC: “Even when I parked on a ‘garbage dump’, the police came and gave me a fine for illegal parking... I said the garbage is accepted, but not me...”¹⁹⁴

According to Goutte d’Eau, there are approximately 500-600 mobile homes (between 2,500-3,000 persons) that travel around Toulouse in need of places to reside.¹⁹⁵ The Departmental Plan sets out a lower estimate and indicates that 260 places are required in Toulouse. At the time of an ERRC visit to Toulouse in March 2004, there was a severe shortage of available places with only 60 designated spots available for temporary halts.¹⁹⁶ The only other place in the city that mobile homes were able to stay without being immediately evicted was on an empty lot that used to be the site of the previous AZF factory. This factory was the scene of a nitrate ammonium explosion on September 21, 2001, killing 30 persons, injuring 2,500 and destroying neighbouring buildings within a radius of 700 metres. The site remains polluted and presents serious health risks. Driving along one of the freeways that surround this disaffected site, one could see hundreds of caravans parked between the holes in the surface and piles of garbage, with the industrial chimneys of the remaining high risk factories looming just behind them. When the ERRC visited the site on March 9, 2004, a number of children on the site had colds as well as small red spots on their skin that had apparently only appeared since they had been on this site.

The following day, March 10, 2004, when the ERRC visited a neighbouring parking lot where approximately 20 caravans were parked just under a bridge from the AZF site, at a distance of about 40 metres away, four police motorcycles followed immediately behind. The police wandered around the site, saying nothing to any of the residents, simply noting down the license plate number of every vehicle

¹⁹³ ERRC interview with Mr V.C., May 5, 2004, Marseille.

¹⁹⁴ ERRC interview with Mr Robert Zigler, March 6, Toulouse.

¹⁹⁵ ERRC interview with Mr Frédéric Lievy, March 5, 2004, Toulouse.

¹⁹⁶ ERRC interview with Mr Frédéric Lievy, March 5, 2004, Toulouse.



Anti-caravan landscaping – a trench dug to prevent caravan access to an unused field in an industrial zone in Givors.

PHOTO: LANNA Yael HOLLO

stopped there. The residents informed the ERRC that this meant that they would soon be evicted. The ERRC asked a police officer the reason that they were writing down the license plate numbers. He responded that he did not know, that these were the orders. He then said that the caravans were on private property.

Preventive Action: Anti-caravan Landscaping

Many municipalities avoid the need to evict Travellers and Gypsies by preventing them from halting in the first place. In order to do so, municipalities across the country have developed a new form of urban architecture designed to make it impossible for caravans to enter sites on which they have previously halted or seem likely to halt, such as barren fields or empty industrial lots. Municipalities block or surround such sites with various obstacles including boulders, cement posts, mounds of mud, trenches, and metal gates. Sometimes they plough entire fields. The ERRC noticed such obstacles in every part of the country that it visited.

The area surrounding EuroDisney is a particularly barricaded location. There are quite a few empty fields in the neighbouring area. All of them have been surrounded by rows of boulders or trenches that run the entire length of the field. Like the moats and castle walls used in former times to keep out enemies, these obstacles are designed to keep out “invading” caravans. EuroDisney is located in the Department of Seine-et-Marne, an area in which Gypsies have traditionally resided for longer and shorter periods.¹⁹⁷

According to Mr Francois Lacroix, Director of the non-governmental organisation, Departmental Association of Travellers of Essonne¹⁹⁸ (ADGV), in Essonne, large cement hedgehogs and ladybirds sometimes serve as anti-caravan obstacles.¹⁹⁹

In a documentary aired on the program “90 minutes”, the TV station Canal Plus filmed some sites in Mandelieu-la-Napoule landscaped with mounds of earth, cement blocks and trenches in order to prevent the entry of Travellers. One image showed an empty field in an industrial zone where Travellers had previ-

¹⁹⁷ The Departmental Plan for Seine et Marne estimates that 988 places are needed.

¹⁹⁸ Association Départementale Gens du Voyage de l'Essonne.

¹⁹⁹ ERRC interview with Mr Francois Lacroix, February 6, 2004, Evry.

ously halted. A trench dug by a bulldozer ran along the length of the field blocking access from the street and a surveillance camera watched over the site.²⁰⁰

Municipalities spend considerable resources on these barriers. For instance, in a letter to the residents of the municipality of Berre-l'Étang entitled "The Parking of Travellers: an Embarrassment and a Scandal for the Republic", dated February 2004, the mayor informed residents that:

... in order to avoid any further and unacceptable annoyances to the whole of our population, each time these people left, I proceeded to protect the access to municipal land, especially in the zone of 'Flory', but also around the SNCF train station and the former air and naval base. These protective works cost the municipality more than 40 000 Euros. They involved the installation of boulders, mounds of earth, barriers placed at a certain height, furrowing or even plowing the land at sites.²⁰¹

Camping Sites Off-limits to Gypsies

Gypsies and Travellers also find themselves forbidden entry to the majority of the nearly 11,000 camping sites in France.²⁰² Most sites no longer openly say that they are off-limits to Gypsies. Instead, their rules indicate that they do not permit "double axel" caravans. These are the larger caravans generally used by Gypsies and Travellers. This rule is clearly indicated in the rules of many camping sites across the country.

The ERRC encountered many Gypsies who had been refused entry to camping sites. For instance, Mr Bosson, a Traveller whom the ERRC encountered at the official stopping area of Meaux in the Department of Seine-et-Marne, told the ERRC: "They do not

²⁰⁰ Catuogno, Pascal, Jérôme Pin, and Steve Bauman. "Gens du voyage: la répression et l'absurde". Canal Plus, aired on May 10, 2004.

²⁰¹ Andreoni, Serge. "Le stationnement des gens du voyage: une honte et un scandale pour la République", La Lettre de l'hôtel de ville, February 2004 in Dossier Presse, Association Rencontres Tsiganes, March 16, 2004.

²⁰² According to the website of the French Federation of Camping and Caravaning (Fédération française de camping et de caravaning), in 2002 there were 10,916 camping sites.

accept us anywhere in the camping sites. They say that they do not accept caravans with two axels. But these rules are made to keep away Gypsies. When it is someone else, even a caravan with two axels is accepted. At the camping site of Trilport they told me ‘we don’t want Gypsies, it will bother the other campers.’²⁰³ Another group the ERRC encountered in Pomponne said that in 2003 they had taken one month’s vacation and not a single camping site would accept them. This was in the Bordeaux area. At the end of the season, they managed to enter a camping site near the city of Rouen as a relative of theirs knew the owner. The group stressed that they travel all over France and in nearly all localities they have been forbidden access to campsites.²⁰⁴

At a camping site in the town of Pertuis, Department of Vaucluse, the ERRC inquired about reserving a place in the camping site with a double axel caravan. The ERRC’s conversation with the woman at the reception desk was as follows:

ERRC: “Do you rent spaces to all types of caravans?”

Reception: “No, not to those that are double axel or very large.”

ERRC: “So, if I rent a double axel caravan, I cannot come here?”

Reception: “No.” She explained the rule showing a paper with the official regulations and highlighting the part indicating that rental is forbidden for double axel caravans. She then continued looking uncomfortable: “It is delicate to explain. Maybe if you rent, yes.”

ERRC: “Why?”

Reception: “It is delicate to explain – normally it is the Travellers who have those caravans. If you rent that kind of caravan, you won’t enter into any camping sites... you will even have problems parking at the side of the road.”

ERRC: “Why not the Travellers?”

Reception: “They are many in one caravan; they make a lot of noise. The other families would not want them here. It is true, it is very delicate. One would say a crime of physical appearance ... and, I am saying this, with my appearance.²⁰⁵ I just discussed this issue with my director this morning. But, we do not have a

²⁰³ ERRC interview with Mr Bosson, February 10, 2004, Meaux.

²⁰⁴ ERRC interview with L.W., 13 April 2004, Pomponne.

²⁰⁵ She was referring to her North African appearance.

choice. If we take them, the others will not want them. It is racism. I heard that they were before the Courts with this issue. I think it is a good thing. If they win, we could admit them. I think we would have to reserve a part of the camping site for them.”

ERRC: “And if I rent a double axel caravan I could not rent a place here?”

Reception: “But there are always exceptions to the rules, you know that... Maybe I am naive to speak with you. You could be the wife of a Traveller...”

ERRC: “Does it make you uncomfortable?”

Reception: “Yes, of course. It is me that has to say ‘no’ – and with my appearance. Normally I would have simply said to you – ‘no, Madam, those are the rules,’ without any explanation.”²⁰⁶

5.2 The Failure of French Courts to Consistently Uphold the Rights of Travellers and Gypsies

The vulnerability of Travellers and Gypsies to illegal evictions is exacerbated by the inconsistent track record of French Courts in ensuring that Travellers’ and Gypsies’ basic rights are respected.

Although no comprehensive study has been carried out into this matter, empirical data gathered by the ERRC in the course of research toward this Country Report indicates that French Courts rule inconsistently in cases where municipalities carry out evictions despite their own failure to fulfil their legal obligations to provide places for Travellers and Gypsies to halt. Many Courts uphold the rights of Gypsies and Travellers to halt at unauthorised locations when the municipalities are not themselves in compliance with the Besson Law. However, other Courts rule in favour of municipalities even when they carry out evictions that seem to be in direct violation of the provisions of the Besson Law and the basic human rights of Travellers and Gypsies.

The contradictory decisions of the First Instance Court of Marseille (Tribunal de Grande Instance de Marseille) and of the First Instance Court of Aix-en-Pro-

²⁰⁶ ERRC visit to campsite, 6 May 2004, Pertuis.

vence (Tribunal de Grande Instance d’Aix-en-Provence) in two such cases are illustrative. Both cases concerned groups of families that had been evicted from unauthorised sites where they had halted their caravans in cities that had not fulfilled their obligations under the Besson Law (Marseille and Vitrolles). In the case before the First Instance Court of Aix-en-Provence the eviction was also carried out in an abusive manner.²⁰⁷

The First Instance Court of Marseille found in favour of the Travellers, judging that “the illicit occupation came about as a result of the failure of the city of Marseille to conform to the law relating to the halting of Travellers combined with its incompetence in managing the consequences of this deficiency.”²⁰⁸

The First Instance Court of Aix-en-Provence, on the other hand, found in favour of the city of Vitrolles. It reasoned that as almost all of the municipalities in the Department of Bouches-du-Rhône had failed to fulfil their legal obligations to create halting areas, the burden of hosting Travellers on its property should not be shouldered only by the municipality of Vitrolles. The Court stated: “if this shortage [of halting areas] interferes with the right of Travellers to come and go and to reside under normal conditions, this does not mean that the municipality of Vitrolles should alone bear an ongoing violation of its property rights due to prolonged parking.”²⁰⁹ This reasoning fails to take into account the fact that Travellers and Gypsies attempt to halt throughout the Department, and not only on the property of the municipality of Vitrolles. In effect, this judgement implies that since the majority of municipalities have failed to meet their legal obligations under the Besson Law, none should be obliged to permit Travellers to halt on their territory. The Court also ordered the Travellers involved to pay the expenses of both parties.

²⁰⁷ At around 6.00 AM on February 12, 2004, police raided the site where families were halted near Vitrolles, waking Travellers by hitting their caravans with truncheons. All residents - women, children and men - were ordered out of their caravans and into the cold, foggy morning without being allowed to dress themselves. Police verbally insulted residents during the eviction and damaged their property.

²⁰⁸ Judgement of the First Instance Court of Marseille, June 24, 2002. Unofficial translation by the ERRC.

²⁰⁹ Judgement of the First Instance Court of Aix-en-Provence, April 13, 2004. Unofficial translation by the ERRC.

Judgements such as the ruling cited above by the First Instance Court of Aix-en-Provence call into question the value placed by Courts upon the basic dignity and rights of Travellers and Gypsies. The failure of Courts to consistently uphold the rights of Travellers and Gypsies when municipalities act in an illegal manner also plays a role in perpetuating illegal evictions. News of judgements such as this ruling of the First Instance Court of Aix-en-Provence discourages Travellers and Gypsies from turning to the Courts. They cannot be sure that a costly and time-consuming judicial procedure will be resolved in their favour, even when municipalities and the police seem to have acted in clear violation of the law. Municipalities and the police are evidently aware that the chances are slight that Travellers and Gypsies will go to the Courts. They are also aware that the Courts may rule in their favour even when they act in an illegal and abusive manner. Thus Travellers and Gypsies continue to experience eviction after eviction, and most simply move on, even when they believe that municipalities and the police acted illegally.

Furthermore, Travellers' and Gypsies' basic right to a fair hearing, including an adversarial procedure, is frequently infringed by the "request procedure" utilised to order their eviction.²¹⁰ The request procedure is a non-adversarial procedure whereby a judge may issue a decision without hearing the other party, and may order all urgent measures necessary.²¹¹ When this procedure is used to order an eviction, Travellers and Gypsies have no opportunity to be heard by a Court, are not informed of the decision, and are therefore not even informed of the upcoming eviction until the police turn up to carry it out.²¹²

²¹⁰ Article 6(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms provides that: "In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law." This right includes the right to have an adversarial trial. In the case of evictions of Travellers by public authorities, although the actions of public officials are at issue, civil rights are clearly at stake as the action of public officials effects a range of basic civil rights of a personal and economic nature. An eviction order that is based upon a non-adversarial procedure therefore violates Travellers and Gypsies right to a fair trial.

²¹¹ The Court of First Instance of Aix-en-Provence stated that: "According to the terms of Articles 493 and 812 of the New Code of Civil Procedure, a judicial request order is a decision rendered in a non-adversarial manner in situations in which the complainant is justified in not calling before the Courts the other party." Judgment of First Instance Court of Aix-en-Provence, April 13, 2004.

²¹² A number of international law provisions require that governments ensure procedural protection for victims of forced evictions as well as access to legal remedy and compensation and/or alternative accommodation for those with respect to whom forced evictions have been applied.

The issue of whether a request procedure was justified as a basis for ordering the eviction of Travellers who had halted at an unauthorised site was raised before the First Instance Courts of Marseille and of Aix-en-Provence in the cases discussed above. The eviction orders in both cases had been based upon a request procedure in which those concerned were not individually named and had no opportunity to be heard. The First Instance Court of Aix-en-Provence ruled that the request procedure was in fact justified due to urgency, stating that "... this occupation of private property constitutes, in the meaning of article 809 of the New Code of Civil Procedure, a manifestly illicit nuisance thus allowing the municipality to invoke urgency and, given the number of occupants and the material difficulties in identifying each, to solicit their eviction without their prior judicial summons."²¹³

General Comment No. 7 of the CESCR specifies the minimum procedural guarantees in cases of forced evictions, including inter alia, "(b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; [...] (g) provision of legal remedies." Paragraph 16 states that, "Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available." (paragraph 17) (CESCR. "General Comment 7, Sixteenth Session, 1997, "The right to adequate housing (Art.11.1): forced evictions: 20/05/97")

In General Comment No. 4 of the CESCR, the Committee on Economic and Social Rights Social expresses its view that "many component elements of the right to adequate housing [are] at least consistent with the provision of domestic legal remedies. Depending on the legal system, such areas might include, but are not limited to: (a) legal appeals aimed at preventing planned evictions or demolitions through the issuance of court-ordered injunctions; (b) legal procedures seeking compensation following an illegal eviction; (c) complaints against illegal actions carried out or supported by landlords (whether public or private) in relation to rent levels, dwelling maintenance, and racial or other forms of discrimination; (d) allegations of any form of discrimination in the allocation and availability of access to housing; and (e) complaints against landlords concerning unhealthy or inadequate housing conditions. In some legal systems it would also be appropriate to explore the possibility of facilitating class action suits in situations involving significantly increased levels of homelessness."(CESCR. "General Comment No. 4 (1991), The Right to Adequate Housing (Art 11(1) of the Covenant), available at : [http://www.unhchr.ch/tbs/doc.nsf/\(symbol\)/CESCR+General+comment+4.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(symbol)/CESCR+General+comment+4.En?OpenDocument).

²¹³ Judgement of First Instance Court of Aix-en-Provence, April 13, 2004.

The First Instance Court of Marseille on the other hand found the eviction order in question to violate the basic Constitutional principle of the separation of powers and also the respect for the adversarial nature of French procedure. The Court furthermore ruled that urgency is not one of the conditions that justifies a request procedure, as an hour-by-hour referee procedure (which is adversarial in nature) exists for such cases. In its ruling, the First Instance Court of Marseille also remarked that an “immediate eviction with the co-operation of the forces of public order is traumatic and likely to generate incomprehension, resentment, a feeling of revolt, even of violence, which are all disorders far greater and far more pernicious than the occupation, certainly illegitimate, of the property of another when it is vacant.”²¹⁴

Once again, the differences between these Courts are reflective of the different positions that Courts in different departments continue to adopt. Thus, while certain Courts recognise that a procedure where the families are not named and have no chance to be heard before being evicted violates their basic right to a fair trial, other Courts appear to find this procedure to be justified in the case of Travellers halted at unauthorised sites.

Travellers and Gypsies right to a fair hearing is also violated by practices of certain bailiffs who fail to deliver to them their summons to attend a hearing. The non-governmental associations *Rencontres* and the League for Human Rights in the Bouches-du-Rhône, informed the ERRC that they have documented at least twenty five cases over a two-year period (2002-2003) where bailiffs did not inform Travellers and Gypsies that they had been summoned to appear before the Court. Evidently, when they do not receive their Court summons, Travellers and Gypsies do not present themselves at the Court on the day of their hearing. Judges believe that they were notified, but simply did not come. The President of the First Instance Court of Aix en Provence informed the League for Human Rights that in a case concerning the municipality of Marignane, he had refused a request procedure and instead proceeded using a referee procedure as he had wanted to hear the Travellers. They were apparently summoned but did not turn up. However, representatives of *Rencontres* and the League for Human Rights who were in contact with the persons concerned do not believe that they were informed.²¹⁵

²¹⁴ Judgement of First Instance Court of Marseille, June 24, 2004.

²¹⁵ ERRC participation in meeting of *Recontres*, May 7, 2004, Marseille. Information provided at meeting by Mr Marc Durand and Mr Alain Fourest.

Mr Alain Fourest, President of Rencontres, told the ERRC: “The bailiff simply says he went and no one was there, or that he could not find where they were halted. The bailiff’s obligation is then to deposit a notice at the city hall that should then find those concerned and deliver the notice. There is an obvious problem of a conflict-of-interest when the municipality is the other party in the case.”²¹⁶

5.3 Discrimination and Eviction of Travellers and Gypsies Who Buy Land

The vast majority of Gypsies and Travellers that the ERRC met on official halting areas, or residing temporarily wherever they were able to find space, expressed the desire to buy a piece of land of their own where they can live peacefully in their mobile homes. Many said they wanted a place that is theirs, where they can reside for periods and to which they can return when they travel, without worrying about the next dawn forced eviction. However, to the great frustration of a large number of families, they find that they encounter considerable difficulties in buying a piece of land, and, when they manage, they still frequently do not live in peace. They continue to suffer from forced evictions and harassment by local officials or residents. They also frequently continue to live in substandard conditions – often without water and electricity. Municipalities no more want Gypsies who are property owners on their territory, than they want Gypsies who pass through.

When they wish to become property owners, Gypsies and Travellers suffer from a hypocritical paradox created by the inconsistent and racist approach to equality of the French State. While on the one hand laws and policies make it increasingly difficult for Gypsies to continue travelling, on the other hand, when they wish to settle in a community, regulations and municipal actions are designed so as to make this nearly impossible as well.

The specific housing needs of Gypsies are completely ignored by the many laws and policies regulating land use, urban planning, and access to the public infrastructure (sewage, water, electricity, etc.). These laws are presented as “the same for all”. However due to the fact that the way of life and particular needs of Gypsies and

²¹⁶ ERRC interview with Mr Alain Fourest, May 7, 2004, Marseille.

Travellers are not taken into consideration, these laws have a disproportionately negative impact upon them.²¹⁷ The result is that there is no place for Travellers and Gypsies within municipalities. This problem is aggravated by the fact that caravans are generally not treated as a form of permanent housing, but instead as a form of transport. Thus, even when they manage to buy land, almost as a rule, Gypsies and Travellers continue to find themselves in violation of French laws.

And, once again, their situation is exacerbated by the fact that when it is to their disadvantage, the Gypsies continue to be singled out for unequal and negative treatment. Thus, various local laws and policies actually designate large amounts of territory as off-limits to caravans, even on private property, and place highly restrictive conditions on the possibilities for Gypsies to use their land.

The combined effect of various rules and regulations affecting the possibilities for Gypsies and Travellers to live on private land in decent conditions results in violations of their right to housing as well as their right to non-interference in their private life, family life, and home often amount to severe violations of Article 8 of the ECHR.²¹⁸

²¹⁷ Such laws that discriminate against Travellers and Gypsies violate France's obligations to guarantee non-discrimination and equality provided in a multitude of international instruments.

²¹⁸ For any interference under Article 8 to be permissible it must be in accordance with the law and necessary in a democratic society, which includes proportionality between the goals sought to be realised on the one hand and the means employed on the other. It must also be undertaken in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Although they are provided for by law, the serious interference the range of regulations entail with respect to Gypsies' and Travellers' private and family life and home often cannot be held to be necessary in a democratic society for the fulfilment of any legitimate broader interests.

In particular, the combined effect of the many rules and regulations affecting Gypsies and Travellers both when they travel and when they attempt to settle on private land significantly disrupts the private, family life and home of Gypsies and Travellers as well as their ability to maintain a travelling lifestyle. Furthermore, the Court has ruled that the traditional Gypsy caravan is an integral part of the Gypsy ethnic identity, "reflecting the long tradition of that minority of following a travelling lifestyle." *Chapman v. United Kingdom*, Judgement by the European Court of Human Rights of January 18, 2001, application number 27238/95, para. 73. It has also acknowledged that this requires special consideration in planning matters. *Buckley v. The United Kingdom*, Judgement by the European Court of Human Rights of August 26, 1996, application number 23/1995/529/615, para 71.

5.3.1 Obstacles to the Purchase of Private Property

When Gypsies and Travellers attempt to buy land, they are often unable to do so as the sale is “preempted” by the municipality. According to French law, in numerous sales of property, municipalities are given a period of two months in which they may “preempt” the sale. Municipalities are only allowed to do so for reasons of general interest (for instance creating public facilities) and in instances where the municipality has developed a specific project involving the land. However, in practice, when municipalities realise that it is a Gypsy or Traveller who wishes to buy, authorities systematically exercise their right of pre-emption. Often this is illegal, as the pre-emption is not based on a specific project of public utility, but on racism. If families are willing to take the case to the courts, they might win, but most families are unable or unwilling to constantly appeal to the courts.

The ERRC encountered dozens of individuals in this situation – trying to buy land but constantly faced with the pre-emptions of mayors. Others told the ERRC that they do not even try to buy land, as they know that the sale will be pre-empted. Many therefore acquire land through methods, such as donations, where the mayors are not given an opportunity to pre-empt their acquisition of the land.

Unlike other citizens, it is a near impossibility for Gypsies and Travellers to obtain loans for the purchase of private property. In order to receive loans individuals generally need a fixed residence and permanent salaried work. The vast majority of those

Although the situation of Gypsies and Travellers in France differs in many respects from that in the United Kingdom, the reasoning presented in judge Pettiti’s dissenting judgement in the case of *Buckley v. United Kingdom* would seem particularly appropriate to the French situation. He opined that:

... the deliberate superimposition and accumulation of administrative rules (each of which would be acceptable taken singly) result, firstly, in its being totally impossible for a Gypsy family to make suitable arrangements for its accommodation, social life and the integration of its children at school and, secondly, in different government departments combining measures relating to town planning, nature conservation, the viability of access roads, planning permission requirements, road safety and public health that, in the instant case, mean the Buckley family are caught in a “vicious circle”...

Buckley v. The United Kingdom, Judgement by the European Court of Human Rights of August 26, 1996, application number 23/1995/529/615.

Travellers and Gypsies who are looking to buy property do not meet these conditions. As a result, they need to find a way to pay for the full amount of the purchase.

5.3.2 Forced Evictions from Property Owned by Travellers and Gypsies

Those Gypsies that do manage to acquire private property sometimes find that they continue to be threatened with forced eviction, only now from their own property.

These problems stem from the fact that almost as a rule Gypsies continue to find themselves in violation of the considerable number of French laws and regulations that severely limit the territory on which caravans can legally remain, even on private land, and that often impose highly restrictive conditions on the few existing possibilities. On the one hand, there are a wide range of general prohibitions forbidding the halting of caravans in given areas, such as near historical sites, protected wooded areas and monuments. In addition, further restrictions and conditions are established by local regulations relating to urban planning, such as zoning regulations or municipal decrees specifically regulating the presence of caravans.²¹⁹ Furthermore, municipalities may also make use of their police powers relating to public order and health to forcibly evict persons living in caravans.²²⁰

²¹⁹ Article 443-4 of the Urbanism Code provides that in the case of caravans that serve as the permanent home of the users, an authorisation is required in order to park in a continuous manner for more than three months. Non-respect of this procedure constitutes a violation of the Urbanism Code and is subject to penal pursuit. The required authorisation is not granted if the caravans are on land on which the stopping of caravans is forbidden, or is found to be in violation of the conditions for such stopping. Article 443-9 of the Urban Code lists areas on which caravans cannot stop. These include: sea banks; near protected historical monuments; in zones for the protection of architectural or urban heritage or natural monuments or sites; within 200 metres of drinking water collecting sites; in woods, forests and parks classified as protected wooded areas. According to article R443-3 and R 443-10 of the Urbanism Code, the required authorisation can also be denied in zones where the parking of caravans might disturb: public health, security or peace ; natural or urban landscapes; the conservation of the view of monuments; the exercise of agricultural or forestry activities; or the conservation of natural areas, of flora and fauna...” (Unofficial translation by the ERRC). In addition to these articles, municipalities enact specific decrees relating to the conditions for the stopping of caravans in their municipality.

²²⁰ See articles L.2213-1 and following, General Code of territorial collectivities. These powers relate to private and public land. Non-observance of police decrees can result in fines, and, with Article 58 of the Security Law, forced eviction.

According to French law, violations of urban regulations constitute penal infractions that can be punished with fines of up to a sum 300,000 Euros and, in the case of repeated offences, imprisonment of up to six months.²²¹ Thus in numerous municipalities, Gypsies and Travellers who believed that they would finally be able to reside in dignity on their own land, find themselves subject to penal proceedings that result in fines that they cannot pay and sometimes the loss of their land and eviction. During its research, the ERRC encountered dozens of families threatened with expulsion from their homes. This is almost certainly only a small fraction of the total number of families in this situation as associations report such cases in municipalities throughout the country.

The case of Ms C.L. is illustrative. She owns a parcel of land that is approximately 300 square metres in a residential area on Avenue des Acacias in Montfermeil, a town in the Department of Seine-Saint-Denis outside of Paris. She lives on her land along with her handicapped mother and their families. Two of her sisters regularly visit. Each of the women lives in her own caravan along with her family, and their children attend the local school. When she first purchased the land, she did not think she would have problems with the city as she believed that as the owner of land in a residential area, she could live on it with her family.

However, in the late 1970s, the town enacted a local decree “regulating the stopping of caravans serving as homes on private land.”²²² This decree stipulates that there can be no parking of caravans for a period of more than three months; there can only be one caravan parked per 250 square metres of land; there can only be a maximum of five caravans on any given piece of land; any owners hosting one or more caravans on their land need to make a declaration informing city officials of this fact within 30 days of the arrival of the caravans; land needs to look clean and well-maintained; residents have an obligation to construct toilets in accordance with certain norms.

On December 21, 1992, C.L. received a letter from the mayor, Mr Pierre Bernard, claiming that the municipality had received complaints concerning the manner which she was using her land. The letter charged her with “illegal occupation of the land

²²¹ Article L480-4, Urbanism Code.

²²² “Arrêté portant réglementation du stationnement de caravanes habitées sur terrains privées”, October 4, 1979.

contrary to the city's urban regulations," and informed her that as no form of regularisation could be envisioned, the mayor found himself obliged to ask her to put the land back to its original state and see to the departure of the caravans serving as homes that she permitted to stay on her land. The letter concluded by threatening her that if she did not comply within 48 hours, the city would seize the competent court.²²³

The municipality followed through on its threat. The First Instance Court of Bobigny (Tribunal de Grande Instance de Bobigny) on October 17, 1995 ruled in the municipality's favour and ordered C.L. to conform with the municipal regulations within 60 days, after which she would be fined 1000 Francs (approximately 152 Euros) per day. As C.L. and her family had nowhere else to go given that this land was their home, they remained. She was notified of the judgement on October 31, 1995, and the period she was granted in which to conform expired on 1 January 1996. By March 15, 1996, she already owed a sum of 80,262 Francs (approximately 12,236 Euros). The fines continued to add up. The city again went to the Court, which issued a judgement for the seizure of C.L.'s land by the municipality in January of 2003.²²⁴ As of March 2005, C.L. remained on the land, waiting to be forcibly evicted.

It seems that in the eyes of the current mayor of Montfermeil, Mr Xavier Lemoine, Travellers as a group are a threat to public order, a nuisance and delinquents. In March 2004, Mr Lemoine circulated a letter via an association that provides literacy courses to Traveller children, inviting Travellers residing in Montfermeil to attend a meeting on March 16, 2004, concerning the problems they cause. In the "invitation letter" and during the meeting, the mayor and other city councillors accused the Travellers collectively of causing a wide range of nuisances and infractions of city rules due to their way of life, including: anarchic blocking of the public view (this entailed parking cars in the street in front of their property); causing nuisance to neighbours (noise, parking of caravans); serious and repeat violations of the driving code (stopping, one way streets, rodeos, and speeding); urban and environmental infractions (non-respect of the municipal decree and national regulations); non-respect of the Urbanism Code; pollution (stocking diverse materials under the open sky); storing diverse odds and ends; questions with respect to the discrepancy between the percep-

²²³ Bernard, Pierre. "Letter to Mrs L.", December 21, 1992, Montfermeil.

²²⁴ ERRC interview with Ms Céline Larivière, President of the non-governmental association Les Français du Voyage, January 30, 2004, Montfermeil.

tion of their social resources and their standard of living; irregular schooling of children and adolescents; the phenomenon of youth gangs with delinquent behaviour. According to a local non-governmental association French Travellers (les Français du Voyage), the meeting constituted a public trial of all of the city's Travellers.²²⁵

The situation of several families in the town of Ozouër-le-Voulgis in the neighbouring Department of Seine-et-Marne is also illustrative. Like Ms C.L., the Welter and Colle families fear imminent forcible eviction from the property on which they live together. These families moved to the town in the late nineties buying land with money that they had received in compensation for their eviction from their residence of 29 years in the town of Bonneuil. Twelve children between the ages of nine months and fourteen years live on the property, which is not connected to the local electricity or water network nor sewage system due to the city's refusal. Those of school age attend the local school, except for two who were refused registration in the fall of 2004 on the grounds that there were no more available spaces in the school. The families were taken to Court by the city of Ozouër-le-Voulgis for non-compliance with urban regulations due to the fact that they had lived in their caravans for a period exceeding three months on land not zoned for urban construction. The Paris Court of Appeal ruled in the city's favour, issuing an order for the four families to leave the land by the August 24, 2004. As this is their home, as of March 16, 2005, the families had not left, and therefore continued to be fined 50 Euros per day per family (200 Euros total per day), fines they know they will not be able to pay.²²⁶

Solange and Marceau Dipein, 55 and 62 years old, likewise residing in Ozouër-le-Voulgis, were also taken to Court by the city for violation of urban regulations. In 1994, they bought land in an area not zoned for construction with a surface area of over 6000 square metres. They built a small bungalow in which they lived, and also parked their caravan on their land. The city charged them with building in violation of the zoning regulations as well as parking a caravan for longer than three months. Having lost the case in the fall of 2003, the couple was given until April of 2004 to

²²⁵ ERRC telephone interview with Ms Céline Larivière, September 21, 2004, Paris.

²²⁶ ERRC telephone interviews with Ms Françoise Josse, September 22, 2004, and March 16, 2005, Paris.

ERRC telephone interview with journalist Sébastien Morelli, September 22, 2004, Paris. See also Morelli, Sébastien. "Gitans et indésirables aux yeux du maire". *Le Parisien*, March 24, 2003; Morelli, Sébastien. "Les nomades propriétaires seront expulsés". *Le Parisien*, March 26, 2004.

destroy the bungalow and remove their caravan from the land. Having nowhere to live, they did not comply and began receiving fines of 30 Euros per day. By mid-September 2004, the fines had grown to nearly 10,000 Euros and the couple decided to destroy the bungalow and leave the land. On the evening of September 16, 2004, they parked their caravan in front of the city hall and spent the night. They received the attention of the media and with the help of a local non-governmental association, the next day they negotiated a temporary solution with the mayor. He agreed to allow them to remain provisionally on the land in their caravan and to acknowledge that they had conformed with the judgement, thus putting an end to the daily fines. As of March 16, 2005, they remained on their land living in their caravan, uncertain as to how long they will be allowed to remain.²²⁷

In another case in the town of Mérignac, in the Department of Gironde, approximately 60 families are threatened with forced eviction “for their own good.” About 15 years ago these families each bought land in this rural area near the airport of Bordeaux Merignac, where they have lived since. A few families built small houses and others small cabins. The children attend the nearby school of Beutre. When it visited the area in March 2004, the ERRC noted that these families were not the only residents of the area. Other houses are built on neighbouring land. The Prefecture recently dug up the file, noting that the families are at risk of exposure to the noises of the airport, and the families therefore risk eviction.

In an interview with the ERRC, Mr Bernard Garandau, Adjunct to the Mayor of Mérignac and Vice-President of the General Council of Gironde informed the ERRC that the Courts had “ruled on the necessity of destroying their houses.” He explained that in some periods of the year, if a plane were to miss the landing, this would mean a lot of deaths. He also noted that the families had built their houses without a construction permit in an area where it is formally forbidden. He told the ERRC that he believes that the families should not be left where they are as “it is dangerous and perfectly illegal”. He emphasised, however, that he would support an approach according to which the families would be offered alternative accomodation

²²⁷ ERRC telephone interview with Ms Francoise Josse, cousin of Ms Solange Dipein, September 22, 2004 and March 16, 2005, Paris. ERRC telephone interview with journalist Sebastien Morelli, September 22, 2004, Paris. See also the following articles: Morelli, Sébastien. “Les nomades propriétaires seront expulsés”. *Le Parisien*, March 26, 2004; Morelli, Sébastien. “Une famille de nomades squattent devant la mairie”. *Le Parisien*, September 17, 2004.

that respects their way of life and also permits their integration. . The ERRC asked about the other non-Gypsies that are in the area, whether they would also be moved, as they are exposed to the same risks. Mr Garandean responded that the other people are there already, and they cannot be expelled as they are “at home”. He said that in their case the city does not allow them to enlarge their property.²²⁸

²²⁸ ERRC interview with Mr Bernard Garandean, March 3, 2004, Mérignac. In French law, there is normally a prescription period of 3 years in which a city can undertake penal procedures for a construction built without a permit. Following this period, a municipality can no longer require the demolition of the construction, except through using its police powers, and doing so for reasons of public health or safety.

6. DENYING GYPSIES AND TRAVELLERS ADEQUATE HOUSING

Gypsies and Travellers experience severe violations of their right to adequate housing regardless of their mode of life – on the continuum from nomadic to settled; regardless of whether they reside on official halting sites or on their own land; regardless of whether they are well-off and can afford decent housing or very poor and seek social support from French authorities.²²⁹ The fact of their belonging to a particular ethnicity often seems to be the sole reason for the authorities' denial to provide Travellers and Gypsies with adequate housing.

²²⁹ Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which France is party, provides that: "The States Parties to the present Covenant recognise the right of everyone to an adequate standard of living..., including adequate food, clothing and housing, and to the continuous improvement of living conditions." This Article read together with Article 2(2) of ICESCR guarantees the exercise of the right to housing "without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." France ratified the ICESCR on 4 February 1981.

General Comment No. 4 on the right to adequate housing under Article 11(1) of the ICESCR, issued by the UN Committee on Economic, Social and Cultural Rights states that: "The right to adequate housing applies to everyone" and the "...enjoyment of this right must, in accordance with Article 2(2) of the Covenant, not be subject to any form of discrimination." The Committee further states that the right to housing "should be seen as the right to live somewhere in security, peace and dignity." It is not just the right to housing, but to adequate housing. The elements of adequacy were defined by the Committee as follows:

- a) Legal security of tenure. Tenure takes a variety of forms, including ... emergency housing and informal settlements, including occupation of land or property. Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups;
- b) Availability of services, materials, facilities and infrastructure... All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services;
- c) Affordability [...];
- d) Habitability [...];
- e) Accessibility [...]

Halting sites and settlements are often characterised by severe environmental hazards such as garbage dumps, waste treatment plants, proximity to polluting factories and sewage polluted rivers. Rats proliferate on some sites presenting additional health risks. The sites often lack any basic infrastructure, such as electricity, clean water for washing or drinking and sewage, or available infrastructure is inadequate in quantity and quality. In addition, these sites and settlements are distinguished by their segregated location – physically marginalising Travellers and Gypsies. On some settlements, where the poorest and most marginalised Gypsies and Travellers have lived for long periods of time, residents live in precarious accommodation, such as broken down caravans or makeshift bungalows made of scrap, that provide little protection from natural elements.

Many Travellers and Gypsies who buy land in the hope of being able to station their mobile homes and avoid being forcibly driven from place to place, often find themselves intentionally precluded from accessing such basics as drinking water and electricity. Furthermore, when Gypsies and Travellers try to access public apartments or build houses, they are frequently subjected to racial discrimination.

6.1 Substandard Conditions and Segregation on Official Halting Areas

A circular issued on 5 July 2001 relating to the application of the Besson Law (hereinafter Circular of 5 July 2001) stipulates that the location of the halting areas:

-
- f) Location. Adequate housing must be in a location which allows access to employment options, health-care services, schools, childcare centres and other social facilities. This is true both in large cities and in rural areas where the temporal and financial costs of getting to and from the place of work can place excessive demands upon the budgets of poor households. Similarly, housing should not be built on polluted sites nor in immediate proximity to pollution sources that threaten the right to health of the inhabitants;
 - g) Cultural adequacy. The way housing is constructed, the building materials used and the policies supporting these must appropriately enable the expression of cultural identity and diversity of housing. Activities geared towards development or modernization in the housing sphere should ensure that the cultural dimensions of housing are not sacrificed, and that, inter alia, modern technological facilities, as appropriate are also ensured.

See Committee on Economic, Social and Cultural Rights, General Comment 4, The right to adequate housing, (Sixth session, 1991), U.N. Doc. E/1992/23, annex III at 114 (1991), available at: <http://www1.umn.edu/humanrts/gencomm/epcomm4.htm>.



“Waste treatment plant”; “freight station”; “Travellers”. These signs point the way to the road leading to the official halting area in Avignon.

PHOTO: LANNA Yael HOLLO

Should respect rules of hygiene and security and avoid the effects of exclusion. Designed to serve as housing, the halting areas are to be located in areas that are adapted to this purpose, in other words in urban areas or near these, in order to permit easy access to different urban services (schooling, educational, health, social, cultural, as well as different specialised services)... Thus all sites judged to be incompatible with the purpose of housing are to be forbidden.²³⁰

The existing “halting areas” that the ERRC visited in nearly all cases do not meet basic standards of decency. They violate various central components of the right to adequate housing, notably requirements concerning the availability of services, facilities and infrastructure; location and habitability.²³¹

While water and electricity are generally available on official sites, hot showers and toilets are consistently too few for the number of residents. On some sites toilet and shower facilities are extremely dirty and in a state of disrepair. Furthermore many sites are simply flat concrete surfaces, resembling parking lots, in which adequate provision for drainage has not been made. The problem is worsened on some sites due to holes or bumps causing an uneven surface allowing for the accumulation of rainwater.

Despite the Circular of 5 July 2001, and existing French national legislation concerning adequate housing standards, most designated halting areas are located in places that are totally unsuitable for human residence. Many are situated in areas presenting significant environmental hazards that pose serious risks to the health of

²³⁰ Circular no. 2001-49/UHC/IUH1/12 of 5 July 2001 relating to the Application of Law no. 2000-614 of 5 July 2000 relating to the Welcome and Housing of Travellers, Title IV.1. Unofficial translation by the ERRC.

²³¹ In addition to obligations flowing from a number of UN Treaties binding the French state to ensure access to adequate housing without discrimination, a recent Council of Europe’s Committee of Ministers recommendation on “improving the housing conditions of Roma and Travellers in Europe” has emphasised the obligation upon all member States to: prevent, prohibit and, when needed, revert any nationwide, regional, or local policies or initiatives aimed at ensuring that Roma settle or resettle in inappropriate sites and hazardous area, or aimed at relegating them to such areas on account of their ethnicity. Furthermore the recommendation provides that: “Member states should ensure that an adequate number of transit/halting sites are provided to nomadic and semi-nomadic Roma. These transit/halting sites should be adequately equipped with necessary facilities including water, electricity, sanitation and refuse collection. The physical borders or fences should not harm the dignity of the persons and their freedom of movement.”

Travellers and Gypsies. They are systematically located near garbage dumps; waste treatment plants; high-risk or polluting factories; freeways or railroad tracks, with high tension wires frequently directly overhead. Furthermore they are generally situated as far away as possible from residential areas, at the very limit of municipalities. This means that halting areas also tend to be located as far away as possible from different urban services, which are situated in city centers and residential areas. Many Travellers and Gypsies highlighted this problem to the ERRC, especially with respect to the schooling of children.²³²

On some sites, the physical segregation of Travellers and Gypsies is concretised through a ring of mudhills encircling the halting area, thus physically cutting it off from the surroundings. These mudhills are justified as a means of “protecting Travellers and Gypsies” from noise, however they in fact erect a physical barrier between Travellers and Gypsies and other residents effectively hiding the caravans and site residents from their neighbours or passerby.

²³² The segregated conditions under which many Travellers and Gypsies are forced to live infringe the unequivocal ban on racial segregation in international human rights law. Under Article 3 of the IC-ERD the French state has undertaken to prevent, prohibit and eradicate racial segregation.

The normative content of Article 3 has been further elaborated by the United Nations Committee on the Elimination of Racial Discrimination in its General Comment 19 on “Racial segregation and apartheid (Article 3)”. The Committee noted that under Article 3 states are obliged “to prevent, prohibit and eradicate all practices of racial segregation” (Paragraph 1) and that this obligation includes “the obligation to eradicate the consequences of such practices undertaken or tolerated by previous Governments in the State or imposed by forces outside the State” (Paragraph 2). Further the Committee made it clear that “while conditions of complete or partial racial segregation may in some countries have been created by governmental policies, a condition of partial segregation may also arise as an unintended by-product of the actions of private persons” and that in many cases “residential patterns are influenced by group differences in income, which are sometimes combined with differences of race, colour, descent and national or ethnic origin, so that inhabitants can be stigmatized and individuals suffer a form of discrimination in which racial grounds are mixed with other grounds” (Paragraph 3). The Committee then concluded that “a condition of racial segregation can also arise without any initiative or direct involvement by the public authorities” and called on the States parties “to monitor all trends which can give rise to racial segregation, to work for the eradication of any negative consequences that ensue, and to describe any such action in their periodic reports.” (Paragraph 4) See Office of the High Commissioner for Human Rights, “Racial segregation and apartheid (Art. 3): 18/08/95. CERD General recom. 19. (General Comments)”, at: [http://193.194.138.190/tbs/doc.nsf/\(symbol\)/CERD+General+recom.+19.En?OpenDocument](http://193.194.138.190/tbs/doc.nsf/(symbol)/CERD+General+recom.+19.En?OpenDocument).



The ERRC came across one halting area in Surville, Lyon, that was completely surrounded by high concrete walls.

PHOTO: LANNA YAEL HOLLO

Ms Josephine Capello, an elderly Traveller whom the ERRC met at the official halting area “Realtor” in Aix-en-Provence commented: “You should see the places they make for us. If it is not a former garbage dump, it is next to the place where the sewage goes. Never next to a school. This halting area is at the limit of Aix. As far away as possible. So far that it is almost Vitrolles [the neighbouring municipality]. This is our lifestyle. We cannot live in a house. If you put us there, it is like being in a cage. But we also like trees, streams, etc.”²³³

The halting area Realtor, with 40 spots, is not far away from the TGV²³⁴ station of Aix-en-Provence. In order to gain access to the site, one has to pass through a metal gate. However, on May 4, 2004, the day the ERRC visited the site, this was open enough for a car to pass through. It is in essence a parking lot. Residents pointed out that the ground is not level, making it extremely difficult to keep clean and giving rise to puddles of water as soon as it rains. Electricity and water are available, but there are only four showers and four toilets for the entire stopping area (when the site is full, there are an average of between 160 and 200 residents). It is at the very limit of Aix-en-Provence, with the neighbouring town of Callas approximately seven kilometres away and Vitrolles six kilometres away. Residents also informed the ERRC of their difficulties sleeping due to the neighbouring home for abandoned dogs that reportedly bark through the night, and the heavy duty trucks that begin to circulate on the neighbouring highway at around 4:00 AM. The garbage dump is only 1 kilometre away, which in summer also means that Realtor is invaded by thousands of flies.²³⁵

Another typical halting area is the site in Lognes, a town of approximately 15,000 residents in the Department of Seine-et-Marne on the outskirts of Paris. It hosts about thirty caravans. Like many sites, this halting area is not generally used for short-term halts, but rather as the long-term home of residents, most of whom have lived here for years. The site is located directly under the freeway. In addition to the noise this causes, it also generates the risk that if a car were to fall, it would fall directly onto the caravans, most likely with fatal consequences. Paradoxically, although the Logne halting area can be seen from the freeway, it is very difficult to find once in the town. The ERRC

²³³ ERRC interview with Ms Josephine Capello, May 4, 2004, Aix-en-Provence.

²³⁴ The high speed train.

²³⁵ ERRC visit to Realtor, 4 May, 2004.

asked a number of locals for directions to the site, and no one seemed to know. In the end, a taxi driver was able to help. A narrow road running through a sparse wooded area leads to the camp. The road is lined with piles of garbage. There are approximately 30 caravans parked on the concrete lot (housing between 120-150 people), with distances of not more than 10 metres between them. Each spot can be rented for 150 Euros per month. This fee includes water and electricity. There is, however, only 1 shower for the whole site and the small water tank only holds about 50-100 litres of water, enough for two or three showers. Residents told the ERRC that once the water runs out, it takes hours before the water tank fills up again. There are three Turkish-style toilets in the camp. However, one was not functioning during an ERRC visit on February 15, 2004. The residents have to clean the site and all of the equipment themselves.²³⁶

The city of Saint-Priest hosts another typical halting area, dating from the 1970s. Some residents told the ERRC that they had been living there for 30 years. The ERRC found the halting area by following signs to the industrial zone in the border area between Saint-Priest and the neighbouring municipality of Chassieu. Caravans are cramped together between factories – apparently a petrol plant and a chemical plant figure amongst the immediate neighbours. A train track also runs nearby as well as a road on which heavy duty trucks circulate. Mr Henri Lacroix, official at the Urban Community of Greater Lyon, told the ERRC that “this halting area is just on the border of a Seveso zone.²³⁷ If there is an explosion in one of the factories, the residents will experience the blast effect (effet de souffle) of the explosion. And it is much more dangerous to experience this in a caravan, than in ordinary housing.” Mr Lacroix believes that this site should not be renovated, and instead that those who live here should be moved. Residents told the ERRC that the site is also on a former garbage dump, and that rats infest the site. “We sometimes find them in car motors; they go where it’s hot,” Mr M.B. commented.²³⁸ Residents pay for their use of water and electricity, but not for the places themselves as the area is too dirty. There are six toilets, but three were blocked at the time of an ERRC visit on March 24, 2004.²³⁹

²³⁶ ERRC visit to Lognes, February 16, 2004.

²³⁷ These are zones classified as high-risk for major industrial accident hazards according to European standards (Seveso Directives).

²³⁸ ERRC interview with Mr M.B., March 24, 2004, Saint-Priest.

²³⁹ ERRC visit to Saint-Priest, March 24, 2004.



Arial view of caravans parked at official halting area in Lognes, near Paris. This site, located directly under a freeway, serves as the long-term home of between 120-150 people, who share a single shower and three Turkish-style toilets.

PHOTO: LANNA YAEL HOLLO

Out of the various Departments that the ERRC visited,²⁴⁰ the best halting areas it saw were located in the Department of Haute-Garonne.²⁴¹ However, despite improved facilities on a number of halting areas, there was nonetheless a disturbing trend of surrounding halting areas with a ring of mudhills that physically segregated residents from the rest of the local population.

For instance, the halting area in the city of Saint-Jean is located within the city itself, in an ordinary residential neighbourhood. There were approximately 16 mobile homes parked there when the ERRC visited the site on March 7, 2004. The residents with whom the ERRC spoke had lived at the site for between four and five years. They told the ERRC that including water and electricity, they end up paying approximately 150 Euros per month. There is a small hut containing a shower, washing facility and toilet for every two spots. This site, like others, looks like a parking lot and has no greenery. However, what is particularly striking about this halting area is that it is completely ringed by mudhills, hiding it from the surrounding neighbourhood and passersby. Mr Frédéric Lievy of the non-governmental association Goutte d'Eau, who accompanied the ERRC to the site, commented: "Look they are like moles; it's against 'visual pollution'." A resident, Ms Reinhardt told the ERRC that the authorities had put the mudhills there to hide the Travellers from the locals' view.²⁴² Another resident, Mr Coussentien, commented that when the children wake up in the morning all they see are mudhills. "They could at least put something attractive, like rosebushes," he said, "but not even that, only mud."²⁴³ According to Frédéric Lievy, Goutte d'Eau succeeded in preventing what would have been much worse – the placing of thornbushes on the mudhills.²⁴⁴

²⁴⁰ Seine-Saint-Denis, Seine-et-Marne, Essonne, Gironde, Dordogne, Bouches-du-Rhône, Vaucluse, Rhône, Isère.

²⁴¹ There also remain halting areas in Haute-Garonne that are in very poor condition or located in unacceptable areas. For example: Portet s/Garonne is located approximately 500 metres from the landing strip of a military airbase and just off a main road near an area that is constantly congested – residents therefore inhale gas fumes regularly; Beauzelle/Seilh is near a sewage treatment plant and beneath high tension wires – reportedly, residents are frequently sick and in summer the odours are so strong that it is difficult to eat outside; Fonsorbes is also near a sewage treatment plant; Saint-Orens is situated in an environment with considerable greenery, however it is far from the city and basic public services.

²⁴² ERRC interview with Ms Reinhardt, March 7, 2004, Saint-Jean.

²⁴³ ERRC interview with Mr Coussentien, March 7, 2004, Saint-Jean.

²⁴⁴ ERRC interview with Mr Frédéric Lievy, March 7, 2004, Saint-Jean.

These mudhills, that also exist in other Departments, are not only relics from older sites, but are also being enacted around new halting areas. For instance, mudhills have been built around at least four recently created halting areas in the Department: la Mounède in Toulouse, St. Orens, Balma, and Saint-Alban. Mr Jean-Marc Huyghe, President of S.I.E.N.A.T.,²⁴⁵ a syndicate of mayors “for the welcome of Travellers in the greater Toulouse area”, commented that the mudhills are in fact contradictory – they can be experienced as confinement or as protection from the environment. He personally thought that they should remain, but lower and with greenery.²⁴⁶ Not one Gypsy or Traveller whom the ERRC interviewed believed that there were any positive benefits to the mudhills. All believed they were primarily to hide them from sight. The ERRC also found the same mudhills, only much higher, surrounding a social housing neighbourhood with a high percentage of Gypsies in Saint-Martin-du-Touche. Besides already being located at the furthest extremity of the town of Saint-Martin-du-Touche, and physically cut off from the rest of the population, the mudhills – which are higher than the roofs of the houses – ensure that the neighbourhood is completely hidden from view.

All too often halting areas are more reminiscent of places of detention than places of residence. This effect is created through the physical appearance of the sites as well as the checks and control of residents. Barriers surrounding sites, such as rings of mudhills or barbed wire fences, create the feel of a detention area. In sites where there is regular turnover of residents, there is generally a metal bar or gate blocking access to the site. In order to enter with their caravans, Travellers have to check in with the manager and provide proof of their identity. The ERRC visited one site, St. Menet in Marseille, where the manager’s building was a concrete raised tower overlooking the site with surveillance cameras on the roof.²⁴⁷ Many of the older halting areas reportedly adopted a style of management that closely resembled policing. Ms Claire Auzias, former director of UNISAT,²⁴⁸ and herself previously involved in managing halting

²⁴⁵ Syndicat intercommunal d’Etudes pour l’Accueil des nomades dans l’Agglomération Toulousaine.

²⁴⁶ ERRC interview with Mr Jean-Marc Huyghe, March 9, 2004.

²⁴⁷ ERRC visit to St Menet, May 5, 2004, Marseille. It was not clear whether the cameras were operational or not.

²⁴⁸ National Union of Institutions of Social Action for Gypsies.

areas, commented: “in the history of halting areas in France, in large part the only thing that the municipalities asked was public peace... Many associations that managed halting areas found themselves in a role of supervision and policing.”²⁴⁹

On some halting areas, this atmosphere of control and surveillance slides from the merely unpleasant to severe interference of Travellers and Gypsies private, family life and home.

For example, Mr Nounoune A., a young Traveller based in the west of France, told the ERRC that near Rennes and Nantes are a series of small sites that are managed by the municipal police. Those who stay have to leave their caravan papers and a deposit with the city hall. “We are not given a key to the site,” he said, “instead police open it and close us in like pigs.” There is just enough room for a car to get in and out of the site, but to get their caravan out, resident Travellers need to go to the municipality and pay. Their caravan papers and deposit are returned, and then the municipal police come to let them out. Travellers cannot enter or leave with their caravans outside of the city hall’s business hours. This means that from late Friday afternoon until Monday morning they cannot arrive or depart, regardless of the reason.²⁵⁰

6.2 Continuing the Trend of Substandard Halting Areas: Proposals for New Sites

The majority of municipalities are simply not establishing halting areas on their territory despite their obligations under the Besson Law. The additional two-year period municipalities were recently granted in order to meet their obligations has rewarded their inaction.²⁵¹ The lack of proposals inevitably reinforces the status quo, whereby many Gypsies and Travellers are unable to find places to legally stop. Furthermore, their situation promises to be increasingly precarious as tensions with residents continue and municipalities apply the measures set out in the Security Law.

²⁴⁹ ERRC interview with Ms Claire Auzias, May 7, 2004, Marseille.

²⁵⁰ ERRC interview with Mr Nounoune A., November 6, 2004, Orsay. Such practices interfere in a disproportionate manner with Travellers’ right to non-interference in their private life, family life and home as guaranteed by Article 8 of the ECHR.

²⁵¹ Law no. 2004-809 of 13 August 2004 Relating to Local Freedoms and Responsibilities, J.O n° 190 du 17 août 2004, Article 201.

Those few municipalities that have proposed locations for halting areas have for the most part demonstrated an intention to perpetuate and reinforce the existing pattern of relegating Gypsies and Travellers to locations unsuitable for living and segregating them from the rest of the population. Thus municipalities are proposing sites that are polluted; on former garbage dumps or with dangerous materials buried beneath; or beside garbage dumps, sewage treatment plants or high-risk industrial factories. The sites are also systematically far away from the city centre, sometimes placed so that the residents will use the services of the neighbouring municipality rather than their own.

For example, in the Department of Bouches-du-Rhône, the Departmental Plan was signed on 1 March 2002 and from this date the municipalities had 2 years (until 1 March 2004) to establish halting areas. When the ERRC visited the Department in May 2004, no new halting areas had yet been created. In fact, problems with existing older halting areas had actually brought about a reduction in the available places.²⁵² The adjunct Prefect (sous-Prefet) of the Bouches-du-Rhône Prefecture, Mr Gérard Péhaut told the ERRC:

...there are 150 places that exist in the Department,²⁵³ 140 in fact, and these are occupied 100% of the time by persons who are 'semi-sedentary'... There are no halting areas available. The real subject is the willingness of municipalities to engage themselves in these projects. They are waiting for us to impose sites upon them. The mayors don't want to assume the political responsibility of creating a halting area. There is also a real problem with real estate. The few sites that are available are in a flood zone, high risk Seveso zone, or are inaccessible. Most municipalities have not made any proposals...

In the Department of Bouches-du-Rhône, I will not easily refuse the proposal of a mayor... The mayor is elected and the Travellers are not voters. The rest of the population would vote against the mayor. It is difficult to refuse a proposal here. I have refused many – either in a flood zone, a high-risk Seveso zone, or between the garbage dump and the train tracks.²⁵⁴

²⁵² Association Rencontres Tsiganes. Dossier Presse. March 16, 2004.

²⁵³ Note that according to the Departmental Plan of Bouches-du-Rhône of 1 March 2002, between 1070 and 1470 places are required in the Department.

²⁵⁴ ERRC interview with Mr Gérard Péhaut, May 7, 2004, Marseille.

Mr Péhaut received one proposal from the seaside tourist town of Ciotat that he accepted and told the ERRC that he wishes to hold up as an example. He explained that the site has 3 handicaps: it was occupied by a car wreck, and so thousands of car carcasses litter the site ; the site used to be a quarry and it is polluted; and it is dangerously located at a sharp bend in the road. “This is the site that I was proposed,” Mr. Péhaut commented, “but it is in ‘la Ciotat’ with an enormous real estate pressure... So, I said okay Mr mayor, you will have to clean the site and carry out large-scale works in order to improve road access.”

With the additional deadline extension of two years, it is unlikely that any halting areas will be created in the near future in the Bouches-du-Rhône.

Likewise, in all of the eight Departments of l’Ile-de-France (Paris and surrounding Departments), the new halting areas that have been created since the passing of the Besson Law could, as of March 2005, at the time of writing, be counted on one hand with a total number of new places amounting to 126 (Osny and Jouy-le-Moutier²⁵⁵ in Val d’Oise both with 26 places, Les Ulis and Montgeron in Essonne with 40 and 20 places respectively, and Lieusaint²⁵⁶ in Seine-et-Marne with 40 places). According to the various Departmental Plans, 5721 places are required in Ile-de-France. And some of these Departmental Plans (Seine-Saint-Denis, Val-de-Marne and Val d’Oise) already reduced the numbers of places originally projected on the basis of a needs assessment in order to obtain political approval. Thus, from the outset, these Departments intend to create fewer places than are required, which will leave a certain number of persons without places to halt.

The halting area created in Les Ulis is located as far as possible from the centre of the municipality. It is located across the freeway from the rest of the town, alongside the cemetery and fields. Dust from the crematorium falls onto the caravans when the

²⁵⁵ This halting area was planned for years before the passing of the Besson Law.

²⁵⁶ It has been reserved by the Prefect for Roma migrants from Eastern Europe that have arrived in France over the last 10-15 years, and require housing as they are living in indecent conditions in makeshift illegal camps. Such persons, who seek permanent rather than short-term temporary housing, were not included in the needs assessment upon which the figures in the Departmental Plan are based, and thus 40 more places remain necessary in order to meet the needs established in the Departmental Plan. This situation caused friction between newly arrived Roma and other Gypsies and Travellers who are French citizens and thought that the halting area would be available for them.

wind blows in that direction. The halting area looks like a large parking lot without trees or greenery. There are individualised toilet facilities, but the showers, located at the entrance to the site are for collective use. Mr Francois Lacroix, Director of AGDV commented: “How is it possible that we manage to do better for the dead than for the living?” Comparatively, the cemetery next door that is carefully landscaped with greenery is much more inviting than the halting area for Travellers. Likewise, the second halting area created in the Department of Essonne, at Montgeron, is also at the edge of the municipality. It is located behind a college and sports complex, isolated from other residents of the municipality. This halting area also resembles a parking lot, however, both the toilet and shower facilities have been individualised. Residing on this halting area in October 2004 were a group of families who have lived for more than thirty years in the area of the municipality.²⁵⁷

Reportedly Jouy-le-Moutier is located between the Bois du Merisier (the Merisier woods) and the gendarmery brigade. The maximum stay allowed at the halting area is two months. The site is surrounded by barbed wire and mudhills. Osny is located between the detention centre and commercial zone.

In another case, the Departmental Plan for the Rhône, approved on April 22, 2003, stipulates that 705 places are to be created on 41 halting areas. Municipalities were to have created the halting areas by April of 2005. However, with the new extension granted in the Law of Local Freedoms and Responsibilities, they now have until April of 2007. Three hundred ninety of these places are to be created in the Greater Lyon area on 23 halting areas.²⁵⁸ As of January 2005 only one halting area had been created: in the town of Givors.²⁵⁹ A number of old halting areas exist in the Department (such as St. Priest, Pierre-Bénite, Chassieux, Feyzin/Saint-Fons, Vénissieux, Mezieux, Lyon, Villeurbanne, Saint-Genis-Laval, Brignais and Rillieux-la-Pape), however those on the site are sedentarised there, and the sites do not meet basic standards of decency.

²⁵⁷ ERRC telephone interview with Mr Francois Lacroix, October 13, 2004, Paris.

²⁵⁸ Préfecture du Rhône. Schéma Departemental d’Accueil des Gens du Voyage du Rhône. April 2003, p. 10.

²⁵⁹ The municipalities of Rilleux la Pape and Chaponnost made available provisional sites for Travellers to halt in the interim period.

However, according to Mr Henri Lacroix, official at the Urban Community of Greater Lyon,²⁶⁰ things have improved dramatically since the spring of 2004, with municipalities putting forward acceptable proposals for sites.²⁶¹ According to another official source,²⁶² as of the end of January 2005, 13 municipalities had put forward proposals deemed acceptable. Nonetheless, all of the proposed sites remained isolated from other residents of the municipalities. Those few sites close to urban services are near those of neighbouring municipalities rather than of the municipality creating the halting area.²⁶³ Mr Lacroix also informed the ERRC that the municipality of Feyzin negotiated with the neighbouring town of St. Fons in order to actually locate its 15 place halting area on its neighbour's territory. St. Fons was itself exonerated from its obligation to create a 15 place halting area under the Borloo Law.²⁶⁴

This lack of sufficient or appropriate halting areas is creating an unbearable situation for Gypsies and Travellers in France today. They find themselves chased from municipality to municipality, being unable to stop anywhere, let alone in decent conditions. Meanwhile public opinion seems to be becoming increasingly racist, encouraged by local officials who do not want Gypsies and Travellers in their municipality and do not want to create halting areas. Furthermore, the public is generally given the impression that "places are being created for the Travellers" and that caravans are therefore "illegally invading" their municipalities.

Even in the unlikely event that a majority of municipalities create halting areas as required by the Departmental Plans across the country, as things are currently developing, Travellers and Gypsies will still likely be subject to a wide range of serious human rights violations connected with their freedom of movement and living conditions.

Besides being forced to reside in designated areas, often in indecent conditions, Travellers also fear that there will be too few halting areas. These fears are founded on the very real problem of underestimates in Departmental Plans as to the required

²⁶⁰ Mr Lacroix is attached to the General Delegation of Urban Development.

²⁶¹ ERRC telephone interview with Henri Lacroix, January 25, 2005, Paris.

²⁶² The identity of this source is not revealed due to the source's request to remain anonymous.

²⁶³ ERRC telephone interview with anonymous source, January 25, 2005, Paris.

²⁶⁴ ERRC interview with Henri Lacroix, March 23, 2004, Lyon.

number of places. As a result, at any moment in time, a certain number of Travellers and Gypsies will be unable to find places to halt legally as all existing halting areas will be full. The non-governmental association Goutte d'Eau informed the ERRC that various associations that have analysed all of the Departmental Plans estimate that the total number of projected places only amount to between 60-80% of those actually required by Travellers and Gypsies.²⁶⁵ This means that between 20 and 40 percent of Travellers will be unable to find a place in official halting areas at any one time.

The implications of a shortfall in places are dramatic in light of the draconian provisions set out in the Security Law in case of “illegal stopping”. In addition, to consecutive forced evictions, those persons unable to find places in official halting areas will be subject to the Security Law’s penal sanctions: six months imprisonment, a fine of 3750 Euros, suspension of their drivers license for a period up to three years and the seizure and confiscation of any vehicles used to carry out the act of illegal stopping.²⁶⁶

Furthermore, the lack of consultation with Gypsies and Travellers themselves as to their actual needs has meant that most halting areas will not provide an appropriate response to many families’ rights and housing needs.²⁶⁷

²⁶⁵ ERRC interview with Mr Frédéric Lievy, March 7, 2004, Toulouse.

²⁶⁶ Article 53(1) and Article 53(2), Security Law.

²⁶⁷ Chapter III of this report provides a detailed discussion of the lack of consultation and participation of Travellers and Gypsies in the “needs assessments” that formed the basis of Departmental Plans, as well as their marginal voice on the “Departmental Consultative Commissions of Travellers” established in each Department and involved in the implementation of the Departmental Plans. Council of Europe Committee of Ministers Recommendation “on improving the housing conditions of Roma and Travellers in Europe” provides that: “Member states should, as appropriate, provide Roma communities and organisations with the means to participate in the process of conceiving, designing, implementing and monitoring policies and programmes aimed at improving their housing situation.” (Paragraph 6) It also recommends that member states should “encourage and promote empowerment and capacity-building on a wider basis among Roma communities by fostering partnerships at local, regional and national levels, as appropriate, in their policies aimed at addressing the housing problems facing Roma.” (Paragraph 7). Furthermore the recommendation stipulates that “Member states should ensure that proper coordination is provided in the field of housing between, on the one hand, the relevant national, regional and local authorities and, on the other, the Roma populations and organisations who represent the majority active in this field.” Committee of Ministers. *Recommendation to member states on improving the housing conditions of Roma and Travellers in Europe, Rec (2005)4*.

Too often Gypsies and Travellers needs are assessed through stereotypical conceptions of “nomad” and “sedentary”, which do not reflect the reality in which many families move through nomadic and sedentary periods connected with family, religious and economic factors. This means that for many, short-term halting areas are not a sufficient or appropriate response and other options, such as possibilities to acquire family sites (*terrains familiaux*), are in fact required.²⁶⁸ This is also true for those Gypsies and Travellers who spend a considerable amount of time in a specific geographical area and desire a family site to serve as a base rather than being obliged to move constantly between designated halting areas. A great many Gypsies and Travellers in fact expressed to the ERRC their desire for family sites. Like other citizens, they wish a place that is theirs, and the freedom to come and go as they please without worrying that upon leaving their accommodation there will no longer be a place for them to return to. They also emphasised that they do not wish to be relegated to designated areas. It is evident that while important in meeting some of the housing needs of some Gypsies and Travellers, halting areas are only a partial response.

In addition, the regulations and design of halting areas have for the most part not taken into adequate account families’ needs.

For instance, families’ requirements vary as to the length of time that they need to remain at a given location, often linked with the schooling of children, employment and medical reasons. However, halting areas tend to have fixed inflexible time limits (shorter or longer depending on the type of halting area) after which families are kicked out. This means that families may, for instance, find themselves forcibly evicted from a halting area after two months even when their children are enrolled in the local school that they wish to continue attending. Or, they may be evicted before they have completed work they are carrying out in the vicinity of the halting area. Similarly, they may be kicked out of a site on which they wish to remain because it is located near a hospital or clinic at which a family member is seeking long-term treatment.

Another example is the inadequate attention paid to the needs of those Travellers and Gypsies who earn their living through recovering usable metals from scrap. A

²⁶⁸ These are sites on which a family is given possibilities to rent or acquire a plot of land on which to live with other relatives or persons it chooses for as long as it wishes. This would mean that if all persons at the family site decide to leave for a period of time others would not come on the site in their place, as is the case for other persons living in rented or owned apartments.

large number of halting areas simply forbid such activities due to health concerns. Sufficient alternatives, such as suitable storage and working areas near some sites, have not, however, been established. This situation will place many families before the choice of either not staying in designated areas (and thus being subject to penalties) or abandoning their means of making a living.

The majority of Gypsies and Travellers the ERRC spoke with fear they will be forced to completely stop travelling (whether for shorter or longer periods) due to the lack of places to stop, conditions on the stopping areas and fear of not finding a place as soon as they travel in their caravans.

Traveller Alexis Mignot summarised the situation as follows: “the lack of places entails a prohibition of travel. When we are not sure to find a place to park our caravan we do not travel anymore.”²⁶⁹

6.3 Denial of Water, Electricity, Sewage and Solid Waste Removal, and Other Basic Facilities to Travellers and Gypsies on Their Own Land

During its research, the ERRC encountered families living on their land without water, electricity or sewage in more than 25 different towns it visited. The ERRC was also informed about many other similar cases. This is evidently an extremely widespread problem likely affecting many thousands of Gypsy and Traveller families throughout the country.²⁷⁰

²⁶⁹ ERRC interview with Alexis Mignot, November 6, 2004, Orsay.

²⁷⁰ The intentional denial of access to potable water and electricity represents, inter alia, a breach of the right to adequate housing and the right to health as defined by Articles 11 and 12 respectively of the ICESCR. Considering that access to potable water and to electricity (used for such basic needs as heating, lighting, energy for cooking, means of food storage) is internationally recognized as a necessary component for any adequate housing, an intentional denial by the state of access to drinkable water and electricity violates Article 11, and as a result Article 12. See Committee on Economic, Social and Cultural Rights, General Comment 4, The right to adequate housing, (Sixth session, 1991), U.N. Doc. E/1992/23, annex III at 114 (1991), on the internet at: <http://www1.umn.edu/humanrts/gencomm/epcomm4.htm>.

General comment no. 15 goes further and explicitly defines access to potable water as a human right, thus obliging signatories to not directly or indirectly block access to potable water. It is clearly stated that: “Water and water facilities and services must be accessible to all, including the most

In the cases the ERRC documented, families were generally refused access to the local water or electricity network by the town mayor on the grounds that the land on which they reside is not zoned for construction. It seems that families living in their caravans on non-constructible land are basically at the whim of local authorities. In some municipalities, families encounter no difficulties accessing these basic utilities. However, in others, access is denied even to families with children or individuals who are critically ill and require electricity and water for medical treatment.²⁷¹

vulnerable or marginalized sections of the population, in law and in fact, without discrimination on any of the prohibited grounds.” With respect to the non-discrimination principle, the Committee states “Whereas the right to water applies to everyone, States parties should give special attention to those individuals and groups who have traditionally faced difficulties in exercising this right, including women, children, minority groups (...).” The Committee finally notes “Water is required for a range of different purposes, besides personal and domestic uses, to realize many of the Covenant rights. For instance, water is necessary to produce food (right to adequate food) and ensure environmental hygiene (right to health). Water is essential for securing livelihoods (right to gain a living by work) and enjoying certain cultural practices (right to take part in cultural life). Nevertheless, priority in the allocation of water must be given to the right to water for personal and domestic uses.” See Committee on Economic, Social and Cultural Rights, General Comment 15, The Right to Water (Articles 11 and 12 of the Covenant), (Twenty-ninth session, 2002), U.N. Doc. E/C.12/2002/11.

²⁷¹ Mayors often base their actions on Article L111-6 of the Urbanism Code or on their police powers. Whether they are actually entitled to do so when families live in caravans on non-constructible land, seems to be an area of legal confusion at lower Court levels. For example, Mrs Karine Moreau, Director of National International Gypsy Social Association (ASNIT), Bouches-du-Rhône, told the ERRC that in ASNIT’s experience, the Administrative Tribunal of Marseille grants water and electricity quasi-systematically, however, in the neighbouring Department of l’Hérault, the Administrative Tribunal of Montpellier refuses quasi-systematically. However, in a judgement of September 6, 2002, the Council of State (Conseil d’Etat) made clear that mayors did not have the right to deny families a provisional connection to the electricity network even when they live on non-constructible land. (Commune de Marignane, No. 243333, September 6, 2002, Conseil d’Etat). In a subsequent decision on 12 December 2003 the Council of State confirmed this jurisprudence noting that a mayor cannot deny a provisional connection either on the basis of his general police powers (under Article L. 2212-2 of the General Code of Territorial Collectivities) or on the basis of article L.111-6 of the Urbanism Code. (Tino Cancy, No. 257794, Conseil d’Etat, December 12, 2003).

A provisional connection involves what is known in France as a field connection [branchement de chantier]. It involves temporary electricity installation commonly referred to as fairground meter [un compteur forain], rather than a more permanent installation, for instance in the wall.

On the other hand, another recent decision of the Council of State has made clear that mayors can refuse a permanent connection to the electricity network when caravans are parked in an illegal

The case of the Bayer family is illustrative. Sandra and Titus Bayer have been fighting to receive basic utilities – water and electricity – since they moved onto their property in the municipality of Gouvernes in November 2000.²⁷²

Their land used to serve as a local garbage dump. It took the family four months to clean the land and get rid of the piles of garbage bags before moving onto it with their five children in order to establish their home there in two mobile homes.

By a decree of February 2, 2001, the mayor of Gouvernes, Mr Toni Vincent, refused Ms Sandra Bayer's request to maintain two caravans on her land for a period longer than three months. He based this refusal on the fact that the area is a protected area (due to the presence of a nearby stream) and that the local urban plan does not allow for the parking of caravans for more than three months. He also made use of his administrative powers to order the electricity company EDF-GDF Services to cut off the provisional connection to electricity that had been established, and also to forbid the "French Company for the Distribution of Water" (SFDE) to connect her land to the water network.

In fact, the Bayers are by no means the only residents in this protected area. Gouvernes is a small town and their property is at the edge of the village, not more than a few minutes walk from the town city hall and school. There are neighbouring houses, including a house that has recently been built, with the town's permission, nearer to the stream than the Bayers.²⁷³

Mr Vincent later authorised a provisional connection to the electricity network from December 2001 until 31 March 2002, however did not wish to allow the family to receive electricity for a longer period. Sandra Bayer lodged a complaint to the Court of First Instance of Meaux requesting that the provisional connection to the electricity network be maintained and that the land be hooked up to the water network as well. In a decision of 24 April 2002, the Court ordered EDF to maintain the provisional connection to the electricity network until July 31, 2002. It also ordered

manner. The reasoning of the decision would also seem to apply to water, gas and telephone connections. See Legal Opinion of the Council of State, n° 266478, July 7, 2004.

²⁷² They received the land in April 1998 through a donation, thus the municipality did not have the possibility of using its powers of 'pre-emption'.

²⁷³ ERRC visit, February 10, 2004, Gouvernes.

the SFDE (Societe Francaise de Distribution d'Eau) to establish a connection to the drinking water network, in the 48 hours following publication of the order, and to supply the family with water until July 31, 2002.

In its ruling the Court stated that:

It is appropriate to honour these requests because they are the expression of the inalienable right to dignity of the human person who should, whatever his situation, even illegitimate in the eyes of police laws, benefit in a provisional manner, from the comforts and benefits of the public services essential to life.

It is appropriate therefore to order EDF to maintain the provisional connection granted following the authorisation of the mayor of Gouvernes until the end of the month of July 2002, a date that will allow the children to finish the school year and the plaintiff to work out other housing solutions...

However Mr Vincent appealed this judgement, even requesting that the Court fine Ms Bayer 2000 Euros for abusive procedure. The electricity company EDF-GDF and the General Company of Water and the French Society of Water Distribution also joined the appeal requesting that the First Instance Court's judgement be overturned.

The mayor also refused to comply with the Order of the First Instance Court. He issued a new Decree on 11 June 2002, reiterating his order to the electricity company to cut off provisional connection and to the water company not to connect.

In June 2002, the Bayer family demonstrated in the public parking lot in front of the city hall of Gouvernes over the city's refusal to comply with the court order. Their demonstration was unsuccessful. According to the Bayers, approximately thirty police officers were sent with a court order to remove them from the public parking lot. The Bayers then put a sign on their fence stating that the mayor refuses to give five children water and electricity. The family received a letter from the Departmental Service of Architecture and the Patrimony of Seine-et-Marne ordering them to take down the sign as it is not in harmony with the environment and infringes upon the quality of the classified area.²⁷⁴

²⁷⁴ Letter 13 November 2001.

The appeal was heard by the Court of Appeal of Paris on October 30, 2002. The municipality, electrical and water companies won the appeal. The Court reasoned that permanent connections to the electricity and water networks fall under the scope of Article L. 111-6 of the Urbanism Code, which does not allow for such connections in case constructions or locales are not in a regular administrative situation. In addition to being denied electricity and water, Ms Bayer was ordered to pay a sum of 300 Euros to the appealing parties and to pay the First Instance and Appeal Court expenses.²⁷⁵

Along with its refusal to grant the Bayers water and electricity, the municipality of Gouvernes has denied a range of other rights to the Bayers and engaged in litigation to try to evict them from their land. The Bayers had to fight to enrol their children in school and go to Court in order to be enrolled on the electoral lists. The municipality also launched a penal procedure against Sandra Bayer for violation of urban regulations. She was accused of parking two caravans in an area that is a protected area as well as of parking two caravans for more than three months out of the year on her land in violation of the local urban plan. The municipality also launched a penal procedure against the Bayer's immediate neighbours – the only other Gypsies living in caravans in the town – who have been residents since 1945. The Bayers lost in the First Instance Court, in a judgement issued in July 2003, and were sentenced to a fine of 1,500 Euros with reprieve; remove their caravans from their land, and return the land to its initial state (the Bayers had covered part of their land with gravel). The Court also ruled that after a period of 45 days following publication of the decision, if the Bayers had not complied with the judgement, they were to pay a fine of 50 Euros per day to the municipality for every day that they remained on their land. If 30 days later, they still had not complied, their fine was to increase to 100 Euros per day.²⁷⁶ The Bayers appealed the decision.

When the ERRC first interviewed the Bayers in February 2004, they were extremely anxious. They had remained on their land, as it was their home, they had nowhere else to go, their children attended the local school, and they were waiting for their case

²⁷⁵ Judgement of Court of Appeal of Paris, Municipality of Gouvernes v Bayer, 14th Chamber, section A, 30 October 2002.

²⁷⁶ Judgement by the First Instance Court of Meaux (tribunal de grande instance de Meaux), third chamber, July 11, 2003.

to be heard by the Court of Appeal. However, in the meantime each day they remained on their land meant an additional fine of 100 Euros per day. They told the ERRC that if they lost in the Court of Appeal, they knew that they would not be able to pay and did not know what they would do in that case. Titus was unable to sleep or eat. Sandra had been to the hospital four times with stomach pains, but the doctors couldn't find anything precise. Sandra was given medication to calm her nerves.²⁷⁷

On 26 April 2004, the Court of Appeal of Paris found Sandra Bayer to be guilty of the charges against her but ruled that the penalty of 1,500 Euros with reprieve constituted sufficient sanction given the personal situation of Sandra Bayer. The Bayers were thus able to remain on their land.²⁷⁸

However, this decision did not resolve the long battle that the Bayers have been waging in order to be hooked up to the local water and electricity network. As this decision effectively gives the Bayers the right to continue to live on their land, their lawyer requested the municipality to grant them a connection to the water network. The city's lawyer reportedly did not respond to his letter.

The Bayers therefore had to lodge another legal complaint in order to try once again to obtain water and electricity. In an interview on September 14, 2004, Sandra Bayer told the ERRC: "We have to find 1,500 Euros again to go to court. I do not know where we will fish it from – the river? We already had to borrow money from family members in order to pay for the different court cases. This has lasted for four years. We are not beggars. If we did not have this on our backs, we could live normally."²⁷⁹

In a referee procedure,²⁸⁰ the Bayers requested that the court order the mayor of Gouvernes to provide the required authorisation so that they may receive drinking water within a five-day period.²⁸¹ The Administrative Tribunal of Melun ruled

²⁷⁷ ERRC interview with Sandra and Titus Bayer, February 10, 2004, Gouvernes.

²⁷⁸ Judgement of Paris Court of Appeal (Cour d'Appel de Paris), 13th chamber, section A, 26 April 2004.

²⁷⁹ ERRC telephone interview with Sandra and Titus Bayer, September 14, 2004, Paris.

²⁸⁰ A fast-track procedure based on the urgency of the matter before the Court.

against the Bayers, rejecting the request finding that the required condition of urgency for a referee procedure was not met. In its ruling the court reasoned that as the Court of Appeal decision of 26 April 2004 found Ms Bayer to be guilty of violating urban regulations, “she is not founded in claiming that the interest connected with being connected to the drinking water network has priority over the defense of urban rules and considerations linked to the protection of the environment; that, as a result, the condition of urgency foreseen in the abovementioned provisions are not met...” The court also ordered the Bayers to pay a sum of 1000 Euros to the municipality of Gouvernes to cover its fees engaged in the procedure.

The Administrative Tribunal of Melun continues to have before it a substantive complaint on the merits which should be examined in mid-2005. However, the Bayers told the ERRC that they are unsure whether they will be able to continue with the procedure as they can no longer pay the associated legal costs.²⁸²

The Bayers were connected to the electricity network in the beginning of 2003. The mayor of Gouvernes reportedly agreed to connect them provided that the family stopped the publication of an article in the local press describing the inhuman conditions in which the family had to live and the serious effect of these conditions on the health of the Bayers’ daughter. In the meantime, however, the Bayers continued to live without drinking water. Titus Bayer told the ERRC: “We have to take the truck to get water from the fire hydrant on the market so that we can have showers, like thieves. Everyday I have to go get water. And then they say: “You steal water”... We ask for the minimum to live. We have 10-15 square metres of living space. All we want is to be able to live on our own land in decent conditions.”²⁸³

²⁸¹ The Bayers lawyer, Mr Henri Gerphagnon argued that the Council of State in decision No. 257794 of 12 December 2003 found that a mayor of a municipality does not have the power to oppose a provisional connection to the electricity network, either based on his general police powers or on the provisions of article L111-6 of the Urbanism Code. He noted that although this judgment concerned a provisional connection to the electrical network, it can be transposed to litigation with respect to the drinking water network. He also argued that the opposition of a mayor to connect a family to the drinking water network violates article 8 of the ECHR, right to non-interference in private, family life and home. In addition, he argued that the French Code of the Environment sets out in its article L210-1 that use of water belongs to all.

²⁸² By mid-August 2005, the case has not yet been heard. ERRC telephone interview with Sandra and Titus Bayer, December 19, 2004, Paris.

²⁸³ ERRC telephone interview with Mr Titus Bayer, September 14, 2004, Paris.

The ERRC tried repeatedly to obtain an interview with Mr Toni Vincent, mayor of Gouvernes, to discuss the situation of the Bayers, however received no response.

In another revealing case, Ms J. Winterstein bought land in 1990 in the municipality of Isle- Saint-George, a small town outside of Bordeaux, on which she lives with her husband in a caravan. The couple also built a small bungalow that serves as a kitchen and sitting room. The first year the Wintersteins lived on the land they received electricity. However, they were then refused on the grounds that they are in a flood zone. They have lived on their land for 13 years without water or electricity. Today, the situation has become critical for the family as Mr M. Winterstein is critically ill. He requires electricity for his chemotherapy treatment. The Wintersteins told the ERRC that they are trying to set up a meeting with the mayor, but he refuses to receive them.²⁸⁴

The Wintersteins are not the only family in the town of Isle-Saint-George living in a flood-risk zone. In fact, according to Mr Jean Andre Lemire, the town mayor, the whole village is a flood-risk zone, except the tip of the castle. However, other villagers living in houses have water and electricity. Mr Lemire told the ERRC: “The problem for me is that from the moment I give electricity, I accept that it is for them to live here. But since this is a flood zone, we consider that they should not live here.” As to the other houses in the village, the mayor explained that they can go up a floor if there is a flood. He added that he “cannot do anything about what already existed before he became mayor.”²⁸⁵ Seven new houses were recently built in the village. The mayor explained, however, that these are the only constructions in eight years and that they are built on stilts so that water can pass beneath them. Mr M. Winterstein told the ERRC that he had proposed to the mayor to raise his caravan by 3 metres as well, but his proposal was not accepted. As to the urgency due to Mr Winterstein’s state of health, Mr Lemire told the ERRC that: “They have a nice car. There are other areas in the Department where they could buy land. Anyway, they are connected to the neighbour’s electricity supply. I am sure. During the last electricity cut, I happened to be in front of the house passing by on the street. I looked and saw that all of the caravans lit up and then turned off. I realised that they had managed to hook themselves up. So, from a human perspective I know they have electricity.”²⁸⁶ The mayor responded in a similar manner to a letter by

²⁸⁴ ERRC interview with Ms J. Winterstein and Mr M. Winterstein, March 4, 2004.

²⁸⁵ Mr Lemire has been mayor of Isle-Saint-Georges since June 1995.

²⁸⁶ ERRC interview with Mr. Lemire, March 4, 2004, Isle-Saint-George.

a collective of local associations working for the improvement of the living conditions of Gypsies²⁸⁷ requesting that out of human compassion the Wintersteins be connected to the local infrastructure.

The ERRC also discussed the case of the Wintersteins in Isle-Saint-George with Mr Paul Buchou, Director of Development of State Projects at the Prefecture of Gironde. He commented that: “We cannot grant to Travellers what we do not grant to normal people. The law has to be the same for all... There are rules. On a piece of land, when one buys, one cannot do whatever one wants. In the name of what would we authorise to Travellers what we do not authorise for everyone else? It is equality before the law. They have a problem of understanding the law. In their culture, when they buy something, they think that they can park their caravans and do as they please. But there are zoning rules. They do not recognise this.”²⁸⁸ This response is typical of the position of many authorities concerning their refusal to grant access to basic utilities to Travellers on land not zoned for residential construction.²⁸⁹

What this response ignores, however, is the fact that the many instances of Travellers and Gypsies who buy land not zoned for construction are to a large extent a consequence of the systematic discrimination and racism that they face in France. It ignores the fact that there is virtually no place on French territory zoned for individuals to reside legally in caravans, except the few designated halting areas. It ignores

²⁸⁷ This is a collective of Gypsy organisations or organisations working with Gypsies that aims at contributing to the improvement of the living conditions of Gypsies.

²⁸⁸ ERRC interview with Mr Paul Buchou, March 4, 2004, Bordeaux.

²⁸⁹ In his partly dissenting opinion in the case of *Buckley v. United Kingdom*, Judge Lohmus directly addressed such an argument that was presented by the British authorities in this case that also involved a Gypsy family. He stated that: “Living in a caravan and travelling are vital parts of Gypsies’ cultural heritage and traditional lifestyle. This fact is important to my mind in deciding whether the correct balance has been struck between the rights of a Gypsy family and the general interest of the community. The Council of Europe Committee of Ministers Resolution (75) 13 noted the need to safeguard the cultural heritage and identity of nomads. It has been stated before the Court that the applicant as a Gypsy has the same rights and duties as all the other members of the community. I think that this is an oversimplification of the question of minority rights. It may not be enough to prevent discrimination so that members of minority groups receive equal treatment under the law. In order to establish equality in fact, different treatment may be necessary to preserve their special cultural heritage.” *Buckley v. The United Kingdom*, Judgement by the European Court of Human Rights of August 26, 1996, application number 23/1995/529/615.

the very difficulty for Travellers and Gypsies to find any place to buy due to pre-emptions. It ignores the fact that it is virtually impossible for Travellers to benefit from loans and that they must therefore pay for their purchases in cash. It ignores the increasing difficulties for Travellers and Gypsies to work due to difficulties finding places to stop and regulations placed on the trades that many exercise. It also ignores the fact that unlike other segments of society, Travellers and Gypsies are systematically left out of the wide number of governmental measures to assist the poorest and most marginalised segments of society in acquiring decent housing. In addition, it ignores the fact that there tend to be no options, such as rental, between travelling and stopping on designated areas and buying private property.

The ERRC asked families it met, why they bought land that was not zoned for construction. Ms Sandra Bayer repeated what the ERRC heard from many other individuals: “We simply do not have the means to buy land that is zoned for construction. If we had money, we certainly would not buy land at the edge of the village, land that is on the fringes of society. We do not have property – we have a caravan. And we are already struggling to pay the credit for the caravan.”²⁹⁰ The problem of means is magnified for Travellers as compared to other citizens in a comparable socio-economic situation due to Travellers’ difficulties in obtaining loans and their exclusion from different forms of housing assistance that could facilitate their acquisition of constructible land.

Another Traveller, Mr Albert Winterstein-Benony, himself unable to receive drinking water on his land in Hérieux due to the mayor’s refusal, pointed out that:

Although the price is obviously a factor, another difficulty lies in the fact that on constructible land, you have to build. You have a period of five years in which to build. We do not know where to go. If we were on constructible land, we would have to build and we do not want to. But we do not have the right to be on non-constructible land either. They want us to live only in ‘designated’ places. But my family cannot live like that; in community with others and in those conditions. We tried for a while in Saint Priest. We stayed for three months. It was unlivable, being on top of others, sharing a toilet, the dirt. The shower did not work...

²⁹⁰ ERRC telephone interview with Ms Sandra Bayer, September 14, 2004, Paris.

So, where can we go? We cannot legally live on either constructible or non-constructible land.²⁹¹

6.4 Substandard Living Conditions in Areas of Permanent Settlement

Many of the poorest and most marginalised Gypsies and Travellers, those who could not afford to buy their own land, settled in the only areas in which they were able to remain without being chased out by municipal officials. Hidden from the rest of the population, such persons have lived for decades in slum conditions that the ERRC was shocked to discover in France. Going into these neighbourhoods, one has the impression of entering another country altogether, places with a completely different standard of living and development possibilities. It is like going from the first world to a third world slum in the space of a few minutes.

In the small town of Saint-Médard-d'Eyrans, eighteen kilometres from Bordeaux, a group of families lived along the Chemin de Bédard, a small dirt road leading into the woods for at least forty years. Dr Marion, a local doctor who has treated the families for twelve or thirteen years, told the ERRC that there were on average 20 caravans parked along the dirt road. They generally stayed the winter and some left during the summer. The land was sold to an industrialist, who has begun to prepare the site in order to build a factory and the families have been told to leave.²⁹²

²⁹¹ ERRC telephone interview with Albert Winterstein-Benony, September 14, 2004, Paris. In March 2003, Mr Winterstein and Ms Benony asked the local water company to supply their residence with drinkable water. They learned that the water company required written permission from the local mayor, Mr Gérard Thollot. They offered to pay for the procedure themselves and submitted a written request to the mayor's office on March 12th, 2003, asking for his approval. Mr Winterstein and Ms Benony received a written denial on April 12th, 2003 from the mayor's office stating that despite the fact that the local zoning regulations in the non-constructible zone in which they live do not forbid the parking of caravans, such parking is subject to conditions with respect to public facilities. The letter further indicated that given the agricultural character of the sector and existing capacity of the infrastructure, the municipality does not intend to develop the public network of water, sanitation and electricity. However, when it visited the Winterstein-Benony family on March 25, 2004, the ERRC noted that homes or farms with access to potable water had been constructed upon the majority of parcels neighbouring the Benony/Winterstein residence. Thus, their residence appears to be unique in not having access to drinkable water.

²⁹² ERRC telephone interview with Dr Marion, June 18, 2004, Paris.

According to the non-governmental association Doctors of the World (MDM), the mayor of Saint-Médard-d'Eyrans previously wrote a newspaper article stating that these families are part of the village. But now the city says there is nothing that they can do for the families. The municipality claims that the families were previously “tolerated”, but they are illegally there and the land has been sold, so the families have to leave.²⁹³

The ERRC visited the site on the afternoon of March 4, 2004. There were only three broken down caravans parked along the path and a bulldozer plowing the land nearby. Garbage was overflowing from an open pit just behind the caravans, and a few rats ran by. The residents told the ERRC that there used to be much more garbage – the bulldozer covered some of it up for them. According to the residents and Dr Marion, quite a few villagers have for years treated the area as a local garbage dump.

Ms Duprun told the ERRC, “We have lived here for generations. We know everyone from the village. The nurse who assisted my mother when she gave birth to me, the teachers. We do our laundry in the river and live amongst the rats. There are thousands of rats. Rats cover the area like sand and they are all bald...At night it’s awful if we need to go out to the toilet. We do not know where to step. The doctors say we are at risk of catching typhus. May and June will be hot months; there will surely be lots of rats.” For years sewage has run into the nearby river that the families use to wash themselves and to do laundry.²⁹⁴ The families get drinking water from the town cemetery and use candles for light. According to Dr Marion, they evidently have health problems linked with their living conditions. There are a lot of cases of gastroenteritis and there have also been cases of tuberculosis. One of the older women was recently affected by tuberculosis.²⁹⁵

The many families that used to live along this path have nowhere to go. Some are living between Saint-Médard-d'Eyrans and neighbouring villages, stopping briefly in each village until they get evicted. Others are now living deep in the

²⁹³ ERRC participation in meeting of Collective of Gypsy Associations and Associations working with Gypsies, March 1, 2004, Bordeaux.

²⁹⁴ ERRC interview with Ms Duprun, March 4, 2004, Saint-Médard-d'Eyrans. A recently built sewage treatment plant now treats some of this waste, but some still runs into the river.

²⁹⁵ ERRC telephone interview with Dr Marion, June 18, 2004, Paris.

woods. Ms Sorbier-Duprun was returning home to the woods with other family members when the ERRC met her. She told the ERRC that her family had been in the woods for 15 days. “At night you cannot even see your hand in front of your face. We have to go 15 kilometres just to get water. We do not send our children to school anymore. We are now too far away and our living conditions too poor to send our children to school.”²⁹⁶

Ms Duprun told the ERRC that her family has tried to leave, but as soon as they stop somewhere else, they are chased away. She said that they have not managed to stay more than one day in any one place. So, they stay where they are. She also emphasised that they are prepared to pay to live on a piece of land. The Duprun family has been requesting social housing for five years. The town built a social housing complex two years ago. The Duprun family was refused, however, on the grounds that none of the housing offered was sufficiently large to house the whole family.²⁹⁷

Another slum settlement, “Clos de la pionne”, in Avignon, can be reached only by making a dangerous turn of about 230 degrees off a major freeway onto a small dirt road. Approximately 50 caravans line the road, parked in different lots, with up to five caravans in each. Based on average numbers of persons per caravan, there are approximately 200-300 people living at the site.

Clos de la pionne is located between two sewage treatment plants, a freeway and a railroad track. During an ERRC visit to the site on May 7, 2004, there was an intense, noxious odour in the air. The odour came from the slow-moving stream that runs just next to the site, with its steep banks not more than a few metres from the closest caravans. The waste from one of the sewage treatment plants, the “Usine de traitement des eaux usées la Courtine”, drains into the stream. Some of the families took the ERRC to their lots (close to the stream) where the odour, resembling toilets that have not been cleaned for many months, was strong enough to be almost unbearable. The families told the ERRC that in summer the odour becomes even more intense.

The Vigoureux, Hindercheid and Dubois family members that the ERRC spoke with at the site have been there for between 15 and 20 years. The sewage treatment

²⁹⁶ ERRC interview with Ms Sorbier-Duprun, March 4, 2004, Saint-Médard-d’Eyrans.

²⁹⁷ ERRC interview with Ms Duprun, March 4, 2004, Saint-Médard-d’Eyrans.



Caravan parked beside home-made sheet metal fence in “Clos de la Pionne” in Avignon. The residents of this slum settlement erected this fence to prevent the children from falling down the steep banks of the nearby stream, into which waste from a sewage treatment plant drains.

PHOTO: LANNA Yael HOLLO

plant was reportedly built in the late eighties, without taking into account the families living here. Mr. Antoine Vigoureux told the ERRC: “Things used to be fine here. This used to be a woods. But they cut everything down and built a sewage treatment plant.”²⁹⁸

This site was initially made available to a number of Traveller and Gypsy families by the city of Avignon around 1986. According to a reliable anonymous source, the city was already aware that there would be a sewage treatment plant in the vicinity at the time the families were moved to the site.²⁹⁹ Residents pay rent to the city of Avignon in order to remain at this location. Mrs Hindercheid told the ERRC that her family pays the city 2000 francs (approximately 305 Euros) per year for their lot.³⁰⁰

On the day of the ERRC’s visit, 7 May 2004, residents were particularly worried about the state of health of their children. Numerous persons repeated to the ERRC that their children are always sick. One of the men told the ERRC that his one-month old baby had just spent five days in hospital with a rash on her face and microbes. Another woman added that her son had recently spent one month in the hospital for something similar. And another that her son had just spent 15 days in the hospital as well. Besides the smell of sewage, the families are also plagued by rats, especially at night. The families live without hot water. They wash with water from a basin. The electricity supply is also far below basic needs.

All of the residents that the ERRC spoke with expressed the desire to move to another site. City officials have apparently been promising to move them for three years. The city has begun building a four-lane freeway which is to run through their site. The residents therefore expect to be moved soon.³⁰¹ As of March 2005, however, the families remained at the site with no news of their relocation.

A few kilometres away, another slum neighbourhood, known as “Terminus Montclar”, is located directly below the freeway (Rocade Charles DeGaulle). The neighbourhood, populated almost entirely by Gypsies, can be reached by follow-

²⁹⁸ ERRC interview with Mr Antoine Vigoureux, May 7, 2004, Avignon.

²⁹⁹ ERRC telephone interview with a person who wishes to remain anonymous, March 17, 2005.

³⁰⁰ ERRC interview with Ms Hindercheid, May 7, 2004, Avignon.

³⁰¹ ERRC interview with Dubois, Hindercheid and Vigoureux families.

ing the exit sign marked “dechetterrie” (garbage dump). Local non-governmental associations estimate that there are at least 500 people living in this neighbourhood, including more than 200 young children. The main road is lined with caravans and small makeshift houses, built of scrap materials with sheet metal roofs. After the last small house, the road comes to a dead end at the garbage dump.

At the time of an ERRC visit on May 7, 2004, there was no drinking water or sewage. Only about half the residents had electricity, but it frequently cut out.³⁰² Conditions are such that a recent newspaper article characterised the area as “Avignon’s third world”.³⁰³ Residents told the ERRC that they have problems with rats because of the neighbouring garbage dump. One resident, Ms G. Riviera, said that her mother-in-law had lived at the site for 45 years. Many others had lived there just as long. She said that they have been requesting water, electricity and toilets for years, but the municipality had still not provided these basic amenities.³⁰⁴

In December 2004, the city connected the area to the electricity network and, in March of 2005, was in the process of providing drinking water to the site. However, there were still no plans to establish any form of sewage system on the site.

Mr Alain Fourest, President of the non-governmental association Rencontres Tsiganes³⁰⁵ and consultant in urban planning, later told the ERRC that “there used to be a Gitan³⁰⁶ neighbourhood in the historical center of Avignon, at the foot of the Popes’ Palace (Palais des Papes). Evidently that was unacceptable. So, they destroyed the neighbourhood and moved the Gitans somewhere else; far away from the centre of the city. They were moved to Montclar ... where you saw them.”³⁰⁷ Some of the Gypsies from the former Pope’s Palace neighbourhood were initially moved

³⁰² ERRC visit to Clos de la Pionne, May 7, 2004.

³⁰³ Jaureguy, Tristan. “Les habitants du ‘Terminus’ lancent un appel à l’aide”, *La Provence*, Monday April 26, 2004.

³⁰⁴ ERRC interview with Ms Riviera, May 7, 2004, Avignon.

³⁰⁵ Rencontres Tsiganes is a Non-Governmental Association in the Region of Provence Alpes Cote d’Azur.

³⁰⁶ Gitan/Kale refers to Gypsy populations that came to France from the Iberic Peninsula (from Catalonia to Andalusia).

³⁰⁷ ERRC interview with Mr Alain Fourest, May 7, 2004, Marseille.

to another location in the historical centre of Avignon. However, with recent renovations, these families are also being forced to leave the historical centre, and for the most part going to Terminus Montclar.³⁰⁸

Another slum camp is located in Picarel, an area in an industrial zone of Toulouse. The ERRC had to follow a social worker from a local non-governmental association³⁰⁹ in order to find the neighbourhood, inhabited mostly by Gypsy families, so isolated is it from the rest of the city. In part, the area consists of small houses, built by the city 18 years ago for persons that lived in the renowned Ginestous Camp.³¹⁰ However, next door to the houses, is a makeshift camp area. In it approximately 20 families, including at least 55 children, live in rundown caravans, most of which no longer function, or the back of heavy duty trucks, converted into houses. There is provisional electricity and water faucets, however no showers, sewage or toilets.

Ms Ginette Mencarelli, one of two women appointed as representatives by the camp's residents, lives in the approximately ten square metre space of a former truck with her husband and two young children. She explained that the residents of this camp are mostly the youth of the families living in houses, who got married. "The city does not want us here", she said. "If they would build us houses, or provide us with a 'designated area', we would go there. We are forbidden to build here – that includes things such as showers and toilets. But, it has been years that we have been living on this parking lot. So, I built myself a shower. The deputy mayor and municipal official delegated to this neighbourhood told us we did not have the right to build anything and that they would destroy the shower."³¹¹ As of

³⁰⁸ ERRC interview with Mr Alain Fourest, October 15, 2004, Paris.

³⁰⁹ Coordination Committee for the Promotion and in Solidarity with Communities in Difficulty: Migrants and Gypsies (C.C.P.S.).

³¹⁰ In 1951 in order to rid Toulouse of mini slum neighbourhoods, the city created the "provisional" camp of Ginestous to house Gypsies, immigrant workers and immigrant families evicted from their housing. In 1964 the municipality built walls around the camp and placed a police station at its entrance. Over the years, the camp's population was in its large majority composed of Gypsies. Located in a flood zone, it experienced various floods over the years, but a flood in 2000 finally resulted in the camp's definitive closure.

³¹¹ ERRC interview with Ms Ginette Mencarelli, March 9, 2004, Toulouse.

January 2005, the shower had not yet been destroyed, although Ms Mencarelli still feared its imminent destruction.³¹²

Ms Michele Benete is the second representative of the residents of the area. She has lived at the site for around five years. She told the ERRC that the residents are fighting to get showers and toilets installed. She showed the ERRC letters that they had written since 2001 to governmental officials at all levels, from the French President to the local mayor, along with the responses that they had received. Each level delegated the issue to the one below. Ms Benete said that following these letters representatives of the PMI³¹³ office came to the camp to propose “hygiene” courses. “We gave them a little tour of our ‘neighbourhood’ and their mouths fell open. They did not know what to say. We said ‘first give us showers and toilets and then come talk to us about hygiene.’”³¹⁴

The ERRC found a similar situation in the Ruisseau Mirabeau neighbourhood of Marseille. In an industrial zone, off the main road running from Marseille to Estaques, social housing, consisting of small houses, was built 20 years ago for Gypsy families that had lived in a slum neighbourhood. However, their children and relatives live further up the hill, with their caravans squeezed next to each other into a small lot surrounded by high concrete walls. There are no toilets, showers or sewage on this lot. Families have been living here for at least ten years. Two years ago, two caravans burned, which caused municipal officials to promise to rehouse the inhabitants.³¹⁵ According to Mr Fourest, however, these promises are not likely to materialise into a concrete project for at least two or three years.³¹⁶

In some areas where Gypsies and Travellers have been tolerated for many decades, families have managed to create a relatively comfortable living environment.

³¹² ERRC telephone interview with Ms Ginette Mencarelli, January 12, 2005, Paris.

³¹³ Maternal and Infant Protection (protection maternelle et infantile) offices cater to families, pregnant women and children under six years of age. They offer preventive medical care, as well as psychological, social and educational services for future parents and for children.

³¹⁴ ERRC interview with Ms Michele Benete, March 10, 2004, Toulouse.

³¹⁵ ERRC visit, 5 May 2005, Marseille.

³¹⁶ ERRC interview with Mr Alain Fourest, October 15, 2004.

However, they continue to be denied basic utilities and live in fear of eviction as they have no security of tenure.³¹⁷

For example, a large group of Gypsies live near Rue de Corse in an agricultural zone in the city of Argenteuil, in Val d'Oise (between 500 and 700 persons, including at least 300 children). Some are property owners, others rent, and others are squatters. Many of the adults have lived in the neighbourhood for between 20-25 years, and the children attend a local school. In addition to approximately 4-5 caravans on each lot, some residents have built bungalows and others houses. The property owners the ERRC met have water and electricity. However, these basic amenities are refused by municipal officials to most of those without land title. There is no sewage in the area, so residents have built their own septic tanks. The main road is bumpy and built with sand and gravel. A number of property owners told the ERRC that the city has not paved the main road running through the neighbourhood despite their multiple requests and the fact that they pay their local taxes like all other residents of the municipality.

When the ERRC visited the neighbourhood on October 13, 2004, those families without title were extremely anxious due to the precariousness of their situation, fearing that they would soon be expelled. Their fears were fueled in May 2003 by a pile of letters given to one of the residents at the entrance to the neighbourhood. Written on letterhead from the municipality of Argenteuil and signed by the Deputy Mayor Georges Mothron, the letter indicated that the agricultural sector, in which their neighbourhood is located, is in need of a "cleaning up" in order to preserve it and return it to its primary vocation as an agricultural zone. The letter continued that this will make it possible to develop outdoor installations and projects in this sector of more than 40 hectares. It noted that in the short term

³¹⁷ The security of tenure is one of the components of adequate housing (See General Comment 4 of the UN Committee on Economic, Social and Cultural Rights at footnote p.229 supra. Failure of the authorities to ensure security of tenure therefore implicates a violation of the right to adequate housing provided by Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR). It is also contrary to the recent recommendation by Council of Europe Committee of Ministers on "improving the living conditions of Roma and Travellers in Europe" that states that: "Member states, bearing in mind that the right to housing is a basic human right, should ensure that Roma are protected against unlawful eviction, harassment and other threats regardless of where they are residing." Committee of Ministers. *Recommendation to member states on improving the housing conditions of Roma and Travellers in Europe, Rec (2005)4, paragraph 23.*

there would be a general cleaning of car shards, gravel and other debris, followed at a later stage by larger works, such as ploughing of lots, in such a manner as to put an end to illicit occupations. The letter invited the property owners or rights holders to make themselves known to the municipality.³¹⁸ Residents told the ERRC that they feared that they would be expelled in the spring of 2005, after the winter freeze on evictions. As of August 2005, they had not yet been evicted, however, representatives of the city hall reportedly came to the site during the summer to verbally inform them that they would be evicted in the spring of 2006.³¹⁹

While at the site, the ERRC was presented to Ms M. Winterstein, who said that her family along with eight other families who lived on two lots, were to be evicted the following day. The group included 14 or 15 children who attend the local school. The families had been taken to Court in March 2004 by the property owners, who had sold the land to the municipality but were to receive their money on condition that they evict the occupants.³²⁰ The residents lost the case, and Ms Winterstein told the ERRC that the families did not have the means to appeal the decision. The families had lived here for at least 20 years. At the end of June 2004, they received a letter informing them that their eviction was planned and that they should free the location and remove their furniture. The owner and bailiff came to their property at a later date to warn the family that the bulldozers and police would come on October 14, 2004 to clear the land and carry out the eviction. In order to at least recuperate some of the building materials as well as their furniture, the families themselves destroyed their five chalets (used as a kitchen and living space) just before their October 14, 2004 deadline when the bulldozers were scheduled to arrive. When the ERRC saw the site, only the floors of the chalets remained, along with 11 caravans and toilets.

³¹⁸ Mothron, George. Lettre aux Riverains, May 28, 2003, Argenteuil.

³¹⁹ ERRC interview with Ms Winterstein, August 15, 2005, Paris.

³²⁰ On October 14, the owner told the non-governmental organisation National Catholic Association of Travellers (ANGVC) that he had wanted to sell his land to the occupants in 1995, but the sale had been blocked by the municipality using their powers of pre-emption. The same thing had also occurred in 1999. He said that he needed money and the municipality had now proposed a decent price to buy the land as long as he evicted the occupants. A municipality can only legally pre-empt a sale if there is a clear project of public utility. In this case, the owner informed the ANGVC that the reason given had been that this is agricultural land. This would not constitute a legal reason for pre-emption. It seems that the municipality has not yet developed a clear project of public utility covering the property. ERRC interview with Ms Anne Marie Auger, ANGVC, October 15, 2004, Paris.

On October 14, the bulldozers arrived in the morning; however, the families remained on the land in their caravans. The bulldozers then left and the families were informed that they would return at 2:00 PM as planned. Slightly before 2:00 PM, the bulldozers arrived along with the owner, a representative of the municipality and the police. Only one caravan had moved, and the bulldozer dug trenches around the location to ensure that it would not be possible for the caravan to return. However, journalists and a number of other representatives of non-governmental associations and the Green Party arrived. It became clear that there was no official eviction order approved by the Prefect as is legally required for an eviction. The bulldozers did not carry out any further action and the families remained on the land through the winter. The families, however, were evicted in the spring of 2005 when the media was no longer focused on their situation. As of August 2005, they were living with other family members on a nearby lot. Ms Winterstein told the ERRC that city officials had warned them that they would be evicted from this lot in March 2006.³²¹

6.5 Discrimination against Gypsies and Travellers in Access to Social Housing

Patterns of discrimination and segregation of Gypsies and Travellers are also widespread when it comes to the rental of HLM (social housing meant for those with low income),³²² despite national legislation explicitly forbidding such discrimination.³²³

Gypsies and Travellers often find it extremely difficult, if not impossible, to gain access to an HLM, even when they meet criteria related to financial resources and

³²¹ ERRC interviews with Ms M. Winterstein, October 13, 2004, Argenteuil and August 15, 2005, Paris.

³²² It should be noted that other groups, such as recent migrants or persons of “immigrant origin” also experience discrimination in the social housing sector. See for example S.O.S. Racisme. Bilan et perspectives des politiques publiques de lutte contre les discriminations raciales et ethniques dans l’accès au logement. March 21, 2002, available at: http://www.millenaire3.com/contenus/rapports/sos_racisme.pdf.

³²³ Article 158 of the Law of Social Modernisation of January 17, 2002 provides that: “No one is to be refused housing on the grounds of origin, name, physical appearance sex, family situation, state of health, handicap, customs, sexual orientation, political opinions, union activities or belonging or non-belonging real or supposed to an ethnicity, nation, race, or particular religion.” Furthermore it provides for a shifting of the burden of proof in cases of a refusal to rent housing. The alleged victim is to present initial specific and consistent facts allowing for a presumption of discrimination to be made. The alleged discriminating party must then prove that its refusal was justified. (Unofficial translation by the ERRC).



Garbage in an open pit behind caravans parked on the Chemin de Bédard in Saint-Médard-d'Eyrans, a dirt road leading into the woods where Gypsies lived for at least forty years. For many years, villagers reportedly treated the site as a garbage dump.

PHOTO: LANNA Yael HOLLO

figure amongst those living in particularly poor conditions (a factor which should, according to existing regulations, give them priority for social housing).³²⁴

For example, Ms Flore Crystal has been applying for an HLM for 10 years. She told the ERRC that each year she fills in the application, but she never receives a positive response. The reason she repeatedly receives for the refusal is that there is nothing available that is big enough.³²⁵

She lives with her husband and five children in a small rundown caravan (approximately seven square metres) and truck. The ERRC met her on an empty lot in Pertuis that the city allowed to be provisionally used by Travellers. In the caravan is a small bed, a bench, narrow couchette and a sink area of less than 1 metre squared. Mr and Ms Crystal sleep in the caravan along with two children, and the other three children sleep side-by-side in the truck. The family spent last winter in this empty lot, without heating.

Ms Crystal emphasised to the ERRC that the family has always lived in the city of Pertuis and wishes to remain here. Her children attend a local school where she hopes that they will be able to continue their studies.³²⁶

Ms Karine Moreau, Director of ASNIT,³²⁷ Bouches du Rhône, informed the ERRC that the normal wait in the region for persons who qualify for social housing is generally three years.³²⁸

Another seriously ill Traveller that the ERRC met on the official halting area of Lognes in Seine-et-Marne in February 2004 had not received a response to her request for social housing initially dating from November of 2002, despite the urgency due to

³²⁴ See for instance, Loi n° 90-449 du 31 mai 1990, “Loi visant à la mise en oeuvre du droit au logement”.

³²⁵ The French non-governmental association S.O.S. Racisme, in a detailed study on access of persons of immigrant origin to social housing, noted that the insufficient size of available housing is a frequently used argument provided by rental agencies to justify discriminatory practices. See S.O.S. Racisme, Bilan, p. 9.

³²⁶ ERRC interview with Ms Flore Crystal, May 6, 2004, Pertuis.

³²⁷ National International Gypsy Social Association.

³²⁸ ERRC interview with Ms Karine Moreau, May 4, 2004, Marseille.



The former truck that serves as the home of Ms Ginette Mencarelli, her husband and two young children in a slum camp in the Picarel neighbourhood of Toulouse.

PHOTO: LANNA Yael HOLLO



Ms Flore Crystal, her husband and two children sleep in this seven square metre caravan. Her other three children sleep side-by-side in the truck. She has been applying for social housing for 10 years, but continues to be refused on the grounds that there is nothing available that is big enough.

PHOTO: LANNA YAEL HOLLO

her health condition. She had attached a doctor's letter indicating her state of health to her request for social housing.³²⁹ Suffering from heart, respiratory and thyroid problems, Ms L. Falck told the ERRC that she finds it extremely difficult to live in the conditions of the Lognes site and was worried about surviving the following winter.³³⁰

Mr A.B., a social worker who worked with Travellers between 1995 and 2000 in the town of Bègles, just south of Bordeaux, told the ERRC that during this time period he only managed to get three HLM apartments for Travellers. He tried consistently for at least 15 families. He said that it was known by those involved in the sector that there was an a quota of no more than 10% of Travellers in any of Bègles' HLMs.³³¹ Other non-governmental associations working with Travellers and Gypsies in other regions of the country also raised this problem.³³²

Where they are accepted into HLMs, Gypsies are often ghettoised in the poorest quality HLMs that fail to meet basic international standards of decency, health and safety.³³³

The city of Marseille, with an estimated 3,000-3,200 Gypsy families (approximately 20,000 persons),³³⁴ in large part living in HLMs, is an instructive example. Gypsy families are disproportionately represented in a few HLMs that are badly reputed in terms of living quality and security, such as Les Cèdres, Saint Paul, La Renaude, Saint-Joseph and Petit Séminaire.

³²⁹ ERRC interview with Ms L. Falck, February 16, 2004, Lognes.

³³⁰ The site is basically a parking lot, where caravans can hook up to electricity and water through a rubber hose. There is only one shower that is largely insufficient for the approximately 30 caravans on the site, and 3 Turkish style toilets (one of which was not working at the time of an ERRC visit on February 16, 2004.)

³³¹ ERRC interview with Mr A.B., March 2, 2004, Gradignan.

³³² Dr Jean-Claude Giraud, President of the non-governmental association, Coordination Committee for the Promotion and in Solidarity with Communities in Difficulty: Migrants and Gypsies (C.C.P.S.), noted that those persons who are "sedentarised" or in the process of "becoming sedentarised" have difficulty accessing social housing, in part due to difficulties of proving the amount of their financial resources.

³³³ This same problem with respect to persons of immigrant origin is described in S.O.S. Racisme, Bilan, especially pp. 7-9.

³³⁴ This figure comes from a study carried out in March of 2001 by the non-governmental Association Régionale d'Etudes et d'Actions Auprès de Tsiganes (AREAT), which also carried out the evaluation for

According to Mr Alain Fourest,³³⁵ who was charged a few years ago with carrying out a study on the situation in a number of HLMs in Marseille with significant Gypsy populations, “to procure a place in an HLM if you are a Gypsy is almost impossible, except where no one else would go because of the rundown state of the buildings or bad location. For instance, one family I knew wanted to leave Les Cèdres, go to any other social housing complex. They were systematically refused elsewhere. The reason was the belief that if the Gypsies come, the others will leave.” He told the ERRC that in those HLMs where Gypsy families lived, when there were empty apartments, the management would simply leave them empty; they knew that other Gypsies would come, and they turned a blind eye. This happened in complexes such as Les Cèdres, Saint Paul, and Petit Séminaire.³³⁶

The ERRC visited Les Cèdres (built in 1965) and Saint Paul (built in 1962) in May 2004. Those buildings with a particularly high percentage of Gypsy families had peeling paint, missing doors in the entrance halls, missing shutters and a large number of apartments walled up. They looked as if they were completely neglected by the management or even being prepared for demolition. Inside the buildings the heating systems did not meet current standards. In Saint Paul, some apartments still had charcoal heating. In Les Cèdres, the coal heating had been replaced by individual gas heating but in such a manner as to reportedly constitute security risks. In Les Cèdres there were also problems with the system for drainage, causing rain and sewage water to overflow into the basements and interior court yards. Individual apartments were also badly in need of renovation, with the old equipment in poor condition.³³⁷

the Departmental Plan in the Bouches-du-Rhône. Numbers have likely increased slightly since this date. According to the study, many of these families were repatriated from North Africa, and have lived for many generations in Marseille. They live mostly in the 11th, 13th, 14th, 15th and 16th neighbourhoods of Marseille. AREAT. Etat quantitatif concernant la population Marseillaise d’origine Tsigane. Marseille, March 27, 2001. It should be noted that there may be other Gypsy families living in the city of Marseille who are not included in these figures as they do not live in social housing complexes or have contacts with AREAT.

³³⁵ Mr Fourest was a former national director of the National Commission on Neighbourhoods.

³³⁶ ERRC interview with Mr Alain Fourest, May 5, 2004, Marseille.

³³⁷ ERRC visit to Les Cèdres and Saint Paul, May 5, 2004, Marseille. See also Fourest, Alain. Reconstruction Démolition DDE 13 Habitat-Marseille-Provence: Les Cèdres. September 29, 1998. Fourest, Alain. Reconstruction Démolition DDE 13 Habitat Marseille Provence: Saint Paul. September 29, 1998. When the ERRC visited Saint Paul, there seemed to be relatively few families left in the buildings where there had been large Gypsy populations. It seems that these buildings have been slated

6.6 Harassment of Travellers Who Buy Constructible Land

Local officials are well placed to create obstacles for Travellers and Gypsies who wish to live in their city, regardless of the mode of life that families wish to lead. Even when they buy constructible land on which they wish to build a house, in full conformity with urban planning regulations, local officials may make it extremely difficult for Travellers and Gypsies to realise their plans.

For example, Mr P. D., a Traveller, bought a piece of constructible land of approximately 5000 square metres in the municipality of Merignac in 2000, however, he has been encountering difficulties with the municipality since he settled there with his family.³³⁸ Mr P.D. intended to build two houses so that the family could live on the land. However, when he presented his request for a building permit to the municipality of Merignac (as is legally required in order to build a house), the mayor refused, indicating that the land could be reclassified (as non-constructible) due to a public project.³³⁹ In effect, the municipality indicated that the land fell inside the perimeter of a recreational “green zone” in which the city intended to develop a horse ranch, public woods and a public vineyard. Mr P.D.’s land was in fact located next to other parcels on which there were already houses. Noting this fact, the Administrative Tribunal of Bordeaux ruled on March 5, 2004 that “given the configuration of the area, the construction of two homes on this land would not be of such a nature... to compromise or render more onerous the execution of such a plan.” The Court also stated that it was not established that the city’s project had reached such a state of advancement that it could in fact be used to oppose a building permit.³⁴⁰ The Court therefore ordered the city to review its previous decision.

Despite this decision, by 17 September 2004 the municipality had still not approved Mr P.D.’s request. Mr P.D.’s father (Mr. D.) informed the ERRC that the city was creating obstacles, such as requesting new plans (for which Mr P.D. has to pay each time). In addition, the city continued to say that it wishes to establish a

for demolition and renovation under the Borloo Law and the families have therefore been kicked out. The ERRC was unable to determine what happened to the families.

³³⁸ ERRC interview with Mr D, 28 September 2004.

³³⁹ The municipality based this negative decision on article L123-6 of the Urbanistic Code.

³⁴⁰ Administrative Court of Bordeaux, Mr P.D vs. Commune de Mérignac, decision of March 5, 2004.

green zone at that location. The family complained to the Administrative Court of Bordeaux, who ruled in their favour ordering the city to issue the permit, this time upon threat of a daily fine of 500 Euros. As a result of this decision, the municipality issued the permit in early October 2004.

6.7 Deleterious Health Effects of Inadequate Housing

The indecent living conditions in which Travellers and Gypsies are often required to live have a considerable and persistent deleterious impact on their health. Those with heart conditions, cancer and other serious illnesses are particularly harmed by the lack of basic amenities such as water and electricity. This often makes adequate treatment impossible and can be life threatening. Living near environmental health hazards such as polluting factories, garbage dumps, recycling plants, freeways and water and waste treatment plants evidently also infringes upon the health of individuals. Those with allergies or asthma are also particularly susceptible to the polluting emissions from such neighbours. The situation is further aggravated for those who travel by the constant evictions which caused in many stress-related illnesses.³⁴¹

³⁴¹ This situation constitutes a serious violation of Gypsies and Travellers right to health.

The right to health is a fundamental human right recognised in numerous international instruments. Article 25.1 of the Universal Declaration of Human Rights affirms: “Everyone has the right to a standard of living adequate for the health of himself and of his family, including food, clothing, housing and medical care and necessary social services”. The International Covenant on Economic, Social and Cultural Rights (ICESCR) provides the most comprehensive article on the right to health in international human rights law. In accordance with article 12.1 of the Covenant, States parties recognise: “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”. Additionally, the right to health is recognised, *inter alia*, in article 5 (e) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination of 1965, in articles 11.1 (f) and 12 of the Convention on the Elimination of All Forms of Discrimination against Women of 1979 and in article 24 of the Convention on the Rights of the Child of 1989.

In its General Comment No. 14 on “the right to the highest attainable standard of health”, CESCR, states that: “Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity... the right to health is closely related to and dependent upon the realization of other human rights.” CESCR also makes clear that the drafting history and the express wording of article 12.2 of the ICESCR “acknowledge that the right to health embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access

Reflecting the critical nature of this situation, studies indicate that the life expectancy of Gypsies and Travellers is 20 years less than the National average.³⁴²

The Departmental Plan of the Gironde comments on this statistic as follows: “...this significant discrepancy essentially reveals a public health problem, linked, according to behavioural and environmental studies, to the multiplication of pathologies related to living conditions and access to services.”³⁴³ In other words, studies reveal that the lower life expectancy of Gypsies and Travellers is directly linked to health problems caused by the failure of the French State to provide them with decent living conditions and basic facilities, such as potable water and electricity.

The Departmental Plan of the Gironde also indicates that detailed studies of the health situation of Travellers in the Gironde reveal that their living conditions generate and foster a range of physical and psychological illnesses, some of which have otherwise disappeared amongst the majority French population. These include: lead poisoning, tuberculosis, skin diseases, parasitosis, respiratory allergies, stress, eating disorders, cardio-vascular illnesses.³⁴⁴

A scientific study commissioned by the Departmental Directorate of Social and Sanitary Affairs (D.D.A.S.) in Haute-Garonne examined the impact upon Travellers’ health of living in a halting area located in an industrial zone. The halting area, in Villeneuve-Tolosane, on the outskirts of Toulouse, was located between three factories, a waste treatment plant, a waste recycling plant and a military airport. The study concluded that: “This site selected to host a nomad camp for a long period has the

to safe and potable water and adequate sanitation, safe and healthy working conditions, and a healthy environment.” Thus individuals’ right to health is not limited to timely and appropriate health care, but also extends to the provision to the extent possible and without discrimination of the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions. See CESCR, General Comment 14, “the right to the highest attainable standard of health”, (twenty-second session, 2000), U.N. doc. E/C.12/2000/4 on the internet at: [http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/E.C.12.2000.4.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/E.C.12.2000.4.En?OpenDocument).

³⁴² Préfecture de la Gironde and Conseil Général de la Gironde. Schéma Départemental d’Accueil des Gens du Voyage. February 2003, p. 31.

³⁴³ Préfecture de la Gironde and Conseil Général de la Gironde. *Ibid.*, p. 31.

³⁴⁴ Préfecture de la Gironde and Conseil Général de la Gironde. *Ibid.*, p. 31.

particularity of accumulating potential chemical, biological and auditive nuisances... Removing the nomad camp from this industrial zone, from this environment unfavourable to the development of their children, and allowing the industrial zone to develop seems to be the most reasonable approach.”³⁴⁵ This conclusion could no doubt be extended to a large number of halting areas in France.

³⁴⁵ Duchen, C. *Nuisances Atmospheriques d’Un Centre De Compostage De Dechets Verts*. Study by the Departmental Directorate of Sanitary and Social Affairs (D.D.A.S) “Interregional Epidemiology Intervention Cell” (CIREI), established within Regional Directorate of Sanitary and Social Affairs (DRASS), December 14, 1998, p. 14.

7. DISCRIMINATORY TREATMENT AND ABUSE OF TRAVELLERS AND GYPSIES BY CRIMINAL JUSTICE OFFICIALS

Police behaviour towards Gypsies and Travellers is characterised by racism and ill-treatment.

Abusive police raids are a regular feature of life for French Travellers and Gypsies. From the time that they are children, Gypsies and Travellers experience relatively frequent raids of the sites on which they reside. These raids most often occur during evictions as well as checks, searches or arrests in which the entire Gypsy and Traveller population who happen to be residing at the same location are collectively targeted. Police abuse during these raids often includes insults (including racist remarks), degrading treatment and damage to property. It sometimes also involves the use of weapons in a threatening manner and physical ill-treatment of individuals.

The ERRC is certain that the cases which it documented during its research represent a mere fraction of the cases of abusive police raids carried out across France. It is also certain that between the time of writing and the time this report is published many other abusive raids will occur.

The ERRC's research also reveals a clear pattern of racial profiling in which Gypsies and Travellers are perceived as particularly inclined to criminality and delinquency, and, as a result, treated as collectively suspect and dangerous. These same stereotypes also influence judicial authorities who all too often treat Gypsies and Travellers in a discriminatory manner.

7.1 Ill-Treatment and Abuse of Travellers and Gypsies During Forced Evictions

Gypsies and Travellers are regularly forcibly evicted in a violent and abusive manner by police. These raids follow a similar pattern across the country. Armed police officers generally arrive without warning in the early hours of the morning (5:00 or 6:00 AM usually). They wake residents up by banging on their caravans with their fists, truncheons or torch lamps. Residents (men, women and

children) are ordered to get out of their caravans immediately, winter or summer. They are not given time to get dressed and, therefore, have to go outside in their night clothes. They are ordered to immediately leave the site on which they are accused of “illegally” residing. Treated as criminals, the Travellers and Gypsies are considered guilty of having stopped their caravans on a site not “designated” for them. During these raids, Gypsies and Travellers are often subjected to degrading treatment, verbal abuse involving racist statements, and sometimes also physical violence

Ms Nathalie Gaubert, a Gypsy woman who halts mainly around the city of Bordeaux, stated that:

Each time they come, they come in large numbers – sometimes 15 to 20, sometimes 7 or 8. For a murder, they would not do as much. But we are not murderers... In fact, what have we done wrong? We take up a tiny bit of space. You would think we would eat the earth. They treat us as if we are murderers. They think we break everything, steal everything. They are afraid of us....³⁴⁶

Mr Ivan Cause, a Yenish man who lives near Lyon told the ERRC: “On various occasions we have woken up in the morning to find the ninja turtles³⁴⁷ surrounding us – with submachine guns and masks.”³⁴⁸

These raids often result in damage to the homes (caravans) and other property of Travellers and Gypsies.

On Thursday February 12, 2004, at approximately 6:00 AM police reportedly raided a site near the Chemin de l’Ange Chave belonging to the municipality of

³⁴⁶ ERRC interview with Ms Nathalie Gaubert, March 2, 2004, Bordeaux.

³⁴⁷ He was referring to the CRS in their combat gear. The CRS (Compagnies républicaine de sécurité) are mobile police units that constitute the reserve of the national police. They are under the authority of the Minister of Interior. They have a wide number of responsibilities including: re-establishing and maintaining order; fighting small and medium scale delinquency; surveying ports, airports, borders and other links with foreign territories.

³⁴⁸ ERRC interview with Mr Ivan Cause, March 22, 2004, Givors.

Vitrolles, where a group of Travellers were residing in their caravans. The families involved³⁴⁹ wrote a letter to the Minister of the Interior Mr Sarkozy. It stated that:

...we awoke at 6:00 AM to the sound of truncheons repeatedly hitting our caravans – which still bear the traces. We had negotiated with the mayor of Vitrolles for the possibility to stay a little longer on an empty lot next to the freeway, for lack of a better place, as the city of Vitrolles has not created the halting area required by law. This authorisation was given to us orally. This police raid laid to rest all of our illusions.

We were treated with brutality and vulgarity. Our electrical lines that connect us to our own electrical generator were pulled out and our water pipes cut. The children, like their parents, were ordered to get out of the caravans immediately, despite the cold, the night and the fog. They were shivering with fright. We asked the police if they had children and they answered that theirs were warm and cosy, but that ours were used to the cold, so there was no need to worry. And that anyway, they were going to chase us out like rats.

The letter also reported that the police told “a young pregnant woman, having a difficult pregnancy and who protested against the police brutality ‘shut your mouth, otherwise we’ll resort to more serious methods.’ A woman wearing a night shirt wanted to get dressed before leaving her caravan and was told ‘get out or I’ll come in to dress you’” by a female officer who is believed to be the police commissioner of Vitrolles.

The families emphasised that they in no way showed any resistance to the police. They told the police that they were ready to leave immediately and asked them not to damage their caravans, which are their houses, and for which they pay, on credit, through their work on the markets or as skilled tradespersons. They also reminded the police of the Besson Law and Security Law, as the municipality of Vitrolles had not fulfilled its legal obligations to create a halting area. The police reportedly responded by saying “we don’t give a damn about Sarkozy.”³⁵⁰

³⁴⁹ Families Azais, Beautour, Benoni, Dumail, Garcy, Lecocq, Nami, Nasset, Vieira, Voisin.

³⁵⁰ Families Azais, Beautour, Benoni, Dumail, Garcy, Lococq, Nami, Nasset, Vieira, Voisin. Letter to Mr Nicolas Sarkozy, Interior Minister. February 14, 2004, Aix en Provence.

In a Press Release, the non-governmental organisations, the League for Human Rights (LDH) and Movement Against Racism and for Friendship between Peoples (MRAP)³⁵¹ stated that they had been promised by the Cabinet of the mayor of Vitrolles that the group would not be evicted and that the Prefect would not authorise the use of public force (the police). They further stated that “besides going back on its word, this municipality, which remains in an illegal situation (it still does not have a halting area as required of it under the Besson Law), evicted not only adults, but also children who attend school in Vitrolles.” These organisations also confirmed damage to property – cutting cables of the electrical generator that is the property of the Travellers; damage to the water pipes belonging to them; and dents to the caravans. They also noted the verbal violence of the police officers.³⁵²

As of March 2005, there does not appear to have been any investigative or disciplinary action taken by the French authorities as a result of these reports of abusive police behaviour.

Mr Christophe Daumasse told the ERRC: “What happened in Vitrolles, is so common as to be banal. We know that when we park we expose ourselves to being treated worse than dogs; to being insulted; our mere presence is interpreted as an act of ‘provocation’. Sometimes things go well, and sometimes very, very badly.”³⁵³

On May 4, 2004, Ms M.J. Daumasse described to the ERRC an eviction she had experienced the previous morning in Aix-en-Provence:

Yesterday, we were stopped near the river and the gendarmes came early in the morning. They begun banging on the caravans... They banged on all of the caravans. Some officers used their fists and others the butt of their torch lamps. They banged until we opened the doors. They did not attempt to find out anything. They just came with tow trucks and cranes. It was the CRS. There was a bailiff with the police. I asked why

³⁵¹ Two prominent non-governmental associations.

³⁵² MRAP and LDH. “Expulsion de Gens du Voyage a Vitrolles - La Mairie Revient Sur sa Parole”, Press Release, February 12, 2004, Vitrolles, cited in Dossier de Presse, Rencontres Tsiganes, March 16, 2004.

³⁵³ ERRC telephone interview with Mr Christophe Daumasse, October 21, 2004, Paris.

they did not bring an eviction order. The bailiff said ‘we don’t need one anymore.’ He said to my brother ‘you think you a jurist?’ My brother said: ‘I am not a lawyer, but I know certain laws.’ My two-and-a-half-year-old daughter was woken with a start. She cried the whole morning. She had a shock.³⁵⁴

Ms G. F. added: “It is the same with my little girl. She cried the whole morning. And there are dents in the door of our caravan. It is the only thing we have. Yesterday, the police made 14 dents in another caravan as well. The caravan is expensive. We bought it on credit.”³⁵⁵ The ERRC was unable to establish the exact number of CRS officers that carried out the raid, however there were at least 20, and likely more, as they reportedly came in a bus, several trucks as well as on two motorcycles.

Sometimes police physically abuse Gypsies and Travellers during evictions. The ERRC has documented a number of cases in which police physically mistreated Travellers and Gypsies and used weapons in a threatening manner.

At approximately 7:30 AM on a morning in January 2003, police raided a site in Saint-Ouen-l’Aumone in the Department of Val d’Oise on which a group of approximately 70 caravans were halted. According to Mr N.C., who was awake at the time, over 100 CRS arrived in vans, surrounded the site and beamed spotlights onto it. He said that the CRS were fully equipped, with helmets, shields, truncheons and guns. Other Travellers also said that they saw water canons behind some of the vans. Police reportedly shone spotlights into the caravans and banged on them with their truncheons. Police ordered the Travellers to leave the site, on which they had remained for a few weeks. N.C. told the ERRC that the Travellers were not warned of the upcoming forced eviction.

N.C. said that he tried to negotiate with the police. He also tried to send two faxes to the Prefecture. One woman in the group had recently had an operation, and there were about 5 handicapped persons. There were also a number of vehicles that were broken down. Shortly after 9.00 AM, N.C. asked the police about the response from the Prefecture. According to N.C. an officer responded “the response is a tow-

³⁵⁴ ERRC interview with Ms M.J Daumasse, May 4, 2004, Aix-en-Provence.

³⁵⁵ ERRC interview with Ms G.F., May 4, 2004, Aix-en-Provence.

truck.” N.C. went into his truck in order to move it closer to the caravan. He thinks he advanced approximately one meter. The police officers apparently thought that he wanted to drive into them, an officer banged on the truck and another officer opened the passenger door. Mr. N.C. told the ERRC that he got out of the truck and remembers the officer who opened the truck yelling “grab him.” He was thrown to the ground and beaten by five or six officers. Other officers had formed a barricade so that other Travellers could not become involved.³⁵⁶

Mr Joseph Charpentier, President of the non-governmental association National and European Association S.O.S. Travellers (S.O.S. Travellers),³⁵⁷ told the ERRC “The police threw him on the ground ...his van was badly banged up – the windows were broken and there were dents in the walls.”³⁵⁸

The officers then handcuffed N.C. and drove him to the police station. N.C. thinks he was detained from approximately 9.30 AM until 5.00 PM. The right side of his face was bleeding and he had pains in his arms and neck. A doctor, who was only allowed to examine him later in the day, reportedly confirmed the gash to his temple and multiple bruising on his arms.

During his detention N.C. was interrogated. N.C. told the ERRC that during his interrogation he was handcuffed. A police officer sitting in front of him pointed a pistol at him, and another sitting beside him also held a pistol and played with the trigger. A third officer was present and typed what was said. According to N.C. the officer facing him at one point in the interrogation said: “You wanted to show off.” N.C. responded: “I am a pastor.” The officer said, “As a pastor, you should have been the first to leave the site.” Another officer said: “You are the ‘nouche’³⁵⁹ who is the ‘killerdriver.”

N.C. was made to sign a paper during his interrogation confessing to “armed rebellion”. When he told the officers that he had no arm, they told him that: “In France, a dog constitutes an arm.”

³⁵⁶ ERRC telephone interview with Mr N.C., January 25, 2005, Paris.

³⁵⁷ Association Nationale et Européenne S.O.S. Gens du Voyage.

³⁵⁸ ERRC interview with Mr Joseph Charpentier, October 19, 2004, Bobigny.

³⁵⁹ The officer seems to have shortened the term “manouche” in a derogatory manner.

N.C. lodged a complaint for abusive police conduct with the Office of the Prosecutor. The non-governmental association S.O.S. Travellers also wrote a complaint about this incident to the Minister of Interior Nicholas Sarkozy.³⁶⁰ As of March 2005 S.O.S. Travellers was unaware of any disciplinary actions that had been taken with respect to the police officers involved, and N.C. was unaware of any follow-up given to his complaint to the prosecutor.³⁶¹

On the other hand, the police pressed charges against N.C. for “rebellion with violence” and he was brought to trial in January 2004. N.C. told the ERRC that the police had modified the charges from “armed rebellion” to “rebellion with violence” just before the trial. The officers said that N.C. had tried to run them over. One officer said that he had been pinned by N.C. between the truck and N.C.’s caravan. N.C. was found guilty of these charges. However, nothing was written on his criminal record and as a punishment he was ordered to pay 300 Euros in damages.³⁶²

On 21 October 2004, another abusive eviction took place in the town of Trappes in the Department of Yvelines. A group of about 15 caravans were parked in an empty field at the side of a road. They had arrived at the location on 8 October. As is customary, a police patrol arrived at the site, and took the licence plate numbers of all of the vehicles. One of the police officers reportedly stated: “At least here they do not bother anyone.” Without any warning, police officers arrived at the site again on 21 October and informed the residents that they needed to leave immediately, otherwise they would be fined and their vehicles seized. A tow truck reportedly arrived shortly afterwards. The Travellers attempted to negotiate with the police, explaining that they were not ready to leave and that if their vehicles were seized, they would not be able to pull their caravans. The only response of the police was reportedly to state: “That is the way it is now.” When a mother tried to discuss with the person who appeared to be the captain of the group, he responded: “I do not speak with women like you.” He then ordered the police to back up and launched the first of five tear-gas grenades into the middle of the site. Many residents were injured. When the gas let up, the captain ordered the officers to ticket

³⁶⁰ ERRC telephone interview with Mr N.C., January 25, 2005, Paris.

³⁶¹ ERRC telephone interview with Mr Joseph Charpentier, March 16, 2005, Paris. ERRC telephone interview with Mr N.C., March 20, 2005, Paris.

³⁶² ERRC telephone interview with Mr N.C., January 25, 2004, Paris.

the vehicles for illegal parking on the public road, although there were no vehicles parked on the road. Seven vehicles were ticketed.

It is not clear on what, if any, legal basis the police officers acted as the municipality had not fulfilled its legal obligations under the Besson Law and the police reportedly did not produce a court decision, eviction order or any other documents. The non-governmental organisation S.O.S. Travellers sent a complaint to the French Minister of the Interior, Mr Dominique de Villepin, the Office of the Prosecutor and the Prefect of the Department.³⁶³ In January 2005, S.O.S. Travellers received a letter from the Prefecture of Yvelines indicating that they had looked into the matter and “the police had acted in conformity with their duties.” Any investigation carried out seems to have been internal to the police and limited to hearing the police officers’ version of events.³⁶⁴

Mr M.C. described another abusive police raid that took place in Marne-la-Vallée, near Eurodisney on the outskirts of Paris, in the spring of 2004. Mr M.C. was travelling with about 20 or 30 other persons and he wanted to join family members who were stopped on an empty lot. Before the group managed to get out of their caravans, nine or ten police cars arrived. Mr M.C. told the ERRC that: “They took out their guns and threatened us with tear-gas. They saw my five-month-old son sleeping in the crib. One of the police officers asked his female colleague to come and said ‘It is at that age that you have to put a bullet through them’ and laughed. I asked another police officer if he heard and he said: ‘He did not say what you heard.’ The police escorted us until we were outside of the municipality. They followed us to be sure that we left.”³⁶⁵

In another case, a 73-year-old woman was mistreated during a raid in the Casteljean area of Bordeaux in 2002. A small group of caravans were parked behind a supermarket. Travellers Nathalie Gaubert and Dolores Azais, who witnessed the event, told the ERRC: “The police arrived and found the caravans parked there and illegally hooked up to an electrical line. As there were no men around, the police took

³⁶³ ERRC telephone interview with Mr Joseph Charpentier, October 27, 2004, Paris. Charpentier, Joseph. Letter to Mr Villepin. October 27, 2004, Drancy.

³⁶⁴ ERRC telephone interview with Mr Joseph Charpentier, March 15, 2005, Paris.

³⁶⁵ ERRC interview with Mr M.C., April 6, 2004, Marne-la-Vallée.

the old woman. They pulled her roughly by the hand. She needed her pills, but the police did not let her get them. She had to sleep at the police station. Imagine an old woman. She was very shaken up by the event.”³⁶⁶

In an early morning shortly before Easter 2001, without warning, police raided an industrial lot where a group of approximately 150 Travellers and Gypsies were residing in the city of Chateauneuf-les-Martigues. Ms C.A., a Traveller who was halted at the site at the time, told the ERRC: “We were sleeping. They came and began pulling on electrical cables and banging on our caravans. Supposedly, we had caused the electricity supply to short-circuit in a neighbouring company. We are obliged to steal electricity, you know. We are not against paying, but when we propose to do so they don’t allow us. They used tear-gas grenades, even on the children, and said: ‘It is too bad Hitler didn’t finish his work.’ An officer hit a 60-year-old man. He fell on a stone. After this we also started with insults and throwing stones at the police. The League for Human Rights came. The police became worried. In the end the police let us stay parked where we were.”³⁶⁷

Mr Alain Fourest of the non-governmental association Rencontres, who had arrived at the scene at around 11.00 AM after having been called by some of the residents, told the ERRC: “The police had broken everything. They had broken property belonging to the Travellers – their pipes, cables and material. The police had also entered caravans. The Travellers told me that the police had searched inside the caravans. That is when one woman blocked the entrance to her caravan and said ‘you do not have the right.’ She was taken down to the police station. She was brought back the same night. The police had also arrested a young boy, who supposedly had thrown stones. He was taken to the police station. I managed to negotiate that the police withdraw from the site... There were charges filed against this lady for flagrant insult to police officers (outrage aux agents). She found a lawyer and was summoned to appear before the Court, but I do not know what happened.”³⁶⁸ Mr Fourest also confirmed that several Travellers had told him that police officers stated that “It is too bad Hitler did not finish his work.”

The police had acted without any judicial decision. Furthermore, there were no search warrants entitling the police to enter private caravans. According to Mr Four-

³⁶⁶ ERRC interview with Nathalie Gaubert and Dolores Azais, March 2, 2004, Bordeaux.

³⁶⁷ ERRC interview with Ms C.A., May 4, 2004, Aix-en-Provence.

³⁶⁸ ERRC telephone interview with Mr Alain Fourest, October 25, 2004, Paris.

est, the League for Human Rights was informed that the police had acted based on a complaint the mayor had supposedly received from a neighbouring company alleging “deterioration of a public good, and the theft of electricity.” It was alleged that the caravans had hooked up to the electric box at the end of the field and had caused technical problems in the factory. However, no material proof was produced of the existence of the complaint, nor in support of the allegations of damage caused to the company. It seems the city’s mayor had simply asked the police to carry out the raid.

Mr Fourest told the ERRC that, in the end, city hall reinstalled electricity and water at the site by the end of the day and the Travellers were allowed to remain on the industrial lot for a few more days. The municipality of Chateauneuf-les-Martigues is itself in violation of the law as it has not created a halting area as required by the Besson law.³⁶⁹

No complaint was lodged concerning the abusive police behaviour. Mr Fourest commented that it is very rare that victims of police ill treatment are willing to lodge complaints for abusive police behaviour as retaliatory charges are then generally lodged against the victims for flagrant insult to police officers or other allegations.³⁷⁰

Mr Daniel Winterstein, a Traveller that the ERRC met in Bordeaux in March 2004, described another eviction that took place a few years earlier on an empty lot in Bordeaux, during which police threatened his father with a firearm. “The police came one morning at 8:00 AM and told him to leave. He said ‘Wait, we are drinking coffee with the children. We will go as soon as we finish. Then they pointed a gun at his chest.’”³⁷¹

In Cannes, the police used an original abusive tactic – they held the Travellers captive until they all left. On a morning in January 2004 about 40 caravans arrived in Cannes. As there is no halting area in the city, they tried to go to an empty field where they had stopped before, but the municipality had dug a trench around it. They continued on to an empty lot at the end of a dead end road in an industrial zone of Cannes. Soon after their arrival approximately 80 police cars arrived with pistols and dogs. The police blocked the exit from the camp in such

³⁶⁹ ERRC telephone interview with Mr Alain Fourest, October 25, 2004, Paris.

³⁷⁰ ERRC telephone interview with Mr Alain Fourest, March 17, 2005, Paris.

³⁷¹ ERRC telephone interview with Mr Daniel Winterstein, March 2, 2004, Pessac.

a manner that it was impossible to leave. The Travellers were given a choice – either everyone leaves or no one leaves.

The Travellers stayed four or five days on the lot in a stand-off with the police. They had no access to water, electricity or any other infrastructure and they were unable to leave, even to get food or send their children to school. When they finally decided to leave, they were escorted by approximately 250 police not only out of the municipality but out of the Department of Alpes-Maritimes.³⁷²

This particular group of Travellers, who are vendors, had come to Cannes to work. They had sent a registered letter to the municipality a month and a half before their arrival in order to request a place to halt but had received no response.³⁷³

These raids have significant deleterious effects on the psychological health of Gypsies and Travellers in France due to the shock and stress they cause. By persecuting families who halt their caravans, police raids undoubtedly also serve to discourage the travelling lifestyle.

Mr Christophe Daumasse, a 36-year-old Traveller, told the ERRC: “I know 15 people who are in psychological treatment because of this type of event. When police come onto a lot at 6:00 AM, it is shocking – you don’t have your integrity any more. Psychologically speaking, I know there are people who can no longer stand it. They are afraid of travelling. They suffer from intense stress and are afraid of everything. Stopping our caravans is highly stressful knowing that each time we run a risk of an abusive eviction. It is very exhausting.”³⁷⁴

Mr Jose Raymond, another Traveller, who now rarely travels, told the ERRC: “I have become afraid to take my caravan and travel. Something is up with the state – they constantly harass us – before we even manage to stop our caravans, we already have the gendarmes on top of us. Now, if I have to travel, I am afraid.”³⁷⁵

³⁷² Departments are a French administrative division. Each department consists of several municipalities. The country is divided into ninety-five Departments.

³⁷³ ERRC interview with James Dubois and Franck Couchevellou, November 14, 2004, Paris.

³⁷⁴ ERRC telephone interview with Mr Christophe Daumasse, October 21, 2004, Paris.

³⁷⁵ ERRC telephone interview with Mr Raymond Jose, October 22, 2004, Paris.

Abusive evictions sometimes also target Travellers and Gypsies who live in houses, although less frequently. For instance, on the morning of September 28, 2004, a family of Travellers living in a house in the town of Nievroz in the Department of Ain, was evicted in an excessively aggressive and abusive manner.

Marguerite and George Scheid were woken up at 6:00 AM with the arrival at their house of over 120 police officers wearing combat gear and backed up by a helicopter. Ms Scheid told the ERRC:

They were everywhere. They banged on the door and said: “Open or we will break down the door.” We did not know what was happening. My husband turned to my son to see if he had done something. He said “no”. We asked the police to at least let us get dressed. They said: “No, open the door, open the door”, really aggressively. We opened. Some police came in. They got the kids from the rooms. They asked us whether we knew why they were there. When we said “no”, they told us that it was for the demolition of our house. The Scheids had been accused of building.³⁷⁶

According to Ms Scheid, the police then said that they were taking the Scheids to the village’s city hall and that they could discuss matters with the Prefect. Marguerite and George Scheid were allowed to drive their own car but were escorted by two police motorcycles in front of them, two behind them and a large number of police cars both in front of and behind them. Ms Scheid estimated that there were at least 20 police cars.

Ms Scheid described to the ERRC the events that followed:

Obviously no one was at the city hall. We were ordered to go to the city’s Reception Hall (Salle des fêtes). I made phone calls from my mobile phone to all sorts of people - friends, non-governmental associations, etc. We were held in the Reception Hall the entire morning. It was full of police officers guarding us. They did not give us anything to eat. They only brought a bottle of mineral water into which they had put coffee. It was awful.

³⁷⁶ The Scheids had been accused of building their house illegally and had been ordered to destroy their house by the First Instance Court of Bourg-en-Bresse on July 4, 2001. This decision was upheld by the Appeal Court of Lyon on February 20, 2002 and the Court of Cassation on January 21, 2003. ERRC interview with Mr B. Genaudy, March 22, 2005.

Shortly after Marguerite and George Scheid were escorted by police to the Reception Hall, the police also brought: Mrs Scheid's eight-month-old granddaughter, Manine Scheid; her 23-year-old son, Cédric Scheid; her 20-year-old daughter in law, Laetitia Scheid; her 14-year old son, Michael Scheid; her neice, Madeleine Scheid, who lives on the neighbouring property adjoining that of Marguerite and George Scheid; and her neice's children, 6-year old Lorema Scheid and 3-year old Jeferson Scheid.

At about 1.00 PM, Marguerite and George Scheid were told by police that they could go to their home to see to 'moving'. Marguerite Scheid told the ERRC:

We went home to find a moving truck and everything in boxes, all mixed up - medicine, with clothes, shoes, dirty dishes, etc. Today, we still cannot find things. The police allowed us to take some personal belongings for the night. I took a bottle and milk for the baby. I had two fridges with food in them. My husband told the police to just leave it in the middle of the yard, that we would do something with it. We also have a garage, about 10 metres long. My husband asked the police not to put the boxes in the moving truck, but to put them in our garage instead.

Somehow, my husband managed to remain rational. I was hysterical. I was crying and screaming. After we took some belongings, the police dragged me, screaming by force to our car. They told us to go or they would take us by force. We stayed with family who live at the end of the road for the afternoon. We were no longer allowed near the house.

Meanwhile during the course of the afternoon, bulldozers destroyed our house – the house in which we've lived since 1992.

The children were held in the Reception Hall for the entire day, given nothing to eat or drink, except mineral water with coffee in it. Two motorcycle police allowed Laetitia to leave with the 8-month-old baby. She remained in the street for the afternoon.

At around 6:00 PM, the police left our property. We went to see it at around 6:30 PM, once they had gone. There was nothing but earth where our house used to stand. The water and electricity had also been cut.

The police had offered us accommodation in a hostel for the first night, about 50 km from our home. Instead, we slept in our car. My husband has high cholesterol and is diabetic. He has to take medicine twice a day. He was unable to take it until the following morning as we had to find it in the boxes.

In response to Ms Scheid's phone calls of the morning, a few hundred Travellers and Gypsies reportedly tried to come to protest against the destruction during the day. However, the area had been completely sealed off by police. At a distance of five kilometres from the house, police had already put up roadblocks. Nobody could get by.

The Scheids' neighbours,³⁷⁷ whose house is located at a distance of about 200 metres from the Scheids' property, were forbidden to leave their house throughout the day.

Marguerite and George Scheid, along with their two sons, daughter-in-law and grand-daughter, now live on their property in a mobile home 8 metres long by 3 metres wide. Electricity was restored, as it was also connected to Laeticia Scheid's property, who requested that it be reconnected. However, the Scheids remain without water or sewage. On November 29, 2004, they received a letter from the city's mayor giving them two months to either demolish or vacate the "construction" on their property. The so-called construction is the mobile home. The Scheid's lawyer lodged a complaint with respect to this municipal request, however at the time of writing the judgement had not been handed down.³⁷⁸ At the beginning of March 2005 the Scheids also received a bill for close to 10,000 Euros from the Prefecture of l'Ain to cover the fees of the demolition.³⁷⁹

Marguerite Scheid attempted to commit suicide in early December 2004, and spent 10 days in hospital. As of the time of writing the Scheids had not yet lodged a complaint about the manner in which their eviction was carried out; however, they were considering legal options.³⁸⁰

³⁷⁷ These neighbours are located on the other side of the Marguerite and George Scheid's property to their niece.

³⁷⁸ ERRC telephone interview with Mr B. Genaudy, March 22, 2005, Paris.

³⁷⁹ ERRC telephone interview with Ms Marguerite Scheid, March 20, 2005, Paris.

³⁸⁰ ERRC telephone interview with Ms Marguerite Scheid, March 20, 2005, Paris.

The ERRC is not aware of any disciplinary action taken against police officers in any of these cases. It seems that, when lodged, complaints are not seriously investigated by police or any other investigatory body. When Travellers or Gypsies do file complaints alleging abusive treatment by authorities, counter-complaints seem to be lodged by the police against the complainants. Most often victims of such incidents do not complain as they do not believe that there is any point and fear retaliatory complaints against them.

7.2 Abusive Raids of Traveller and Gypsy Places of Residence During Searches, Checks or Arrests

When police carry out searches, checks or arrests involving a Gypsy or Traveller, the entire group residing at a particular location is treated as collectively suspect. The ERRC's research indicates a systematic pattern of abusive police raids based on racist stereotypes in which any persons who happen to be residing together at a given location are collectively targeted.

Mr Frédéric Lievy, representative of Goutte d'Eau, told the ERRC:

When a nomad is searched at a halting area, it is not the nomad that is searched, but the entire stopping area. They search inside the washing machine, inside the dog's basket, and in nearly every place possible. The area is surrounded by police, and helicopters circle overhead. This happens systematically when there is a search on a halting area. When they look for one Traveller, they go into all of the caravans, look under the beds, knock over the laundry. They are aggressive whether it is in Bordeaux, Paris, Lyon or anywhere else.³⁸¹

In an illustrative case, on April 4, 2004 police raided a site in Sestasse, Pessac where a number of families live in four caravans. At the time, there were about 25 persons at the site, including at least 15 children.

Mr Jose Raymond, the informal representative of the group, told the ERRC:

At around 6:30 or 7:00 AM I heard the doors of vehicles banging loudly, which isn't customary for us. I suspected what it was. We are not used to

³⁸¹ ERRC interview with Mr Frédéric Lievy, March 7, 2004, Toulouse.

doors banging like that, cars arriving at 100 km an hour. It was the gendarmes arriving like cowboys. I got out of bed. I heard very loud knocking on the door of my caravan. I opened the door, saw the police and said ‘What is going on?’ They said, ‘Get out of the caravan.’ I asked again ‘What is going on?’ They did not have papers or anything to justify what they were doing. A police officer said that it was a routine check.

Police were blocking the entrance to our land with sub-machine guns. They had put their vehicles sideways and a line of policemen were standing in front of them holding their submachine guns at-the-ready. They were not aiming at us, but they were holding them in their hands. There were about four or five police officers. While we got out of our caravans, other police officers ran behind the caravans.

I asked again ‘What is going on?’ They said, ‘a routine check.’ I said to them, ‘You go to people’s homes with submachine guns for a routine check? You know us and you allow yourselves to come with submachine guns to ask us for our identity documents?’ I took one of the gendarmes aside whom I knew. I asked him if he realised the lack of respect engendered by the action. What would neighbours who passed by think of us? What would our children think? Ultimately, they did not carry out any searches at all. Their goal was apparently simply to come and threaten us with sub-machine guns. In the moral sense, it is inhuman.

A police officer reportedly told Mr Jose Raymond: “Now the Sarkozy law³⁸² is in effect. We are obliged to come in numbers and carry out checks. It will occur regularly.” When Mr Raymond asked him to show him a text of law saying that, the officer did not produce anything. The police officers then left.

Before coming to Mr Raymond’s residence, the police had reportedly carried out a similar raid on another site down the road on which Travellers also resided.³⁸³

³⁸² He was referring to the Law of 18 March 2003 for Interior Security (Security Law).

³⁸³ ERRC telephone interview with Mr Jose Raymond, October 22, 2004, Paris.

It is close to unimaginable that the police would turn up in an ordinary French neighbourhood or apartment building pointing guns in the early morning for a “routine identity check”.

A group of men at the halting area of Saint-Priest, in the Greater Lyon area, told the ERRC that the area had experienced a number of violent police raids. They explained that each time the police surround the site, make all of the residents get out of their caravans, and search everywhere. Sometimes they point guns, sometimes they do not. The most recent raid they mentioned was in 2002 when the police came looking for one individual amongst the 14 different families that live at the site. According to Mr Buche, a resident, “the police made everyone get out of their caravans and aimed submachine guns at them. They searched everywhere.”³⁸⁴ Another resident, Mr L.B., told the ERRC, “They even searched in the dog baskets.”³⁸⁵

Once again, the French police would almost certainly not behave in a similar manner in a non-Gypsy neighbourhood, for instance ordering all residents on a given street out of their homes because of information about a suspect on the street.

Noting the racist nature of this practice, Traveller Ms Claire Bertollotti remarked: “In an HLM, if someone creates a disturbance or otherwise violates the law, the police will not throw the whole HLM outside. But in a camp of caravans, when the police arrive, everyone has to go outside. When it comes to us, everyone is grouped together. They make a sandwich and put everyone inside.”³⁸⁶

Ms Lolita K., described a raid that took place in March 1998, on a site in Nantes on which she was parked, when police came to the halting area looking for thieves:

Some thieves had parked next to us and we did not know. The police arrived at around 8.00 AM. They had their heads covered and were armed with sub-machine guns. They aimed at us. They were jumping all over. We see that kind of thing in films. They were coming at us from all sides. My mother died of a heart attack from fright. She was 68-years-old. She had heart problems, but still. The newspaper said that doctors had seen her immediately

³⁸⁴ ERRC interview with Mr Buche, March 24, 2004, Saint-Priest.

³⁸⁵ ERRC interview with Mr L.B., March 24, 2004, Saint-Priest.

³⁸⁶ ERRC interview with Ms Claire Bertollotti, March 25, 2004, Chassieux.

before the incident, but this was not true. The doctors had come but to see the children. One policeman saw that we were afraid and laughed. My sister has been sick since, because of what happened. At the time, I was not even allowed to go to my mother's side... the police held me and did not want me to move. They searched the caravan. They took my sister for the night; kept her portable phone for months. You would have said the Germans during World War II. We cannot forget what happened that morning.³⁸⁷

Local press reported on a particularly violent police raid that took place on the morning of Wednesday February 5, 2003. The police raided the parking lot of the floral park in the city of Orléans where a group of Travellers (approximately 50 caravans) had stopped for the night.³⁸⁸ Reports indicate that the previous day, after having been rejected from the official halting area due to lack of places and finding nowhere to stop, the group had peacefully protested at a traffic circle, temporarily blocking traffic. They had then made their way to the parking lot of the floral park. Reports indicate that the Director of the Cabinet of the Prefect had stated that the caravans stopping at this location did not pose any problem. However, early in the morning police raided the site in order to arrest those responsible for the “troubles of the previous day”.

The police arrived in combat gear, accompanied by dogs, and banged on caravans with their truncheons. They beat a number of residents. A man named “Henri” reportedly stated, “I went out bare-chested and ran towards them with my arms open wide. I asked the police what they were doing and was thrown to the ground and beaten with truncheons. I had made the mistake of telling the police that they were behaving like Nazis. One was squeezing my throat while another hit my head.” Someone inside a caravan filmed the scene. On the video, an officer can reportedly be heard saying “Kill anyone who moves.”³⁸⁹ The police took four men to the police station and kept them there until the late afternoon.

Sometimes police offer no reason whatsoever for raiding a residence.

³⁸⁷ ERRC interview with Ms Lolita K, March 9, 2004, Toulouse.

³⁸⁸ The Travellers had apparently been refused at the official halting area as there was no place free there at the time. The director of the halting area had phoned other areas and there were apparently no free places anywhere in the vicinity.

³⁸⁹ Pivois, Marc. “A Orléans, des CRS pour toute réponse”. *Libération*, February 11, 2003.

At about 1:00 AM in mid-December 2003, police raided a site in Mirapolis, near Pontoise, on which a group of Travellers were temporarily residing. Sixty-three-year-old Mr. Jacques Lambercier described the raid:

We were winding down celebrating my daughter's birthday. At first one police car arrived. We had a brief discussion with the officers in the car. They left quickly. But then, 10 minutes later, they came back with more police cars. They revved their car motors on the lot. Then they banged on the caravans. They had guns and they started shooting rubber bullets in all directions. They broke the window of a caravan. They caused about 10,000 Francs [around 1540 Euros] worth of material damage. My daughter fell to the ground. She was six or seven months pregnant at the time. They beat her with their truncheons. Some time later, the baby was born prematurely, I think as a result of this. The police also set dogs on us during the raid. We had never seen that before. No one was bitten, because we managed to go into our caravans in time. Later we complained to the gendarmery,³⁹⁰ but nothing happened.

As of March 2005, the family had not been informed of any follow-up investigatory or disciplinary actions taken by the French authorities as a result of their complaint.³⁹¹

The mere fact that almost all Travellers and Gypsies that the ERRC spoke with feel that abusive police raids are a commonplace feature of life indicates the racist nature of these police raids, and is yet another example of Travellers' and Gypsies' unequal status in French society. Few, if any, other segments of the French population feel that being surrounded by police with loaded weapons, and being mistreated, is a banal part of life. At least a dozen Travellers and Gypsies that the ERRC spoke with repeated the following expression: "We are born with the police and we will die with the police."

Mr Christophe Daumasse told the ERRC that he thinks that in his 36 years he has experienced abusive police raids at least 10-15 times. "We are really in the realm of the banal," he said.³⁹²

³⁹⁰ They went to the gendarmery of Jouy-le-Moutiers to register their complaint.

³⁹¹ ERRC telephone interview with Mr Jacques Lambercier, March 17, 2005, Paris.

³⁹² ERRC telephone interview with Mr Christophe Daumasse, October 21, 2004, Paris.

These raids, often based on racial profiling, are a product of the racist prejudices prevalent in French society which label all Travellers and Gypsies as delinquents and criminals. They are also a consequence of the racist laws and policies banning Travellers and Gypsies from significant portions of French territory, that, in fact, frequently turn the Travellers and Gypsies into delinquents as soon as they stop their caravans.

7.3 Racial Profiling of Travellers and Gypsies

The stereotype of their criminality clings perpetually to Travellers and Gypsies, also making them a priori suspect for various forms of crime and prime targets for harassment and abuse by police. ERRC research indicates that the French police make use of practices of racial profiling singling out Travellers and Gypsies.³⁹³

Many Travellers and Gypsies reported that they are specifically targeted by police for checks to determine whether they are in possession of valid documentation for their vehicles. Sometimes a group of Travellers is stopped repeatedly during a single trip. On other occasions police carry out checks just outside of sites and neighbourhoods at which Gypsies and Travellers reside.

Mr R.S., who lives in a neighbourhood of Travellers in Rosny-sous-Bois, told the ERRC in April 2004: “Recently, I had a truck that was in good condition. The police stopped me and said: ‘Your truck must be stolen. We are sure that the documents for your vehicle are not in order.’ They checked everything; all my papers.

³⁹³ The practice of racial profiling violates of a number of rights guaranteed under international law. In particular, Article 5 ICERD calls on governments “to prohibit and eliminate racial discrimination in all its forms and guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law” in the enjoyment, among others, of:

- “(a) The right to equal treatment before the tribunals and all other organs administering justice;
- (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution; [...]”.

The enjoyment without discrimination based on racial or ethnic origin of the right to liberty and security of person; the right to equality before the courts and tribunals; and the right to equality before the law and to the equal protection of the law are also guaranteed by the ICCPR (Articles 9(1), 14(1), and 26 respectively).

They checked me because they saw me leaving here. This occurs very frequently.”³⁹⁴ When the ERRC left the neighbourhood, it saw a police car waiting just up the hill at the exit from the site.

The ERRC was informed by numerous persons, Gypsies and non-Gypsies, that it is common practice for police to raid the nearest group of Gypsy caravans when there are reports of thefts in the vicinity. A number of persons also reported that police sometimes pick a random Gypsy to charge with the crime.

On March 24, 2004, Mr Jacob Benony told the ERRC about one such raid that occurred at his home a few days earlier. A scooter had apparently been stolen in the area. “Police came to my neighbourhood looking for a stolen scooter. They went onto every lot, aimed guns at the residents, and then left as if such conduct was normal”, he said.³⁹⁵ Mr Benony lives in a caravan with his family on a lot on an official halting area for the long-term stay of Travellers in the municipality of Vénissieux. The site is composed of individualised lots located along both sides of a narrow road. Each lot is inhabited by a different family.

A group of five Travellers in Rosny-sous-Bois told the ERRC that the police come to their neighbourhood whenever there are car thefts nearby.

Mr David C. described an abusive raid that occurred in the spring of 2002 on one such occasion:

A youth from their neighbourhood was driving in his car. The police stopped him and started beating him and then left. But the next day they came here with their machine guns and took two youth arbitrarily and took them down to the police station. That night they also gased everyone here with tear gas. The next night they came to do the same thing, to take another youth, and we tried to stop them. They aimed at us with their pistols.

Mr David C. said that on at least two different occasions the police had come to the site and randomly picked up two or three persons and detained them.³⁹⁶

³⁹⁴ ERRC interview with Mr R.S., April 13, 2004, Rosny-sous-Bois.

³⁹⁵ ERRC interview with Mr Jacob Benony, March 24, 2004, Vénissieux.

³⁹⁶ ERRC interview with David C., April 13, 2004, Rosny-sous-Bois.

Another middle-aged Traveller Mr P.S. said “Whenever a theft takes place anywhere in the region, and they have no suspects in the crime, they come here to arrest a youth.”³⁹⁷

Gypsies and Travellers are considered to be so inherently suspicious that even a 10-year old child may be subject to a strip search when accused of taking a pen in a store. In a case documented by the non-governmental association USETA, a 10-year-old Traveller allegedly took a pen while in a store with her parents in the town of Saint-Foy-la Grande in October 2004. The owner of the store called the police. The police officers arrived and took the young girl into an office. The parents were made to wait outside. A female police officer entirely undressed the young girl in order to see if she took anything else. The child was crying and hearing this, her father, Mr E.Z. opened the door of the office to make sure she was okay. From behind the door another police officer sprayed tear gas directly into the Mr. E.Z.’s face, in his eyes. He was then pushed face down to the ground and hand-cuffed. He was not allowed to rinse or wash his face. He later went to the hospital for treatment for burns.³⁹⁸ According to local mediator Mr Pierre Delsuc, the family went to the police station in Saint-foy-la-Grande in order to deposit a complaint, but the police refused to accept the complaint.³⁹⁹

7.4 Discrimination by Judicial Authorities

The prevailing racist stereotypes that Gypsies and Travellers are thieves and delinquents, also translates into discriminatory treatment by judicial authorities.⁴⁰⁰ When they are found guilty of a crime, they are handed down disproportionately longer sentences. Ms Martine Sciarli-Valazza, Director of the non-governmental organisation Departmental Association for the Promotion of Gypsies (ADEPT),⁴⁰¹ told the ERRC: “On the basis

³⁹⁷ ERRC interview with Mr P.S., April 13, 2004, Rosny-sous-Bois.

³⁹⁸ ERRC telephone interview with Ms Danielle Mercier, October 23, 2004, Paris. ERRC telephone interview with Mr Pierre Delsuc, 25 October 2004, Paris.

³⁹⁹ ERRC telephone interview with Mr Pierre Delsuc, 22 March, 2005, Paris.

⁴⁰⁰ The discriminatory treatment of Travellers and Gypsies in the judicial system violates Article 14 of the European Convention on Human Rights (ECHR), taken together with Article 6 of the ECHR.

⁴⁰¹ Association Départementale pour la Promotion des Tsiganes.

of my experience of having assisted a lot of trials, I can assert that in practice the penalties provided are at any rate significantly heavier than those handed down to non-Gypsies for equivalent crimes. One can clearly see that there are two weights, two measures.⁷⁴⁰² Mr A.B., a social worker who has worked with incarcerated parents, also told the ERRC: “Travellers convicted of crimes are given heavier penalties. Sit in on a penal hearing, and you will see that judges treat the Travellers as sub-humans.”⁷⁴⁰³

When Travellers and Gypsies are suspected of committing a crime, they are regularly kept in pre-trial detention rather than allowed to go free pending the investigation and trial.

In the municipality of Ambarès-et-Lagrave in the Department of Gironde, in the winter of 2003, a middle-aged Gypsy woman stopped at the side of the road to put some sand into a pail. Ms W.M. told the ERRC:

A man came up to her screaming, treating her as if she were a thief, etc. But everyone who sees sand at the side of the road and needs some, takes it. But there, since she was a Traveller, this man came screamed at her. He went home and had a heart attack. The residents of the street told the police that there was a Traveller who beat him with a shovel. There was even a false witness who claimed to have seen it. Before you knew it, helicopters were flying over the Travellers’ property and the gendarmes went to all of the Travellers in Ambares. They went to her house and arrested her like the worst of the delinquents. She was detained and soon put in jail for 20 days. They kept her in prison while awaiting the results of the autopsy. Then they freed her.⁴⁰⁴

The mother of the woman concerned was with her during the events in question. She reportedly tried to give her account to the police. However, police did not believe her. Ms. W.M., who has herself been married to a Traveller for twenty years, told the ERRC: “I have never seen a Traveller who was able to remain free before judgement.”⁷⁴⁰⁵

⁴⁰² ERRC interview with Ms Martine Sciarli-Valazza, January 23, 2004, Bobigny.

⁴⁰³ ERRC interview with Mr A.B., March 2, 2004, Gradignan.

⁴⁰⁴ ERRC telephone interview with W.M., 20 November 2004, Paris.

⁴⁰⁵ ERRC telephone interview with W.M., November 20, 2004, Paris.

Mr P.S., a Traveller that the ERRC met at his home in a Traveller neighbourhood of Rosny-sous-Bois, told the ERRC that he spent seven and a half months in pre-trial detention awaiting trial for a crime that he did not commit:

The police were following a car with two teenagers. The teenagers abandoned their car here and ran between the caravans. The police told me, ‘We know you are not guilty, but you surely know the perpetrator.’ They made a false declaration saying that I was driving. The judge let me off, but I spent seven and a half months in prison anyway. The judge clearly saw that it was ridiculous.⁴⁰⁶

According to Mr P.S., this sort of situation happens often: “Travellers spend 6 months, even a year in prison awaiting judgement.”

⁴⁰⁶ ERRC interview with Mr P.S., April 13, 2004, Rosny-sous-Bois.

8. DISCRIMINATION AGAINST TRAVELLERS AND GYPSIES IN ACCESS TO SOCIAL AND PUBLIC SERVICES

The ERRC documented widespread discrimination against Gypsies and Travellers in access to social assistance and public services. A large number of Gypsies and Travellers are altogether excluded from social assistance or subjected to a parallel system of social assistance – surrogate for the French state – which reinforces their social segregation. While an increasing number of public service providers such as insurance companies and various public accommodations openly flout French and international law refusing to provide Travellers and Gypsies with their services, French judicial authorities seem to be tolerating such acts. These recurrent violations of Travellers and Gypsies fundamental social and economic rights also impede them in securing real inclusion in French society.

8.1 Discriminatory Treatment of Travellers and Gypsies in the Provision of Social Assistance

French Gypsies and Travellers are victims of discriminatory treatment in the area of social assistance. Such treatment is in direct contradiction with a number of international human rights instruments to which France is party that clearly prohibit any discrimination in access to social assistance based on grounds such as race, ethnic or social origin, and colour.⁴⁰⁷

As in other areas of life, this discrimination stems from the unwillingness of French authorities to make provision for the specific way of life of Gypsies and Travellers in developing policies relating to social assistance. The result of this refusal

⁴⁰⁷ For instance, in becoming party to the International Covenant on Economic, Social and Cultural Rights, France committed itself to “recognise the right of everyone to social security, including social insurance” (Article 9) and undertook to do so “...without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” (Article 2(2)). Similarly in becoming party to the International Convention on the Elimination of All Forms of Racial Discrimination, France undertook to “...guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before

is that Gypsies and Travellers find themselves treated unfavourably as compared to other French citizens, excluded from basic forms of social assistance, often unable to receive adequate assistance at public offices and in some cases obliged to seek out specific and separate institutions in order to access such assistance.

8.1.1 Discrimination in Access to Housing Assistance

Various types of social assistance are available to French citizens in order to aid them in renting or acquiring housing, such as: special credit rates; “personalised housing assistance” (“l’Aide personnalisée au logement” (APL)); and a monthly housing allocation that adds significantly to an individual’s social welfare package (“l’Allocation logement (AL)). The amount granted varies depending on family composition, income and the type of housing. The purpose of this assistance is generally to allow low-income families to reduce their housing costs and therefore to improve their basic living conditions.

These different forms of aid are not, however, available to persons who live in caravans, as caravans do not qualify as housing as it is defined for purposes of such housing assistance.

This disqualifies the many Travellers and Gypsies who live in caravans, significantly lowering the amount of social assistance from which they are able to benefit as compared to other citizens who live in more common forms of housing. This makes it extremely difficult for low-income Gypsy and Traveller families to manage to cover their basic needs, as, like other citizens, they have significant – if not higher – housing expenses.

A caravan fit to serve as a principle residence (double axle) usually costs between 15,000 Euros and 31,000 Euros. Most Gypsies and Travellers buy their caravans on credit. As they do not generally have a fixed residence or an indeterminate length em-

the law”, particularly with respect to a list of rights including the right to social security and social services (Article 5 (e)(iv)). At the European level, the Revised Social Charter, to which France is party also requires States to guarantee the right to social assistance (Part I,13), the right to housing (“Part I, 31), and the right of the family to social, legal and economic protection, which includes provision of family housing (Part II, 16) without discrimination on any ground, including inter alia race, national extraction or social origin, association with a national minority, birth or other status.

ployment contract, it is extremely difficult for Gypsies and Travellers to acquire loans from banks. They therefore have to turn to special credit companies that grant them a loan, but with a particularly high interest rate of 15-20%. An average family needs to reimburse between 400 and 540 Euros per month for the caravan loan. To these costs are added the daily rate for parking in an official halting area, which, on average, come to 137 Euros per month. Thus, not including the cost of fuel or costs relating to the vehicle that is needed to pull the caravan, monthly housing costs for a family of Travellers living in one caravan come to approximately 535-680 Euros per month.⁴⁰⁸ Whereas other low-income families would receive significant assistance in paying similar housing costs, Travellers and Gypsies have to pay from their own resources due simply to the fact that they live in a caravan, rather than an “ordinary” apartment or house.

The failure of the French State to ensure that the many Travellers and Gypsies who live in caravans may have the same access to housing assistance as other citizens constitutes discrimination in violation of France’s international commitments. It would also seem to run contrary to France’s own Constitutional guarantee of equality.

It is true that all Gypsies and Travellers in France are not disqualified from these forms of social assistance. Only those who live in a permanent basis in caravans are disqualified. However, this in no way detracts from the fact that the large number of Gypsies and Travellers who live in caravans receive a lesser amount of social assistance than other citizens as the criteria for receiving such assistance exclude them.⁴⁰⁹

A significant amount of financial assistance is nonetheless targeted towards the “housing” of Travellers and Gypsies. It is, however, devoted to the creation and management of designated halting areas and “socio-educative” projects that aim at the “integration” of families stopped in these areas. Thus, it does not go to the families who require assistance in paying their housing expenses. Instead it goes to those

⁴⁰⁸ ASNIT. *Les Gens du Voyage à l’Age de la Retraite*. May 2001, p. 41. ERRC interview with Ms Karine Moreau, Director of ASNIT Bouches du Rhône, May 4, 2002. See also Chanal, Martine and Marc Uhry. “Gens du Voyage: le nécessaire renouvellement de l’intervention publique.” On the Internet at: <http://www.globenet.org/horizon-local/alpil/voyages.html>.

⁴⁰⁹ Excluding Travellers and Gypsies from forms of social assistance available to others through establishing criteria that serve to exclude them constitutes indirect discrimination and implicates violation of a number of European and international norms. See details on the prohibition of indirect discrimination in Chapter II, footnote 25.

public or private entities involved in the creation and management of designated halting areas. This has long been the approach of the French authorities to the social assistance needs of Gypsies and Travellers related to housing.

In an illustrative response to a query about possibilities for Travellers to obtain housing assistance,⁴¹⁰ Mr Tahar Belmounes, Director of Social Action for the National Fund for Family Allocations (CNAF),⁴¹¹ reiterated that housing assistance, and especially the housing allocation, does not apply to families living in caravans.⁴¹² In the same letter, he confirmed that the CNAF can provide assistance for the creation of designated halting areas and attached a Circular, dating from August 3, 1981, from the then president of the National Centre for Family Allocations, Mr Pierre Boisard, to all the local level presidents of Family Allocation Centres that states:

Considering that nomadic families are often excluded from traditional forms of social support provided by the Fund (housing – vacations – social facilities...), the Commission decided that financing halting areas constitutes the means to provide them with specific assistance.⁴¹³

ASNIT commented of this approach, that:

In this way, Travellers do not directly receive housing assistance. It would be very interesting to know why the CNAF opted for this system. Does this mean that Travellers would be incapable of managing this money themselves? Or does the CNAF give itself the mission of controlling halting by encouraging Travellers to halt in the designated areas? It remains that this system does not provide a satisfactory solution for Travellers who experience as an injustice this deprivation of assistance that they badly need. This injustice is felt equally by Travellers opting to halt in designated areas as for those who “choose” free parking.⁴¹⁴

⁴¹⁰ The query was sent on June 5, 2000 by Mr Christian d’Hont, the National Director of National International Gypsy Social Association (ASNIT).

⁴¹¹ Caisse Nationale des Allocations Familiales.

⁴¹² Mr Tahar Belmounes. Letter to Mr Christian d’Hont, June 28, 2000.

⁴¹³ Pierre Boisard. Letter No. 5660, President CNAF, August 3, 1981.

⁴¹⁴ ASNIT. *Les Gens du Voyage à l’Age de la Retraite*. May 2001, p. 42.

There is no other ethnic group within the French population whose members' individual right to housing assistance has been substituted by assistance provided to those who build or manage social housing complexes in which they may or may not wish to live. In addition to being discriminatory, this approach reflects an intent to confine all Travellers and Gypsies living in caravans to designated areas.

8.1.2 Segregated Social Services

In order to receive various forms of social assistance, many Travellers and Gypsies turn to the network of non-governmental associations present in different departments across the country that cater specifically to Travellers and Gypsies. These associations, funded to a significant extent by the state, offer to Travellers and Gypsies a range of social services, such as educational support and medical assistance. They generally have accredited social workers on their staff who, among other things, open the right to RMI ("Revenu Minimale d'Insertion"), a form of financial assistance that is attributed to a person who signs a contract with a social worker with respect to a range of personalised conditions aimed at occupational integration.

To the extent that these associations offer personalised support to Travellers and Gypsies that is complementary to the State and chosen by the individuals concerned, they fill an important role in facilitating Gypsies' and Travellers' access to various forms of social assistance. However, to the extent that these associations in fact replace the State and create a parallel system of social assistance for Travellers and Gypsies, they contribute to their social segregation.

In practice, in a number of departments, officials in the State institutions that provide social services, such as the Family Allocation Fund (CAF) and Communal Centres for Social Action (CCAS), are not trained to address the particular needs of Travellers and Gypsies, who have different documents and a different way of life than the majority French population. The head of a Gypsy Association, who wished to remain anonymous, commented that "these associations are fulfilling functions that the State should be fulfilling. A lot of Travellers do not want to go to the city officials because the person at the counter does not help them. So they turn to these associations."⁴¹⁵ Thus the associations that provide assistance to Travellers and Gyp-

⁴¹⁵ ERRC interview with Mr K.L., March 5, 2004.

sies, in fact, appear to be acting as an informal surrogate for the French State in providing social services to Travellers and Gypsies.

In the Departments Indre-et-Loire and Gironde, the files of Travellers and Gypsies have reportedly been transferred from the common State social institutions to the specific departmental associations that provide assistance to Gypsies and Travellers. Jose Brun, a representative of the non-governmental association Regards, told the ERRC:

Today the social climate in France is such that, if an association dedicated to assisting Travellers exists, it is believed to be appropriate to transfer to this association the files of all of the Travellers in the area. This means, for instance, that the sub-Prefecture hands over to this association all of the RMI files of Travellers. This denies the fact that as citizens living in the geographical perimeter of a given public office, Gypsies should be able to access the public office, rather than being sent to a specialised association.

For instance, in the Department of Indre-et-Loire the CCAS transferred all of the files dealing with Travellers to the association Gypsies and Travellers of Touraine.⁴¹⁶ This was not a state decision, but a departmental decision that occurred with decentralisation. There are families that have been in Loches and Chinon for 500 years. They are some of the very rare families in France who do not have land and are always travelling. These families have been here for a very long time. Apart from some very rare exceptions they have all long been clients of the local social service offices. They have everything to do with the common law services. But now ... these families will have to go to Tours, to the association Gypsies and Travellers of Touraine. The association has trucks to go and see the families where they are. This could be a very good thing to develop within the CCAS...⁴¹⁷

Ms R. Winterstein and Mr D. Winterstein, two Travellers based in the Department of Gironde, informed the ERRC about a similar practice of transferring files

⁴¹⁶ Tsiganes et Voyageurs de Touraine (TVT).

⁴¹⁷ ERRC interview with Mr Jose Brun, February 23, 2004, Tours.

from state offices to the local non-governmental association that provides assistance to Travellers and Gypsies, the Departmental Association of Friends of Travellers of Gironde (ADAV).⁴¹⁸ Ms R. Winterstein stated: “Even if Travellers are domiciled in a municipality, such as Pessac,⁴¹⁹ they have to go directly to ADAV. We did not ask to be sent there. It is them that have our papers. Once a year there is a meeting with all social service institutions, it must be there that they decide who is obliged to go to ADAV. You could say that the others push us away.”⁴²⁰

Ms Marie-Bernadette Maire, Adjunct to the mayor of Pessac delegated to social action and the fight against exclusion,⁴²¹ confirmed to the ERRC that files of Gypsies and Travellers are transferred from public offices to ADAV. She also commented that:

When they go to the CCAS, for instance in Pessac, they are told: “We do not know, go see ADAV”. ADAV is fighting against this... against the phenomenon of ghettoisation through social actors. At the CCAS they do not know how to answer to Travellers. I recently wanted to hold a meeting with the elected authorities and services of the cities on this issue. The idea was an initiative of cities. And very quickly, ADAV took the lead and it suited everybody. And, when I said ‘No, we are holding a meeting with elected officials, they did not listen.’⁴²²

The ERRC believes that similar practices have likely occurred in a number of other departments.

It seems that, paradoxically, although the French State considers that recognising minorities in state policy and practice runs counter to republican equality, authorities in some departments in practice segregate Gypsies and Travellers, when providing various social services.

⁴¹⁸ Association départementale des Amis des Voyageurs de la Gironde.

⁴¹⁹ Pessac is a municipality just south of Bordeaux in the Department of Gironde.

⁴²⁰ ERRC interview with Ms R. and Mr D. Winterstein, March 2, 2004, Pessac.

⁴²¹ Ms Maire is also the President of the Association for the Welcome of Travellers in Gironde - A.G.V. 33, an association of composed of local officials.

⁴²² ERRC interview with Ms Marie-Bernadette Maire, March 3, 2004, Pessac.

8.2 Discriminatory Treatment of Travellers and Gypsies in the Provision of Public Services

France's international commitments⁴²³ as well as national penal legislation prohibit discrimination in access to public services. The French Criminal Code prohibits the refusal to provide a good or service on a list of grounds including, origin, physical appearance, name, customs, and real or presumed belonging to an ethnicity, race or particular religion. This form of discrimination is sanctioned by three years imprisonment and a fine of 45,000 Euros. When the refusal takes place on premises open to the public or with the intent to deny entry, then the penalties are increased to five years imprisonment and 75,000 Euros fine.⁴²⁴

ERRC research nonetheless indicates that the refusal to provide services to Travellers and Gypsies appears to be a common practice. Insurance companies are increasingly refusing to accept Travellers and Gypsies as clients and are even terminating the contracts of those Travellers and Gypsies that are already their clients. Restaurants, bars, discotheques and other public establishments commonly deny entry to Travellers and Gypsies or refuse to serve them. Furthermore, establishments that practice such discrimination do so relatively openly, apparently without fearing possible legal consequences of their actions. This attitude likely reflects the very low number of convictions for discrimination on any grounds (a total of a few cases per year with respect to all population groups in all areas of life).⁴²⁵

⁴²³ The International Convention on the Elimination of All Forms of Racial Discrimination, to which France is Party, at Article 5, states: "In compliance with the fundamental obligations laid down in Article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: [...] (f) The right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes, theatres and parks." European Union Directive 2000/43/EC on "implementing the principle of equal treatment between persons irrespective of racial or ethnic origin" requires Member States including France to lay down a legal framework for combating direct and indirect discrimination in a range of areas including "access to and supply of goods and services which are available to the public."

⁴²⁴ Article 225-1 and 225-2 of French Criminal Code.

⁴²⁵ See Commission Nationale Consultative des Droits de l'Homme. *La lutte contre le racisme et la xenophobie*, Rapport 2003, p. 559.

8.2.1 Discrimination in Access to Insurance

Various insurance companies throughout France seem to have recently decided that they no longer want customers who are Gypsies and Travellers. According to the non-governmental Travellers' association La Vie du Voyage, at the moment a large number of Travellers are being removed from coverage by insurance companies which had previously provided them with insurance protection. Mr James Dubois, President of La Vie du Voyage, told the ERRC: "Most of the calls that I have received lately are from Travellers telling me: 'I was thrown out of my insurance.' Insurance is obligatory, but the majority of insurance companies do not want to insure us."⁴²⁶

The ERRC received a copy of a letter written to a Traveller by an insurance agent informing him that his contract would be withdrawn. The letter, dated February 10, 2004 states:

We regret to inform you that we will be obliged in case of a future request for modification, or at the latest, by January 1, 2005, to terminate your contract. In effect, we just learned that you are considered as a Traveller, thus, unfortunately, in such cases, we are obliged by the companies with whom we work, to terminate these contracts as soon as we are aware of this fact.⁴²⁷

The family involved believes that the insurance company must have realised they were Travellers by noticing that they had indicated a designated halting area as their return address on an envelope.

Insurance companies are not only removing existing Gypsy and Traveller clients from their rosters but also refusing to take on new Traveller and Gypsy clients. Journalists producing a documentary on Travellers decided to test on camera whether this is a widespread policy. Using a hidden camera, they filmed the efforts of a clean-cut middle aged Traveller to approach two major insurance companies in order to insure a small

⁴²⁶ ERRC interview with James Dubois, November 14, 2003, Paris.

⁴²⁷ J.P. Labalette s.a. Assureurs-Conseils. Letter to Mr. M.W., No. Dossier 679409, Paris, February 10, 2004.

truck that serves to pull his caravan. The documentary footage shows him being refused at both companies. At the first, AXA, the agent asks what kind of caravan the truck will pull. When he learns that it is a caravan that serves as a home, his mouth falls open and he states: “We will have a problem. We can no longer insure caravans that serve as housing.” At the second, Banque AGF, the Traveller asks: “Do you accept Travellers here?” The agent responds: “No... I have some as clients and I keep them, but not new ones.”⁴²⁸

Travellers and Gypsies have for many years faced refusals by some companies to insure their caravans as housing. However, this discrimination now seems to have become generalised and has extended from refusing to provide housing insurance to caravans to refusing to provide insurance of any sort to Travellers and Gypsies.

8.2.2 Discrimination by Public Service Establishments

The ERRC received reports from Travellers and Gypsies throughout France about the refusal by staff and owners of public places, such as nightclubs, bars, stores and restaurants, to allow them to enter their establishments or to serve them.

For instance, in Bègles, the ERRC was informed that numerous Gypsies had been refused service at a pizzeria in the shopping centre Carrefour. The person responsible at the pizzeria reportedly told persons refused: “I don’t want to serve Gypsies.”⁴²⁹ Mr D. Winterstein told the ERRC that most of the nightclubs around Bordeaux refuse him entry. He estimated that in 50 nightclubs, there is only one in which Gypsies and Travellers are accepted.⁴³⁰ Ms L.S., a woman in her twenties, told the ERRC, “Most recently it happened to me 2 months ago. When I tried to enter the supermarket in Montargis, Loiret, I was not allowed. The security guard said, ‘You cannot enter. A girl that looks like you stole in the store.’ The owner said that a Gypsy stole and so he does not want Gypsies anymore. On other occasions, if we are allowed to enter shops, security guards follow us around, sometimes with a dog. This happens almost all of the time.”⁴³¹

⁴²⁸ Documentary “Gens du voyage: la répression et l’absurde, une enquête de Pascal Catuogno avec Jérôme Pin et Steeve Bauman”, aired on 10 May 2004.

⁴²⁹ ERRC interview with Ms Rosie Winterstein, March 2, 2004, Pessac.

⁴³⁰ ERRC interview with Mr D. Winterstein, March 2, 2004, Pessac.

⁴³¹ ERRC interview with Ms L.S., April 13, 2004, Rosny-sous-Bois.

However, despite the many reports of such discrimination, the ERRC is unaware of cases in which the establishments concerned were penalised for refusing service to Travellers and/or Gypsies. It seems that very few complaints are actually brought as Travellers and Gypsies do not believe that their complaints will result in convictions.

The ERRC is aware of one case brought recently by two Gypsy women, in which the lack of follow-up shows a lack of willingness by judicial authorities to take such situations seriously.

On Sunday May 2, 2004, Ms Ca.M. and Ms C.M., both in their thirties, were denied entry to the Foir'fouille store in Pessac, a discount variety store that is one of the few open on Sundays. The security guard let them enter the store and then reportedly asked them if they belonged to the community of Travellers. Ms Ca.M. answered "Yes, why?" The security guard reportedly responded that "Entry is refused here to those people." Ms Ca.M. said: "You are a security guard, why don't you simply follow us?" The security guard responded that the manager had given the order. The two women called Mr Pierre Delsuc, a local evangelist pastor who acts as a mediator when Travellers have problems, and waited for him to arrive. Mr Delsuc called the police, who also came to the store.⁴³²

According to Mr Delsuc, despite being informed that the store has a policy of refusing Travellers, the police said that they could not do anything because the store was purportedly acting within its rights. One of the police officers also said to Mr Delsuc: "Sir, there are thieves in your community." Mr Delsuc took note of the license plate number of the police car.⁴³³ On May 7, 2004, the women and Mr Delsuc sent a complaint to the Prosecutor concerning the store's refusal to allow them entry, and the inappropriate reaction of the police.⁴³⁴ Copies of the letter were also sent to the Ministry of Justice, the Ministry of Interior, and the Prefect of the Department of Gironde.

The women were subsequently invited to the police station to testify. Only Ms Ca.M. was in the area at the time, as Ms C.M. was travelling elsewhere in France. Ms

⁴³² ERRC telephone interview with Mr Raymond Jose, husband of Ca.M., October 22, 2004, Paris.

⁴³³ ERRC telephone interview with Mr Pierre Delsuc, October 25, 2004, Paris.

⁴³⁴ ERRC interview with Danielle Mercier, October 23, 2004, telephone. Letter of complaint of May 7, 2004.

Danielle Mercier of the non-governmental association USETA accompanied her to the police station. Ms Mercier informed the ERRC that the police officer conducting the interview behaved in such a manner as to try to minimise the seriousness of the situation and even mock the victim. She said, the officer said things such as, “You are used to this, it is not a big deal,” and “Do you really want to file a complaint for this?” He also laughed when the victim said that for her it is serious, and that she was shocked by the incident. The victim insisted in maintaining her complaint.⁴³⁵

In a short letter from the First Instance Court of Bordeaux (Tribunal de Grande Instance de Bordeaux) received in July 2004, the women were informed that the case had been filed.⁴³⁶

⁴³⁵ ERRC telephone interview with Danielle Mercier, 15 November 2004, Paris.

⁴³⁶ Letter from the Prosecutor of the Republic to the organisation U.S.E.T.A., July 2004.

9. DISCRIMINATION AGAINST TRAVELLERS AND GYPSIES IN EMPLOYMENT

France's international obligations require it to guarantee the right to work and the freedom to choose one's employment, as well as to ensure these rights are exercised without discrimination based on grounds such as race, colour, ethnic or national origin. These international obligations are extensive. They require France to take proactive measures in order to ensure that individuals are able to benefit fully from the right to work, regardless of criteria such as colour, ethnic or national origin. This implies not only establishing a comprehensive and effective legal framework for addressing instances of discrimination but also undertaking active steps in order to identify and root out any policies, regulations, requirements or practices that could impinge upon the work possibilities of a particular group of the population.⁴³⁷

At the European level, Directive 2000/43/EC, adopted June 2000 by the Council of the European Union, elaborated upon the elements that European Union Member States are required to include in their legislative framework in order to implement the principle of equal treatment with respect to various areas of life. This Directive, that binds France, requires States to ensure that their anti-discrimination legislation bans not only direct, but also indirect discrimination in a number of areas, including: conditions for access to employment, to self-employment and to occupation, includ-

⁴³⁷ Various Conventions to which France is a Party, guarantee this basic right. For instance, Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) states that: "States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights...the rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration." ILO Convention No 111 Concerning Discrimination in Respect of Employment and Occupation of 1958, requires State Parties to "Declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating discrimination in respect thereof." France has ratified the ILO Convention No 111 on 28 May 1981. The obligation to guarantee non-discrimination in this sector is also contained in the International Convention on Economic, Social and Cultural Rights (ICESCR) and The European Social Charter (Revised). The Revised European Social Charter is in force for France since 1 July 1999.

ing selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, including promotion.⁴³⁸

In large part in response to this Directive, in recent years France has significantly reinforced its legislative framework banning discrimination in the employment sector. As modified by a law of November 16, 2001, Article L122-45 of the French Labour Code prohibits indirect and direct discrimination in various stages of the employment process on grounds including: customs; origin; physical appearance and belonging or non-belonging, real or supposed, to an ethnicity, nation or race.⁴³⁹ Another recent law of December 30, 2004 extends guarantees against direct or indirect discrimination to independent or non-salaried work.⁴⁴⁰

It remains to be seen whether implementation and practice will follow the positive example of these new legal developments. For the time being, these legal guarantees remain empty promises for the many Gypsies and Travellers who encounter considerable impediments to their ability to work, whether independently or as salaried employees. In a striking contrast to these steps to improve the legal framework banning discrimination, France has failed to take any steps to identify and eliminate the many discriminatory regulations, policies and requirements that are making it increasingly difficult for many Gypsies and Travellers to work. In fact, the French state is itself responsible for many of the barriers that have a particularly negative impact upon Gypsies and Travellers, in many cases interfering to a significant extent with their ability to earn their

⁴³⁸ Council Directive 2000/43/EC of 29 June 2000 on “implementing the principle of equal treatment between persons irrespective of racial or ethnic origin”, Official Journal of the European Communities, July 19, 2000, available on the Internet at: http://www.era.int/www/gen/f_13049_file_en.pdf. See definitions of direct and indirect discrimination in Chapter II of this report, footnote 25.

⁴³⁹ The first paragraph of Article L122-45 provides that: “No person can be excluded from a recruitment procedure or access to a traineeship or possibilities for on the job training, no salaried employee can be sanctioned, fired or be the subject of a discriminatory measure, direct or indirect, notably with respect to remuneration, training, reclassification, appointment, qualification, classification, or professional promotion, transfer or contract renewal on grounds of origin, sex, customs, sexual orientation, age, family status, genetic characteristics, belonging or non-belonging, real or supposed, to an ethnicity, nation or race, political opinions, union or mutualist activities, religious beliefs, physical appearance, name...” French Labour Code, Article L122-45. Unofficial translation by the ERRC.

⁴⁴⁰ Law no. 2004-1486 of 30 December 2004 “creating a high authority for the fight against discrimination and for equality”, Official Journal no. 304, December 31, 2004, p. 22567.

livelihood. When it comes to treatment by private employers the legal guarantees have yet to translate into effective tools for preventing the discrimination that Travellers and Gypsies regularly encounter when they seek salaried employment.

9.1 Restrictions on Halting – Obstructing Travellers’ and Gypsies’ Ability to Work

The laws, policies, and actions by local officials that are making it increasingly difficult for Gypsies and Travellers to halt their caravans, even temporarily, in many municipalities in France, are also making it increasingly difficult for Travellers and Gypsies to work.

Many Gypsies and Travellers earn their livelihood through forms of work connected with travel. They have developed commercial activities, markets and forms of employment that require them to be able to circulate freely within the country and, especially, to halt. In order to work they need to be able to stay in different municipalities for shorter or longer periods of time. Whether selling their goods at local markets, offering their services to residents, doing seasonal agricultural work, or undertaking any other type of economic activity, the ability of many Travellers and Gypsies to earn a living depends upon their ability to find places to halt their caravans. When they cannot halt, they cannot work.

Mr James Dubois, who heads La Vie du Voyage, a non-governmental Travellers association the membership of which is comprised entirely of vendors, commented to the ERRC: “For our business we need to travel and to stop. Every morning we work on the markets. If they don’t let us stop one day, they prevent us from working. If we can’t stop for several days, then we can’t work those days.” La Vie du Voyage sends registered letters to municipalities before a group of caravans arrives, in order to give municipal officials prior notice of their arrival, inform them that those arriving are businessmen and request a place to halt. In 2004, the Association reportedly sent 1,700 Euros worth of recommended letters to several hundred municipalities. All requests were refused according to Mr Dubois.⁴⁴¹ With each of these refusals French officials directly hindered the ability of a number of businesspeople to work.

⁴⁴¹ ERRC interview with Mr James Dubois and Mr Franck Couchevellou, November 14, 2004, Paris. The registered letters are also part of a strategy being undertaken by La Vie du Voyage to fight

In fact, each time a group of Gypsies and Travellers that attempt to stop their caravans in a municipality in order to work are expelled, the French state is directly preventing a number of Gypsies and Travellers from earning their livelihood.⁴⁴²

9.2 Regulations that Hinder Gypsies' and Travellers' Opportunities for Self-Employment

French Gypsies and Travellers find their opportunities for self-employment increasingly obstructed by state actions. Over the last decades, increasing regulation of various occupations commonly exercised by Gypsies and Travellers have made it progressively more difficult for them to earn their living in the manner that they choose. Problems stem from the lack of consideration given to their specific way of life and situation. As a result many regulations that appear neutral on their face, in fact have a particularly negative impact upon Gypsies and Travellers.⁴⁴³

For instance, a law passed in 1996⁴⁴⁴ created stricter regulations with respect to the professional qualifications required in order to exercise a range of trades, including several occupations that are popular amongst Travellers and Gypsies, such as the maintenance and repair of vehicles and machines, construction, the maintenance and reparation of buildings and chimney-sweeping.⁴⁴⁵ Recognition of

against the increasing difficulties its members face in trying to halt, including through taking legal actions against municipalities who fail to provide them with places to halt and carry out illegal evictions against their members. The registered letters strengthen their case when they negotiate with municipal officials in order to receive permission to halt, provide an indication of the extent of the difficulties that they face in finding places to halt, and also strengthen their legal position.

⁴⁴² These regulations, policies and practices that prevent Travellers and Gypsies from halting, and therefore working, directly violate bans on discriminatory treatment with respect to the right to work.

⁴⁴³ These regulations constitute indirect discrimination against Travellers and Gypsies. By not taking steps to eliminate the discriminatory effect of all such regulations, France is acting in violation of its international obligations under inter alia ICERD, ILO Convention No 111 Concerning Discrimination in Respect of Employment and Occupation, 1958, ICESCR, the European Social Charter (Revised).

⁴⁴⁴ Law no. 96-603 "Relating to the Development and Promotion of Commerce and Trades". (Unofficial translation by the ERRC).

⁴⁴⁵ Article 16 of Law no. 96-603 "Relating to the Development and Promotion of Commerce and Trades". A detailed list of these occupations is set out in the Annex to Decree no 98-246 of 2 April

an adequate level of qualification to practice these professions can take the form of academic certification⁴⁴⁶ or proof of three years of professional experience exercising that occupation.⁴⁴⁷ Exercising one of these occupations without such official recognition may be sanctioned by a range of penalties, including a fine of 50,000 Francs (approximately 7,622 Euros).⁴⁴⁸

Most Gypsies and Travellers learn these trades through informal apprenticeships with family members or other members of the community, rather than through formal academic channels. Thus even when they possess the requisite professional skills, they do not obtain academic certificates formalising their knowledge. Furthermore, obtaining this type of certification means staying in one place for a period of time, usually two years, something that is particularly unadapted to those who travel. Concerning the option of proving three years of professional experience, very few Gypsies and Travellers are able to provide the forms of proof that are accepted (such as payslips), as they work informally and independently.

The impact of these regulations is therefore to oblige them to either stop working in these occupations, which for many means losing their livelihood, or to work illegally.

Mr Jose Brun of the Gypsy association Regards told the ERRC:

The law regulating professional activities is perceived as a new form of discrimination. The professions related to building and public works are activities many more persons would have moved into as you can do them across France, door to door. They are jobs that you can do while travelling and remain completely free. In recent years though, it has become harder and harder to do these jobs if you do not have a diploma. In the next ten

1998 “List Concerning the Occupations Entering within the Scope of Activities mentioned in 1 of Article 16 of the Law of July 5, 1996”. (Unofficial translation by the ERRC).

⁴⁴⁶ This can be a certificate of professional aptitude, a diploma of professional studies or another diploma or title recognised as being at an equal or superior level.

⁴⁴⁷ Articles 1 and 2 of Decree no 98-246 of 2 April 1998 relating to the professional qualifications required for the exercise of activities provided in Article 16 of Law No 96-603 of 5 July 1996 “Relating to the Development and Promotion of Commerce and Trades”.

⁴⁴⁸ Article 24 of Law no. 96-603 “Relating to the Development and Promotion of Commerce and Trades”.

years, it will be a catastrophe. You have the feeling of having to conform to procedures that do not take into account your culture.⁴⁴⁹

Another example is the situation of vendors that are itinerant Travellers, who, in addition to difficulties arising from the inability to halt, face increasing difficulties finding available stalls on markets when they arrive in a city. This problem is due to widespread measures to reduce and regulate markets, which cut down on the number of available stalls. The lower number of remaining stalls are given as a priority to those with a permanent place at a given market or those on the waiting list for places. At many markets there are therefore fewer places available for the vendors who travel from market to market, a great many of whom are Travellers and Gypsies.

Mr Fredo Bone, President of the National Catholic Association of Travellers, told the ERRC:

In the past it was mainly Travellers on the markets. Things began to change around fifteen years ago. The markets began to be restructured and as a result they gradually pushed us out. Over the last years about 15 percent of the space for markets has been eliminated. In the Rhône⁴⁵⁰ the markets have been reduced by 35-40 percent. Reduced, reduced, reduced. Automatically, the first to be pushed out are the Travellers. Those with permanent places keep their places. For example, if a street is 300 metres long, they take off 50 metres from the market or a little more. They eliminate the places at the end where there are Travellers [without permanent places]. This happened especially in the big cities. A little less in the countryside, but there too. It's become worse since 2000, since the Besson Law... it started well before, but it has gotten much worse since. The municipalities want to stop Travellers from halting on their municipality.⁴⁵¹

Problems seem to be particularly acute in the Rhône, around Lyon. Mr G.L., who travels throughout almost all of the year, commented, "There are supposed to be places for itinerant vendors in all of the markets. Some respect this and others do

⁴⁴⁹ ERRC interview with Mr Jose Brun, February 23, 2004, Tours.

⁴⁵⁰ Mr Bone is referring to the Department of Rhône in which Lyon is located.

⁴⁵¹ ERRC telephone interview with Mr Fredo Bone, November 17, 2004, Paris.

not.” He told the ERRC that he generally finds a place, except around Lyon, and in the Midi during high season in the month of July.

Mr Bone, who mainly sells on markets in the Rhône area, regularly tries two or three markets in the morning before finding a place on one. Illustrating the situation, he remarked that in the town of Meyzieux, vendors who are itinerant are refused since the stall allocator is on sick leave and the gendarmery is handling placement. The market in the neighbouring municipality of Décines only has eight places of three square metres each reserved for itinerant vendors at a market of 300 places. In the market of another nearby municipality, Vénissieux, only 11 of the 350 places are reserved for itinerant vendors, and this only on Saturdays and Thursdays. Numbers of itinerant vendors far exceed these limited available places. Mr. Bone told the ERRC that for four years he has been trying to get himself listed on a calling list (a list of persons who are called in the morning when there are available spaces) for the market of Vénissieux. He has not yet managed. He commented that “previously 20-30 percent of places were reserved for itinerant vendors”.⁴⁵²

9.3 Discrimination in Access to Salaried Employment

The ERRC’s research also indicates that, despite the legal bans on discrimination in employment, refusals by private employers to hire Gypsies and Travellers seem to be a relatively common phenomenon.

An illustrative example is the discrimination faced by 16-year old Gypsy, Ms L.S., in trying to obtain an apprenticeship as part of a training course in fashion design. Ms Daniel Talhouarn, social counsellor at the non-governmental association ADAV,⁴⁵³ who assisted L.S. in finding an employer, told the ERRC:

I found a fashion designer who was looking for an apprentice that had taken exactly the training course that L.S. had taken. L.S. exactly fit the profile as he described it. I did not say that she belonged to the community of Travellers, nor that she was a little dark-skinned. This man

⁴⁵² ERRC telephone interview with Mr Fredo Bone, November 17, 2004, Paris.

⁴⁵³ Ms Talhouarn works in the social action section of ADAV (Departmental Association of Friends of Travellers of Gironde).

wanted someone who was very attractive, very feminine and with a decent level of education. I told him that L.S. fit these characteristics. She went for an interview. As soon as the potential employer saw her skin colour he made a remark about it. The interview did not last long.

He phoned me after the interview saying that he had found someone with more experience for the apprenticeship. This must have been about an hour later. I told him that it was important for L.S. and for me to know the reasons for her refusal for the apprenticeship. He said that he had simply found someone else, the daughter of a colleague, with more experience. I told him that his argument did not hold up based on what he had initially said and asked whether her skin colour bothered him. He said 'yes'...that it is not him it bothers, but the clients.

Ms Talhouarn went to see the fashion designer in person. On this occasion the fashion designer reportedly stated: "Do you realise that she is a Traveller?" When Ms Talhouarn told him that the fact of her being a Traveller should not matter, that she is French, and that she is sedentary, the employer then reportedly said: "She lives with her mother and her uncle. Imagine if the uncle comes and beats me up because I shake up his niece?"

In the end L.S. was unable to find an apprenticeship and at the time of writing was taking a different training course. L.S. did not wish to lodge a legal complaint for discrimination.⁴⁵⁴

The anti-Gypsy and Traveller climate has become so intense in recent years that even for work that Gypsies and Travellers have traditionally carried out, they are now finding themselves refused. For instance, seasonal work in agriculture in the Aquitaine region has for many years been a very important source of livelihood for Gypsy and Traveller families. However, Ms Danielle Mercier, Secretary General of the non-governmental association USETA,⁴⁵⁵ told the ERRC that the situation is becoming worse and worse throughout the region. Employers are increasingly refusing to hire these families, preferring students or sources of new immigrant labour.

⁴⁵⁴ ERRC telephone interview with Ms Danielle Talhouarn, November 26, 2004, Paris.

⁴⁵⁵ Social-Educative Union of Gypsies of Aquitaine.

For example, in the town of Libourne, Gypsy families have for many years found seasonal work during the harvest in the different agricultural estates. According to Ms Mercier, last year about 100 caravans of Gypsies came to Libourne expecting to work. The National Employment Agency (ANPE) told her that it was the first year that there was a 90% refusal rate as soon as clients knew that applicants were Gypsies. Information Ms Mercier has received from ANPE offices throughout the region indicates that the situation is similar throughout.⁴⁵⁶

In the fall of 2003, USETA, along with a representative of the ANPE, informed the Prefecture of the Department of Gironde of this situation. A representative of the Labour Inspectorate was also present at the meeting. Ms Mercier told the ERRC: “The representative of the Prefecture said ‘what do you want us to do?’ The representative of the Labour Inspectorate also said they did not really know what they could do. Everyone was so embarrassed. This year [2004] we tried to set up another meeting at the Prefecture of the Department of Gironde, for November 16. I was just informed that it has been cancelled.”⁴⁵⁷ According to the French Labour Code labour inspectors can request any document or element of information that could be useful in order to provide evidence of discrimination as provided in Article L122-45.⁴⁵⁸ The ERRC is unaware of any inspectors that have done so in the case of Gypsies and Travellers who experience discrimination in their access to employment.

9.4 A Favoured Workforce for Work Presenting Health and Safety Hazards

Gypsies and Travellers seem to constitute a particularly favoured workforce for jobs that involve health hazards and companies that wish to avoid strict health and safety regulations. The ERRC was unable to find any statistical information indicating the extent to which Gypsies and Travellers are hired for such jobs, however the ERRC’s qualitative research indicates that their numbers are proportionally far higher than their percentage in the population.

⁴⁵⁶ ERRC telephone interview with Ms Danielle Mercier, November 15, 2004, Paris.

⁴⁵⁷ ERRC telephone interview with Ms Danielle Mercier, November 15, 2004, Paris.

⁴⁵⁸ Articles L611-9 of French Labour Code.

Mr Jose Brun of the non-governmental association Regards told the ERRC:

I have a cousin who worked in a nuclear power plant that we call the 'Central Chinon La Loire'. They like Gypsies there. The work has health risks, so they are used to do work that others do not want to do. A lot of Gypsy families live in the area of the plant. It was originally an agricultural region and they essentially provided the agricultural workforce. The nuclear power plant does not hire directly. Instead they use an interim employment agency to hire Gypsies.

My cousin transported nuclear waste – it was radioactive – and also cleaned things in the zone within the security perimeter. When you are not literate, there are things that you do not know. You do not protect your health. There are cases with many Gypsies that worked there and who today have problems with their thyroid glands. My cousin gained an enormous amount of weight in a few months. We have other friends who had to have thyroid operations – they also worked in the plant. The managers identified a workforce that will not show up with protest banners; a population that can be easily manipulated. For the nuclear power plant Gypsies are a workforce that is almost too good to be true.⁴⁵⁹

According to Mr Brun, this is in no way an exceptional case. Gypsies are often hired for high-risk jobs, especially on demolition sites. Companies also often subcontract to Gypsy families in order to recuperate metals from scrap.

Dr. Jean-Claude Giraud, a medical doctor who has treated a large number of Gypsies in the Toulouse area for more than 40 years, told the ERRC that the type of work they do often has a serious impact on their health. He cited the recent example of the demolition of buildings around the site of the explosion of the AZF factory in Toulouse:⁴⁶⁰

⁴⁵⁹ ERRC interview with Mr Jose Brun, February 23, 2004, Tours.

⁴⁶⁰ This factory was the scene of a nitrate ammonium explosion on 21 September 2001, killing 30 persons, injuring 2500 and destroying neighbouring buildings within a radius of 700 metres. The site remains polluted and presents serious health risks.

At AZF – there was asbestos. In the demolition of the polluted buildings at a distance of 3 km from the AZF site, who do we find at the end of the work chain? Gypsies, employed as demolition workers... That is the kind of work they often do... on demolition sites when asbestos is discovered, it is very expensive to put in place proper protection for workers. In France, construction is a quasi-mafia industry. Big companies subcontract and then work gets subcontracted again. And at the end of the chain you find Gypsies and clandestine migrants.⁴⁶¹

A young Gypsy, Ms Ginette Mencarelli, told the ERRC that her husband went to work at AZF immediately after the explosion. When the ERRC inquired about the health risks she responded that he needed the work.⁴⁶²

According to Dr. Giraud, “life expectancy is seriously reduced due to working and living conditions.” He also believes that in thirty years there will be an epidemic of cancer amongst French Gypsies due to asbestos.

9.5 Racism a Constant Backdrop to the Economic Possibilities of Gypsies and Travellers

The climate of racism towards Gypsies and Travellers that pervades French society looms constantly in the background conditioning their economic possibilities. Testifying to the pervasive nature of this racism, Gypsies and Travellers whom the ERRC met that earn their living by offering the public goods and services, almost universally believed that their economic success depended on their ability to hide their identity.

Expressing this attitude, Mr Toni Lariviere, who has a small housing repair business told the ERRC: “People do not give work to Travellers. I have to hide the fact that I am a Traveller. It is disgusting. It is really 100% racist. All the Travellers who are skilled tradesmen hide their identity, use pseudonyms. Sometimes at a client’s I hear remarks such as ‘We are happy with your work – you

⁴⁶¹ ERRC interview with Dr Jean-Claude Giraud, March 8, 2004, Toulouse.

⁴⁶² ERRC interview with Ginette Mencarelli, March 9, 2004, Toulouse.

know you have to be careful with all the Gypsies now ... there are so many Gypsies in the municipality.”⁴⁶³

Mr Lariviere also told the ERRC about an incident that had recently happened to his cousins in the town of Chelles. “My cousins were working on a job. They had signed an agreement and started the job. They had left their ladders and scaffolding in the client’s house. The client passed in front of their house and saw caravans. After that, he did not want them to finish the work. In fact, he did not even let them enter his house in order to recuperate their own ladders and scaffolding from the house... it is incidents like this that remind us that we need to be discrete about our identity.”⁴⁶⁴ The men did not complain to the police about their equipment that was in essence stolen by the client. Mr Lariviere explained that they did not want to make waves. It would be a disaster for future business in the municipality.

Mr J.W., a middle-aged painter (artisan peintre) who lives in the town of Callas, said: “We face considerable discrimination when we want to work. If people find out that I am a Gypsy, I will not be able to find work.”⁴⁶⁵

In another illustrative example, Mr James Dubois, head of La Vie de Voyage,⁴⁶⁶ told the ERRC that the members of the association all hide their identity as Travellers in their business relations. Mr Dubois himself used to sell clocks that came with a five-year guarantee. On five or six occasions he had already sold the merchandise and only had to deliver it to the customer when he mentioned that he is a Traveller. On all of the occasions, the customers stated that they had nothing against Travellers but nonetheless found reasons why they no longer wanted the clocks.⁴⁶⁷

⁴⁶³ ERRC interview with Toni Lariviere, January 30, 2004, Montfermeil.

⁴⁶⁴ ERRC interview with Toni Lariviere, January 30, 2004, Montfermeil.

⁴⁶⁵ ERRC interview with Mr J.W., May 4, 2004, Callas.

⁴⁶⁶ La Vie du Voyage is a non-governmental Travellers association the membership of which is comprised almost entirely of vendors.

⁴⁶⁷ ERRC interview with James Dubois, November 14, 2004, Paris.

10. VIOLATIONS OF THE RIGHT TO EDUCATION OF TRAVELLER AND GYPSY CHILDREN

French legislation guarantees unequivocally the right of all to education regardless of social, cultural or geographic origin.⁴⁶⁸ That this right applies to Travellers was recently emphasised in Circular No. 2002-101 of 25 April 2002 on the “Schooling of Traveller Children and Non-sedentary Families”(25 April 2002 Circular), addressed to rectors and inspectors of local level education departments (Académies) and directors of the departmental services of the national education system.⁴⁶⁹ Furthermore, a law adopted on December 30, 2004 guarantees equality of treatment and bans direct and indirect discrimination with respect to education on grounds of national origin, as well as belonging or non-belonging real or supposed to a given ethnicity or race.⁴⁷⁰

⁴⁶⁸ Article L 111-1 of the Education Code provides that:

“Education is the first national priority... It contributes to the equality of opportunities. The right to education is guaranteed to all persons in order to develop their personality, to raise their level of initial and continuing education, to integrate into social and professional life, and to exercise their citizenship...The acquisition of a general culture and of a recognised qualification is guaranteed to all youth, whatever their social, cultural or geographic origin.” (Unofficial translation by the ERRC).

⁴⁶⁹ The Circular indicates that in addition to Travellers, the non-sedentary population of France includes those who are itinerant for professional reasons (for example mariners, fairground stallholders and those in the circus).

⁴⁷⁰ Law no. 2004-1486 of 30 December 2004 “creating a high authority for the fight against discrimination and for equality”, Official Journal no. 304, December 31, 2004, p. 22567, Article 17.

In addition, a number of international legal instruments binding on the French state provide for the right to education without discrimination on the grounds of, *inter alia*, race and ethnicity. Article 5(e)(i)(v) of ICERD obliges States Parties to prohibit and eliminate discrimination and to guarantee equality before the law in the enjoyment of the right to education. Discrimination on grounds of race and/or ethnic origin in the enjoyment of human rights is also prohibited by a number of other international instruments, including Article 2(1) of the Convention on the Rights of the Child; Article 2(2) of the International Covenant on Economic, Social and Cultural Rights (ICESCR); and Article 26 of the International Covenant on Civil and Political Rights.

The United Nations Committee on Economic, Social and Cultural Rights (CESCR) commentary to Article 13 of the ICESCR indicates that one of the components of the right to education is that education be “accessible to all, especially the most vulnerable groups, in law and in fact, without

The actual situation of Gypsies and Travellers in the education sector is, however, a far cry from these extensive legal guarantees of equality. It is widely agreed that participation levels of Traveller and Gypsy children are dramatically low, with many children not attending school at all and others dropping out at an early age. A shockingly small number of children above the age of twelve attend schools and only a very small minority complete secondary education. Furthermore even when they attend school, Gypsies and Travellers seem all too often to receive a substandard education, often not even equipping them with basic literacy skills.⁴⁷¹

In addition, although the official policy of the Ministry of National Education aims at schooling Gypsy and Traveller children in mainstream schools, various forms of segregated schooling remain a reality.

With the 25 April 2002 Circular, the Ministry of Education has set out a clear policy aimed at improving the situation of Gypsies and Travellers in the education system. However, the concrete effects of this Circular are not yet apparent.

10.1 Dramatically Low School Participation Rates

The ERRC tried unsuccessfully to find recent nation-wide statistics that would present a precise picture of participation rates of Traveller and Gypsy children at different levels of the education system. This data seems to be either non-existent or not publicly available, a situation which serves to hide the full extent of the exclusion of Gypsies and Travellers in the French school system. However, various existing studies, although lacking statistical accuracy, nonetheless give an indication of the extent of exclusion of Travellers and Gypsies from French schools.

discrimination". Furthermore, while many components of the right to education (like all rights in the ICESCR) are subject to progressive realisation, the prohibition against discrimination requires full and immediate application. (See Economic and Social Council. The right to education (Art.13): 08/12/99. (E/C.12/1999/10, CESCR General comment 13 para. 31, at: [http://www.unhchr.ch/tbs/doc.nsf/\(symbol\)/E.C.12.1999.10,+CESCR+General+comment+13.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(symbol)/E.C.12.1999.10,+CESCR+General+comment+13.En?OpenDocument)).

⁴⁷¹ Robert Ziggler, President of the Gypsy Association Goutte d'Eau told the ERRC that he estimates that 60-70% of Gypsies know how to read and write.

The most recent nation-wide official estimates publicly available date back to the 1990 Delamon Report.⁴⁷² According to the report, only 5% of school-age Traveller children attended kindergarten, while only 50% of those who travel and 85% of those who are sedentary attended elementary school. The report also estimated that 8% of those between the ages of 12 and 16 attended college.⁴⁷³ More recent information was provided by the Ministry of National Education for the periodical Interface in the Spring of 2001. While data concerning primary school attendance is not provided, the Ministry states that “Gypsy children of primary school age are increasingly enrolled in local schools, in ordinary classes....” The Ministry also notes that secondary school attendance is improving and estimates that “approximately 15-20% of Gypsy children of secondary school age currently attend. Some pupils are integrated into mainstream classes and eventually go on to vocational or technological studies.”⁴⁷⁴

The ERRC was provided with another estimate by Ms Elisabeth Clanet, responsible for schooling of Traveller children at the National Centre for Distance Learning (CNED). She told the ERRC that 60% of children between 6-12 years old attend school, but that many of these children do not attend school regularly. She estimated an attendance rate of 30-40% of the time. For instance, children might attend school for 15 days and then not at all for 15 days. These figures are not based on a scientific study, but on her attempts, in co-operation with other colleagues, to compare their data and come up with an overall picture of the situation.⁴⁷⁵

⁴⁷² Delamon, Arsène. “La situation des ‘Gens du Voyage’ et les mesures proposees pour l’ameliorer”. Rapport de Mission de Monsieur Arsène Delamon à Monsieur le Premier Ministre. 13 Juillet 1990. (Referred to as “The Delamon Report”).

⁴⁷³ The French Education system consists of nursery schools (école maternelle), primary schools (école primaire), and secondary schools, including college (collège) and high school (lycée). Children attend primary school from the ages of six to eleven and study five courses, one for each year. Children then continue to secondary schools commencing with college until age 15 or 16 where they study for four years. At the end of college students sit an examination (brevet des collèges). Students then either attend an ordinary high school (lycée), until they are 18, where they study for the baccalauréat diploma, or they follow vocational educational options that lead to professional diplomas. Secondary education is compulsory until the age of 16.

⁴⁷⁴ “Information File: France.” Interface, Number 39, Spring 2001, pp. 14-17.

⁴⁷⁵ ERRC interview with Elisabeth Clanet, November 30, 2004, Paris.

None of the existing statistical information can, however, be considered accurate. Considerable obstacles to efforts at data-collection arise from the widespread belief that collecting any form of “ethnic” data is illegal and from the ambiguity of the term “Travellers”, which makes it difficult to know exactly who is covered by existing studies. Furthermore, the simple fact that children are considered to attend school leaves open the question of the regularity of their attendance and the quality of education that they actually receive.

There seem to have been a number of local initiatives to gather detailed statistical information about the participation of Travellers and Gypsies at local schools. For instance, Mr Hervé Londeix, an Inspector at the Academic Inspectorate of Gironde responsible for Travellers, carried out a study of the school participation of Travellers in the Department of Gironde in order to be able to allocate the necessary teaching and support staff. He emphasised to the ERRC that his findings are in no way scientific, due especially to difficulties in coming up with local figures concerning a population that moves, imperfections in the questionnaire itself, and the fact that some of the schools did not provide responses.

He found that in Gironde, where the total Traveller population is estimated at 13,000,⁴⁷⁶ there were approximately 120 Traveller children who attended kindergarten, 730 who attended elementary school, and 260 who attended secondary school, 200 in ordinary college and 60 who attended “Segpa” programmes⁴⁷⁷ during the 2002/2003 school year. Thus an estimated total of 1,100 Traveller children attended either the first or second level of school, of which 60% were children whose families do not travel regularly. In addition, mobile truck schools host a total of approximately 400 students a year, with the total number of schooling days ranging from less than 10 to more than 50 half-days.⁴⁷⁸ Mr Londeix noted that it is “probable

⁴⁷⁶ Préfecture de la Gironde and Conseil Général de la Gironde. Schéma Départemental d’Accueil des Gens du Voyage. February 2003, p. 21. The Departmental Plan states, however, that this estimate is to be taken “with a lot of caution because as much as the unauthorised parking or the family lots are visible, it is difficult to quantify the number of Gypsy families whose mode of life does not particularly differentiate them from the rest of the population.” Unofficial translation by the ERRC.

⁴⁷⁷ SEGPA (Applied General and Vocational Education) is a form of specialised secondary education for children experiencing serious educational or social difficulties. Segpa classes aim at preparing students for a professional qualification.

⁴⁷⁸ The mobile truck schools, run by a non-governmental association Help for Schooling of Gypsy Children (ASET) with teachers from the National Education system, try to offer minimal schooling

that a significant, but difficult to estimate, number of Traveller children partially or even totally escape the educational obligation and as a consequence the field of the study.⁴⁷⁹ He told the ERRC that amongst those children from families who travel around the Department of Gironde, approximately 400 to 500 children have received no or very minimal schooling. More generally, he believes the number runs around one third of the Traveller/Gypsy population. He added that there is “an enormous drop-out between CM2 (the final year of elementary school) and college.”⁴⁸⁰

According to the ERRC’s calculations, these figures indicate that there are likely thousands of school-age children who are not attending school in the Department of Gironde alone. On average the family size of Travellers and Gypsies is estimated at between 4-5 persons per family, and the population is young (45% are said to be less than 16 years old).⁴⁸¹ This means that there is a high likelihood that out of the 13,000 Travellers in Gironde at least 4,000 are school-aged children. If only 1,500 children attend school in the Department (including the mobile truck schools), this leaves around 2,500 children who do not attend school in the Department, some of whom are likely enrolled in distance learning. It is difficult to estimate how many of the children not attending schools in the Department are over the age of twelve.

Ms Marie Cannizzo, resource person for Traveller children at the Academic Inspectorate of the Rhône, carried out a similar study of school attendance of Traveller children in the Rhône during the 2003-2004 school year, in order to be in a better position to provide the requisite teachers and support. She found that in the Rhône, where a conservative estimate of the total Traveller population runs at around 9,000, a total of 1,355 Traveller children are schooled in the Rhône. A total of 991 Traveller children attend kindergarten or elementary level education in the Department. Of these, 621

to children that move constantly, generally from eviction to eviction, and as a consequence have difficulties attending ordinary schools.

⁴⁷⁹ Londeix, Hervé. “La Scolarisation des Enfants du Voyage en Gironde: Bilan de l’année scolaire 2002-2003.” p. 5.

⁴⁸⁰ ERRC interview with Mr Hervé Londeix, March 5, 2004, Mérignac.

⁴⁸¹ See Delevoye report. Senator Delevoye, Jean-Pierre, Report No. 188, presented at ordinary session of French Senate 1999-2000, session of January 26, 2000, on the Internet at: <http://www.senat.fr/rap/199-188/199-1881.html>. See also Commission Justice et Paix, on the Internet at: www.diocese-poitiers.com.fr/documents/gensvoyage.html.

attend ordinary schools (479 classified as “sedentary” and 142 classified as “itinerant”) and 370 children classified as itinerant attend mobile truck schools. At secondary level, a total of 230 Traveller children are schooled in the Department. Of these 35 are schooled in ordinary colleges, 19 in SEGPA schools and 176 in mobile truck schools. An additional 134 students are enrolled in distance learning.⁴⁸²

Although there are differences between the various figures, they all confirm that a high percentage of children do not receive any education in French schools, and of those that do attend, the school abandonment rate at the age of 12 is dramatic. Those who complete college and go on to high school (ordinary Lycée or professional Lycée) are evidently a small minority. Mrs Marie-Paul Nauleau, an educator who has worked for over 30 years for a non-governmental association in Toulouse providing assistance to Gypsies and Travellers,⁴⁸³ told the ERRC: “Those who attend high school in Toulouse can be counted on two hands – I know of one. Of those who attend college I know of about 15 students who completed the final year... in 30 years.”⁴⁸⁴

10.2 Obstacles to School Enrolment of Children Who Travel

The 25 April 2002 Circular states that: “Children of non-sedentary parents, are, as all other children subject to the obligation to attend school between six and sixteen years. They have the right to such schooling in the same conditions as other children, whatever the length and modalities of their stay, and in the respect of the same rules, of attendance notably. The fact that families reside only provisionally on the territory of a municipality is without incidence on their right to schooling. In effect, it is factual residence on the territory of a municipality that determines the host educational establishment (article 131-6 of the Education Code).”⁴⁸⁵

⁴⁸² Cannizzo, Marie. *Accueil et scolarisation des enfants du voyage dans le département du Rhône*. Inspection Académique du Rhône, November 5, 2004. ERRC telephone interview with Ms Marie Cannizzo, November 25, Paris.

⁴⁸³ The non-governmental association is today called Coordination Committee for the Promotion and in Solidarity with Communities in Difficulty: Migrants and Gypsies (CCPS).

⁴⁸⁴ ERRC interview with Ms Marie-Paul Nauleau, Monday March 8, 2004, Toulouse.

⁴⁸⁵ Unofficial translation by the ERRC.

ERRC research indicates that despite the instructions of this Circular, when they travel, it is extremely difficult for Gypsies and Travellers to enrol their children in schools. The sheer precarity of their existence, marked by endless evictions turns the possibility of school attendance into a mere illusion. In fact, it is difficult to imagine how children can possibly attend school anywhere regularly when their family is unable to stop in a single place for any length of time. Cathie Winterstein expressed this problem to the ERRC: “I want to send my children to school, but I cannot. We can never stay in one place... I would like to be able to stay somewhere and send my children to school, but it is impossible when we are always moving.” She told the ERRC that she was extremely happy when they were able to remain somewhere without being evicted for long enough for her daughter to attend school for 3 months. Her son, who is twelve years old, has been schooled for only a few days.⁴⁸⁶

Although families not only have the right, but also the legal obligation to send their children to school until the age of 16, mayors and the police are generally more concerned about expelling Gypsies and Travellers from the territory of local municipalities than ensuring that Gypsy and Traveller children are able to attend schools. Each time an eviction takes place when parents have enrolled their children in the local school, the eviction from municipal territory also interrupts the children’s schooling. When families try to explain this to local officials or police, the argument does not bear much weight in the eyes of most municipal officials who seem simply to perceive of Gypsies and Travellers as at best a nuisance and at worst a threat to the peace and security of towns. In a climate of rampant racism directed against Travellers and Gypsies, mayors generally view it as far more politically expedient to expel a group of caravans than to enrol their children in local schools.

Adding to the constant evictions, children’s schooling is further hindered by the deplorable conditions (lack of basic infrastructure) in which many Gypsy and Traveller families are forced to halt. Without running water and electricity, it is difficult for children to prepare for school, let alone to do their homework. Furthermore, the marginal locations to which Gypsies and Travellers are relegated further impede their children’s ability to attend school. For instance when the caravans are halted in an industrial zone or at the city limit, the nearest school is often beyond walking distance. Similarly, when the caravans are halted between busy freeway arteries, it is

⁴⁸⁶ ERRC interview with Ms Cathie Winterstein, March 2, 2004, Bordeaux.

dangerous for children to walk to school. Thus, if the families' vehicles are needed for work early in the morning (as is often the case), the children have no way of getting to school. The ERRC did not come across any instances where school buses pick up children of families temporarily halted in a municipality.

Each time Travellers arrive in a new place and wish to send a child to the local school, they need to enrol the child at the city hall as well as at the school itself. They need to present a range of documents, generally including the family booklet or birth certificate of the child; proof of residence; the child's health book proving that the child received the obligatory vaccinations; and a certificate proving that the child has been removed from the register of the previous school attended.

Legally, a child whose family is parked on the city's territory is to be accepted in the local school, even if the parents are unable to immediately present all of the required documents.⁴⁸⁷ Numerous mothers nonetheless informed the ERRC that mayors or school directors frequently refuse to accept their children in a local school.

Traveller Ms M.J. Daumasse summarised the recurrent problem as follows: "Each time we arrive in a new city and want to enrol our children in school, we have to go to the city hall. If we park in the fields, they deny us our right to send our children to school because we are not at an official halting place. But we don't have places to halt... those who want to send their children to school have to be willing to put up a fight and go through a lot of red tape."⁴⁸⁸

Another Traveller, Ms Feron, told the ERRC that many schools request that parents provide them with their address of residence in the municipality in order

⁴⁸⁷ "For primary school, according to the provisions of Circular No. 91-220 of 30 July 1991, even if the family cannot present all or several of the required documents at the time that they request enrollment in the school, the child should nonetheless benefit from provisional acceptance during the time needed for all of the documents required for enrollment to be procured, which should be as short as possible. In the event that the Director of a school finds it absolutely impossible to enroll a child due to lack of space in the school, a report is to be addressed, within a maximum period of three days, through hierarchical channels, to the school inspector of the Department. The inspector then informs the Prefect and takes all the necessary steps to render the child's enrollment possible." Circular No. 2002-101 of 25 April 2002 on the "Schooling of Traveller Children and Non-sedentary Families". Unofficial translation by the ERRC.

⁴⁸⁸ ERRC interview with Ms M.J. Daumasse, May 4, 2004, Aix-en-Provence.

to accept the children. If parents are unable to do so, the schools refuse to enrol the children.⁴⁸⁹ When the ERRC met Ms Feron on May 4, 2004, she had recently managed to halt with her family in the town of Saint-Victoret for a period of approximately five months. However, her children had not been accepted in the local school, although it was 500 metres away from the site where the family was halted. She said that she had managed to enrol the children in school elsewhere, farther away, but she had problems taking them in the morning when the men took the vehicles in order to go to work.⁴⁹⁰

During an ERRC visit to the official halting area “Realtor” in Aix-en-Provence, a group of mothers said that they reside on the official halting area for the benefit of the children, even though they do not like to. During the two-month period that they are permitted to remain at the halting area their children are able to attend the local school. However, as soon as the two-month period comes to an end, their children are immediately kicked out of the local school, even when they remain in the municipality.⁴⁹¹

The next day the ERRC met Traveller Ms R.D. at the official halting area “Saint-Menet” in Marseille. Her two children, one ten and the other eight, were kicked out of the school located near Realtor after a 2-month period, even before the family had left the halting area. According to Ms R.D., the school Director had called the halting area to inform them that she had already prepared the official certificate indicating that the children were no longer registered at the school. The school Director told the family: “I do not want sedentary families – 2 months is 2 months.” When the family left Realtor, they halted at another location very close to Realtor, but the children could no longer attend the school unless the family went to the city hall to re-enrol them. The family believed it was unlikely that the children would be accepted given that the mayor of Aix-en-Provence has a reputation for being particularly vigilant in evicting families stopped outside of the official halting area. Instead, the family left Aix-en-Provence.⁴⁹²

⁴⁸⁹ Although such practices run contrary to French law, including the specific instructions of the 25 April 2002 Circular, they nonetheless remain common.

⁴⁹⁰ ERRC interview with Ms Feron, May 4, 2004, Aix-en-Provence.

⁴⁹¹ ERRC visit to the Realtor halting area, May 4, 2004, Aix-en-Provence.

⁴⁹² ERRC interview with Ms R.D., May 5, 2004, Marseille.

Many families are afraid to request the enrolment of their children in local schools out of fear that their children will not only be refused, but that the family will also be forcibly evicted from the municipality. Ms Marie Cannizzo⁴⁹³ told the ERRC of one such eviction that took place in September of 2003. A group of families with about twenty school-age children had been stopped on a site in the town of Saint-Pierre-de-Chandieu for more than a year. The mayor had taken no steps to evict them. The children did not attend the local school, but instead were sometimes schooled in a mobile truck school. The local school was willing to accept them. Ms Cannizzo accompanied the families to meet with the mayor in order to arrange for the children to be enrolled in the local school and to use the cafeteria. Several days later the families were forcibly evicted from the municipality by the police.⁴⁹⁴

Mr Joseph Poirier, teacher in a mobile truck school told the ERRC about a similar incident that occurred in the town of Eysines in the Department of Gironde: “I made the request for school enrolment on behalf of a family. There was one child to enrol in school. The local school was ready. The mayor refused, and since they knew that the family was in a situation of illegality, they evicted the caravans the next morning.”⁴⁹⁵

According to Ms Danielle Mercier, representative of the non-governmental association USETA,⁴⁹⁶ refusals by schools to enrol Traveller children halted in their geographical vicinity are sometimes instigated by the protests of local parents’ associations. She said “they go to the school Directors and say things like ‘if you enrol the Travellers’ children, I will pull my children out of school. They do not know how to talk, they are dirty.’ And the parents sometimes also go to the mayors and say ‘increase the security around the school to stop Traveller children from entering; there are caravans in front.’ This sort of thing is never written, but often said.”⁴⁹⁷

Mr Joseph Poirier, told the ERRC of a recent instance where he was approached by an association of parents from the municipality of St. Loubes, a municipality

⁴⁹³ Resource person for Travellers at the Academic Inspectorate of the Rhône.

⁴⁹⁴ ERRC interview with Ms Marie Cannizo, March 25, 2004, Lyon.

⁴⁹⁵ ERRC interview with Mr Joseph Poirier, March 5, 2004, Mérignac.

⁴⁹⁶ Social-Educative Union of Gypsies of Aquitaine.

⁴⁹⁷ ERRC interview with Ms Danielle Mercier, March 1, 2004, Pessac.

outside of the zone he usually goes with his truck school. There was a group of caravans stopped in the town and 3 or 4 Traveller children that wished to attend the local school. The parents wanted him to teach the Traveller children in his mobile truck school so that the children would not attend the local school. He refused.⁴⁹⁸

According to Ms V.R., a civil servant in the Department of Education who has worked with Travellers for more than thirty years, local education departments (Académies) face considerable difficulties in ensuring respect for the right of Traveller children to attend local schools, due to the political climate and the power of the mayors. She told the ERRC: “The day that the local education department decides to enrol a group of Traveller children in a local school, the problem moves into the public domain. If a school inspector, for instance me, ensures that the law on education is respected without taking into account the mayor of the town concerned, you can be sure that two hours later, the rector will move the inspector to another position. The rector doesn’t generally want to make waves. The rector is someone political who represents the government. As a result, even though school inspectors want to ensure that the law is respected, this is a political file so we have to act carefully. Inspectors are caught in a situation where on one side is the law on education and on the other the law on housing, and the security law when it’s about immigrants. We are really caught between different fires.”⁴⁹⁹

10.3 Obstruction by Local Officials to School Enrolment of Traveller and Gypsy Children

Traveller and Gypsy families who buy land in a municipality also encounter obstruction by local officials when they seek to enroll their children in local schools while they reside in the municipality. Local officials present various reasons for refusing to enroll resident Gypsy and Traveller children in local schools, ranging from a lack of space in the local school for these children to families’ violations of urban planning regulations (when they reside in an area not zoned for construction). Local officials are legally obliged to accept children residing on their municipality in local schools, regardless of whether or not the families are deemed to be residing in

⁴⁹⁸ ERRC interview with Mr Joseph Poirier, March 5, 2004, Mérignac.

⁴⁹⁹ ERRC interview with Ms V.R., March 25, 2004.

violation of urban planning regulations, or any other regulations, as schooling is both a right and an obligation for children. However, Gypsy and Traveller families often have to fight with local authorities, and sometimes even to go to court, in order to enroll their children in local schools.

The non-governmental association USETA⁵⁰⁰ told the ERRC that a principal difficulty families encounter is that the first thing city hall officials ask for is the gas or electricity bill as proof of a family's residence in the municipality. Often this same city hall refuses water and electricity to the family as they are deemed to be residing in the municipality in violation of urban planning regulations. Thus local officials in effect place a superior value on urban regulations over children's right to an education.

In a typical example, in September 2002 the mayor of Isle-Saint-George refused to accept twelve of Ms J. Winterstein's grandchildren in the local school. The children had come to live for several months with their grandparents, who have owned land in Isle-Saint-George since 1990. Ms Winterstein believes that it is important that her grandchildren receive an education and therefore wanted to send them to the local school. She told the ERRC that when she requested their enrolment at city hall, the mayor, Mr Jean Andre Lemire, refused and threatened to expel the family from their land.

Mr Lemire told the ERRC that taking 12 Traveller children is difficult for the teachers. The small town school has only three classrooms and 55 children from the ages of three to ten years old. He commented: "when there were only one or two Traveller children it was manageable, but when they came with 12, it was another story... I do not know if it is good for them to be in the middle of children who are at the same academic level, but are younger than them. In addition, the teachers do not have all the necessary means to manage the situation."⁵⁰¹

The family took the municipality to the Administrative Court of Bordeaux and won. The court ordered the municipality to enrol the children in the local school and to pay a fine of 100 Euros for each child that was refused.⁵⁰²

⁵⁰⁰ USETA assists Traveller children in the Aquitaine region to enrol in school.

⁵⁰¹ ERRC interview with Mr Jean Andre Lemire, March 4, 2004, Isle-Saint-George.

⁵⁰² ERRC interview with Ms Winterstein, March 4, 2004, Isle-Saint-George.

According to Ms Danielle Mercier, even after the judgement Mr Lemire did not want to accept the Winterstein's grandchildren in the local school. She told the ERRC: "the mayor of Isle-Saint-George told them to go enrol in Saint-Médard-d'Eyrans.⁵⁰³ But the mayor of Saint-Médard said there is a judgement, so the children have to go to school in Isle-Saint-George. We wrote to the Ministry of Education and three weeks later there was place in the school in Isle-Saint-George." In her efforts to have the judgement enforced, Ms Mercier had also phoned the school Director in Isle-Saint-George who reportedly told her that she was crazy to want to enrol children of 10 years of age who had never received any schooling, that the school couldn't do anything with children of that age."⁵⁰⁴

In the end the 12 children were placed in a separate class in an "evaluation room" generally used for special activities. Mr Lemire told the ERRC: "We were obliged to use that room and we succeeded in having a support teacher that looked after the children." The ERRC asked if he was sure that they were all behind. He answered that he did not know; he is a mayor not a teacher.⁵⁰⁵

Ms Sandra Bayer, a Gypsy woman who owns land in the town of Gouvernes, told the ERRC of the difficulties that she had enrolling her children in the local school. In November 2000, when she moved to the municipality of Gouvernes with her husband and children, she wanted to enrol two of her school-age children, 9 year-old Kevin and 11 year-old Skipper. She went to see the school Director who informed her that there was place for her children in the school. She then went to city hall to see the mayor, Mr Toni Vincent. The mayor's secretary immediately told her: "No, we will not accept them." Ms Bayer responded that it is a legal obligation to accept all children in school and insisted on seeing Mr Vincent. She received an appointment for the following day. Mr Vincent told her that there was no place in the school for her children. She asked how this was possible as the school Director had told her that there was place. According to Ms Bayer, the mayor said: "Anyway we will not take your children in school. You should leave them where they are currently in school, as I will not take them."

⁵⁰³ This is a nearby town which has a separate class for the local Traveller and Gypsy children.

⁵⁰⁴ ERRC telephone interview with Ms Danielle Mercier, November 30, 2004, Paris.

⁵⁰⁵ ERRC interview with Mr Jean Andre Lemire, March 4, 2004, Isle-Saint-George.

Ms Bayer had an appointment scheduled that same day with the Director of the school in the neighbouring town of Saint-Thibault-les-Vignes, in which the family had previously lived, in order to receive a certificate indicating that the children were no longer enrolled in school there (certificat de radiation). This document is necessary to enrol children elsewhere. When she arrived at the school, the Director told her that he would not give her the certificate as he had received a call from Mr Vincent. Ms Bayer returned to see Mr Vincent once again. She asked him why he had phoned the school Director in Saint-Thibault-les-Vignes to tell him not to give her the certificate. According to Ms Bayer, Mr. Vincent then told her “I don’t want your children in school. Anyway, you are illegally here and you will not stay.”⁵⁰⁶ She told him that he did not have the right to refuse her children. He reportedly responded: “I have the right because the Inspector of the Department of Education, Mr Rougasse, advised me not to take them, that I have the right.”

During the week that she had been trying to enrol her children in school, Ms Bayer had taken them to school with their backpacks and schoolbooks every morning in the hope that they would be admitted. After this last conversation with Mr Vincent on the subject, she notified the Prefect and called local journalists. She told the ERRC that the Prefect told Mr Vincent that he was obliged to accept the children. Mr Vincent refused to speak with the media, but then reportedly phoned the journalist from the newspaper *Le Parisien* who intended to write an article and asked him not to publish the article and that he would accept the children. Mr Vincent then went to see Ms Bayer’s sister-in-law who also lives in Gouvernes and told her to tell her brother Mr Titus Bayer (Sandra’s husband) that his children could go to school.⁵⁰⁷ Mr Vincent did not answer any of the ERRC’s messages requesting an interview.

10.4 Discrimination by an Examination Committee

There are disturbing reports about discrimination of Travellers and Gypsies during school examinations. Such for example, is the case of sixteen-year old Traveller

⁵⁰⁶ The Bayers have had continual legal proceedings with the municipality that has tried to evict them from their land and refuses to provide them with water or electricity. See pp. 146-151 of this report describing Bayers situation.

⁵⁰⁷ ERRC interview with Ms Sandra Bayer and Mr Titus Bayer, February 10, 2004, Gouvernes.

Ms Laura Hugues, who was reportedly treated in a humiliating manner during an examination towards her baccalaureat STT diploma and eventually failed.⁵⁰⁸

She had followed courses via distance learning (CNED). She presented herself on June 2, 2004 at the time of her convocation before an examination committee at the Lycée Notre Dame du Voeu at Hennebont. According to Ms Hugues, the first thing one of the two examiners said to her was: “We will begin immediately, no preparation, we fell behind this morning and we had to eat. You must be Laura Hugues, the student from the CNED, we just spoke about your brother.” Looking over the different subjects that Laura prepared during the school year, one of which focused on Travellers, one of the examiners said: “You will be examined on subject No. 5 entitled ‘the study of a product’ because the subject ‘Travellers’ would be a little too easy, to tell us your life... and it isn’t my cup of tea.”

Part of the examination took place on a computer. Laura was asked to use the programme EXCEL. She had been unable to purchase the program because of a lack of financial resources and was therefore unfamiliar with it. An examiner immediately remarked: “It is normal, one cannot practice, one does not have a computer in the caravan.” She then followed this remark by saying: “You could not have stayed with your brother?” Laura’s brother sells on markets, fairs and auctions in the region and leads a sedentary lifestyle. Laura is unaware how the examiners’ obtained information about the movements of her family.⁵⁰⁹

The association Regards told the ERRC that this case is all the more serious in that Laura is a role model for several hundred youth in her community. Her experiences in attempting to pass the baccalaureat will have an impact upon other’s desire to continue. Regards has received numerous phone calls from adolescents, many of whom report similar instances of discrimination in school examinations. Regards has sent letters of complaint concerning this case to the responsible authorities, including the newly created specialised body, the “High Authority for the

⁵⁰⁸ Baccalaureat in science and technology of the service industry (Baccalauréat sciences et technologies tertiaires). This baccalaureat degree focuses on business and management. See Site of Ministry of National Education, Higher Education and Research, available at: <http://www.education.gouv.fr/sec/baccalaureat/bactchno.htm>.

⁵⁰⁹ Ms Laura Hugues. Letter to President of the association Regards, June 9, 2004.

Fight against Discrimination and for Equality”. The Rectorate of Rennes has begun investigating the case. The two examiners responded to the allegations against them in writing. They asserted that Laura lied about what happened, that they had no way of knowing that she was a Gypsy. Furthermore, they stated that even if they had known, “it is shocking to think that they would have penalised her due to her belonging to a given community, of whatever nature.” Then they had explained the weaknesses in her presentation that lead to her failing the exam. At the time of writing no further action had been taken in the investigation.⁵¹⁰

10.5 Inferior Education

During its research the ERRC met at least twenty adolescents who said that they had attended school regularly, but still could not read and write.

When the ERRC asked why, some adolescents shrugged their shoulders or said they did not know. Others said that teachers ignored them or put them at the back of the class. For instance, Ms G. M., who learned to read and write in a training course she followed between the ages of 16 and 21, told the ERRC: “Luckily I learned to read and write. I went to school for 16 years but didn’t learn. We were at the back of the class.”⁵¹¹ Similarly, Mr Stephane Puzio, representative of Regards in Lam-onzie-Saint-Martin, told the ERRC that the local children generally go to elementary school from October until April, but do not learn. He also said: “They are told to sit at the back and to draw. All over France you will find cases like this.”⁵¹²

Three or four adolescents the ERRC met just outside of Bordeaux showed the ERRC their workbooks, which mostly contained pictures to colour.

Mr Paul Piccirillo, a social worker who managed a social center in a housing complex with a large Gypsy population, told the ERRC: “The school is not adapted to the gitan population, nor to everyone else either...The first tendency of the educa-

⁵¹⁰ ERRC telephone interview with Dany Peto-Manso, December 20, 2004, Paris. See also *Letter to Mr Hugues and Ms Peto-Manso*. Rennes, January 17, 2005, copy on file with the ERRC.

⁵¹¹ ERRC interview with Ms G.M., March 9, 2004, Toulouse.

⁵¹² ERRC interview with Mr Stephane Puzio, February 29, 2004, Bergerac.

tion system is to reject these children. I saw the same children, who did not succeed at school, pick up a pencil and begin to write in the social centre...There is a problem in the manner of teaching and the material taught. For instance, they never speak of the history of their people or their way of life.⁵¹³

10.6 Segregated Schooling of Traveller and Gypsy Children

The Ministry of Education has made very clear that steps are to be taken in order to ensure that Traveller and Gypsy children fully enjoy their right to education, and this in mainstream schools.

The 25 April 2002 Circular clearly spells out that priority is to be given to schooling non-sedentary children in ordinary classes and that any measures aimed specifically at this population should only be temporary and act as bridges to mainstream schooling:

In elementary school, it is also important that children are received in ordinary classes. Targeted measures can, if necessary, be considered on a temporary basis, but only as bridges toward schooling in the ordinary framework (adaptation classes in neighbourhood schools, specific schools in a neighbourhood close to the halting area or on the halting area, for example). While mastery of the French language in its oral and written usage is a priority, learning to live together constitutes another essential goal of schooling. As such, integration in a mainstream framework constitutes not only a principle or an objective, but also the primary method of schooling...

...The goal of mobile projects (such as truck-schools) that take over the schooling of children who are unable to enroll in school due to the too great itinerance of the parents is also, in the end, to lead to participation in regular classes....⁵¹⁴

The Circular goes on to detail a range of innovative methods, which have been developed locally in different parts of the country and are to be applied more generally in

⁵¹³ ERRC interview with Mr Paul Picarillo, May 8, 2004, Marseille.

⁵¹⁴ Circular No. 2002-101 of 25 April 2002 on the "Schooling of Traveller Children and Non-sedentary Families". (Unofficial translation by the ERRC).



Segregated school for Travellers on official halting area in Avignon.

PHOTO: LANNA YAEL HOLLO

order that mainstream elementary schools may meet the needs of highly mobile children. It then goes on to stress that at college level as well, priority should be given to schooling children within the ordinary educational framework and sets out a range of measures that can be implemented in order to provide additional support to children who are behind or having difficulties.

Despite this Circular, the ERRC research revealed that many Gypsies and Travellers continue to be schooled in segregated structures. These include segregated schools, segregated classes and mobile truck schools catering only to Traveller children.⁵¹⁵

For instance, on the official halting area in Avignon, managed by the non-governmental Association AREAT, the ERRC came across a school designed only for children whose families are staying on the halting area. The school receives children between the ages of 3 and 12 and has 2 classes and a staff of 2 teachers and a social assistant.

Jose Brun of the Gypsy association Regards told the ERRC that schools on halting areas were a trend in the eighties. “If they could have in the eighties, they would have built McDonalds on halting areas. They did everything on halting areas. They quickly realised it was a failure,” he said.⁵¹⁶

The official strategy has now changed and Traveller children on halting areas are to be integrated in local schools. Nonetheless, schools on halting areas still exist in a number of locations. The Ministry of National Education indicated in 2001 that such schools exist in Avignon, Dijon, Orléans, Pau and Strasbourg.⁵¹⁷

The biggest school located on a halting area is that in Dijon. Established in 1974, the school receives approximately 350 students each year between the ages of four and sixteen. The children who attend the school are from families living on the site,

⁵¹⁵ The UNESCO Convention Against Discrimination in Education (“CDE”), signed in Paris in 1961, provides a specific ban on racial discrimination. Article 1(c) of the CDE prohibits discrimination in education, the definition of which includes “establishing or maintaining separate educational systems or institutions for persons or groups of persons”. Article 1(d) of the CDE further prohibits “limiting any person or group of persons to education of an inferior standard”. France ratified the CDE on 11 September 1961.

⁵¹⁶ ERRC interview with Mr Jose Brun, 23 February, 2004, Tours.

⁵¹⁷ “Information File: France.” *Interface*, Number 39, Spring 2001, pp. 14-17.

but also Travellers and Gypsies that live elsewhere in Dijon. Most of the students that attend the school have little or no previous schooling. Students attend for varying lengths of time from two days to six months.⁵¹⁸ Ms Virginie Repaire, who has recently written a doctoral thesis on this school, told the ERRC that this school cannot be viewed simply as a ghetto school. The school has developed innovative pedagogical methods, some of which would in fact be interesting to incorporate more generally into other schools. Nonetheless, she pointed out that it is obvious that one reason the city of Dijon provides considerable resources to this school is in order to avoid schooling these children in ordinary schools. The school therefore also needs to be viewed as a product of a logic of discrimination and segregation.⁵¹⁹

Segregated schools also exist outside of halting areas, sometimes near official halting areas or simply near neighbourhoods with a high concentration of Travellers and Gypsies. The Association USETA in Gironde told the ERRC that it would like to see the segregated school in Toulonne transformed from a purely Gypsy school. The school, which is segregated from the rest of the city is in a rural area with nothing around, except the nearby industrial zone. It has been in existence for 20 years and receives Gypsy and Traveller children between the ages of six and twelve. There are three classes of different levels. Travellers told USETA that other schools do not want them, so they return to this school even though the halting area that used to be nearby is currently closed.⁵²⁰

The Toulouse-based non-governmental association CCPS⁵²¹ told the ERRC that there used to be a school in the former Ginestous camp in Toulouse. The school, école de la Glacière, was moved outside of the camp at the beginning of the 1991 school year, but the student body remained composed entirely of Gypsy children living in the Ginestous area. In 2001, those children over 9 years of age were placed in other schools around Toulouse, however those under the age of 9 remain in the école de la Glacière.⁵²²

⁵¹⁸ “Information File: France.” *Interface*, Number 39, Spring 2001, pp. 14-17.

⁵¹⁹ ERRC interview with Ms Virginie Repaire, November 24, 2004, Paris.

⁵²⁰ ERRC telephone interview with Ms Danielle Mercier, September 17, 2004, Paris.

⁵²¹ Coordination Committee for the Promotion and in Solidarity with Communities in Difficulty: Migrants and Gypsies.

⁵²² ERRC interview with Ms Marie-Paul Nauleau, Monday March 8, 2004, Toulouse.

A large number of Gypsy and Traveller children receive their schooling in mobile truck schools. This is particularly the case for those whose families are especially mobile, whether by choice or due to frequent forced evictions.

For instance, according to the study on school attendance of Traveller children in the Rhône carried out by Ms Marie Cannizzo,⁵²³ approximately 60% of all Traveller children that attend primary schools (elementary school and kindergarten) attend mobile truck schools. If only those children categorised as ‘itinerant’ in the study are taken into account, the percent of those who attend mobile truck schools rises to 72%. The term ‘itinerant’ encompasses different situations ranging from those children who travel frequently because their families ‘choose’ to do so, and those children who in fact remain in a very limited geographical area, but move frequently due to forced evictions. As the categories ‘sedentary’ and ‘itinerant’ do not adequately reflect the situation of most Gypsies and Travellers, those categorised as ‘itinerant’ also include children who spend numerous months per year in one place.

According to the Ministry of National Education, Scholastic Division, in 2001 there were 35 mobile truck schools across the country.⁵²⁴ The majority of these schools are run by a non-governmental organisation, Supporting School Provision for Gypsy Children (ASET),⁵²⁵ which has a network of 30 mobile truck schools across the country. The teachers are recruited by the Ministry of Education, but the NGO itself is managed privately. The mobile truck schools go to locations where caravans are halted for short periods. They visit different groups of children in a week for periods of a half-day each. Many families have the telephone number of the local truck school and each time they are evicted, they phone the teachers to inform them of their new location.

According to Mr Joseph Poirier, teacher in a mobile truck school in Gironde and President of ASET, the mobile truck schools attempt to provide children with minimal schooling. They teach them to read, write and count. Each mobile truck school can receive approximately a dozen children at once. Mr Poirier told the ERRC:

⁵²³ The study covers the school year 2003-2004.

⁵²⁴ “Information File: France.” *Interface*, Number 39, Spring 2001, pp. 14-17.

⁵²⁵ Aide à la Scolarisation des Enfants Tsiganes et autres jeunes en difficulté.

This cannot be considered as real education. It is very difficult. These populations live in very difficult conditions. They are always in an illegal situation and regularly expelled. They are totally lacking in basic comforts... In Gironde we are two teachers that teach in mobile truck schools and together we see about 400 children over the course of a year, 200 on a regular basis. In ten years, I have not seen a single child get a diploma, including a professional diploma. They learn to read and to count and that is it.⁵²⁶

Even the most motivated teachers in truck schools cannot make up for the limited number of teaching hours that they are able to spend with each group of children and the precarious and indecent conditions in which these families are obliged to live.

Mr Dany Peto-Manso, President of the Gypsy association Regards, told the ERRC: “I call this a garage response – school to create sub-humans...if the children didn’t go to school, it would amount to the same thing”⁵²⁷

Mr Joseph Charpentier, President of the National and European Association S.O.S. Travellers⁵²⁸ commented: “The mobile truck schools marginalise us. They prevent our children from being with others.” He also noted though that for those who have difficulties finding a place to stop, it is very good that the truck schools follow the caravans.⁵²⁹

Other Travellers who remain around the Bordeaux area, moving each time they are evicted, told the ERRC that they appreciate the truck schools because at least their children are able to get some schooling. They remain in the sector of Bordeaux covered by the mobile truck schools whenever they can so that their children can continue their studies.⁵³⁰

⁵²⁶ ERRC interview with Mr Joseph Poirier, March 5, 2004, Mérignac.

⁵²⁷ ERRC telephone interview with Mr Dani Peto Manso, November 29, 2004, Paris.

⁵²⁸ Association Nationale et Européenne S.O.S. Gens du Voyage.

⁵²⁹ ERRC interview Mr with Joseph Charpentier, October 29, 2004, Bobigny.

⁵³⁰ ERRC interview with Ms Dolores Azais and Ms Nathalie Gaubert, Tuesday March 2, 2004, Bordeaux.

The very existence of these truck schools bears witness to the degree of exclusion of many Gypsy and Traveller children from ordinary schools. The truck schools are a bandaid solution created by a non-governmental organisation in order to partially remedy the profound inability and unwillingness of mainstream schools to respond to the needs of children who travel. And they are also a response to the profound instability created by the actions of local officials and the police who continuously evict families.

The truck schools in effect provide a minimal level of schooling for children who are otherwise excluded from the education system. These schools do not have the resources available nor the environmental conditions to provide further education to the children that they see. Nonetheless, for the many families who move from forced eviction to forced eviction and are never sure where they will be able to spend the night, these schools become the only feasible option for teaching their children to read and write. In addition, when Traveller children whose families are halted temporarily in a municipality are refused entry to ordinary local schools, these mobile truck schools provide an alternative to no education at all for a period of time. Some of these schools have also been centres of pedagogical innovation, for instance with respect to teaching materials and tools allowing for the continuity of children's education when they travel.

However, mobile truck schools nonetheless remain segregated and minimal forms of schooling. And they are currently options that are all too often imposed by default on families due to the various obstacles blocking their attendance at local schools. The 25 April 2002 Circular is a positive indication of the will of the Ministry of Education to ensure that the norm consists in schooling itinerant Gypsy and Traveller children with other children. The Circular is also a statement of the willingness of the Ministry of Education to promote positive measures in order to meet the specific needs of these children within mainstream schools. For the moment, though, these guidelines remain a distant goal. The local reality remains one in which many Gypsy and Traveller children are frequently schooled in mobile truck schools or other segregated structures.

10.7 Gypsy and Traveller Children in Special Classes

It is widely acknowledged that amongst the minority of Gypsy and Traveller children that continue their education after the age of 12, a disproportionately high number attend classes for "Applied General and Vocational Education" (Segpa).

These classes provide specialised education designed for children experiencing serious learning difficulties due to social, cultural or intellectual reasons (an I.Q. less than 80). Mr Hervé Londeix, an Inspector at the Academic Inspectorate of Gironde responsible for Travellers, told the ERRC: “Today students with significant difficulties in schools are proposed special scholastic support and are oriented towards Segpa classes. Sometimes they can barely read. Often they have light intellectual deficiencies and most cases are social and cultural shortcomings. They are children without the cultural baggage that would allow them to follow a normal scholastic orientation towards college.”⁵³¹

Segpa classes aim at preparing students for a professional qualification. Students normally spend four years in Segpa classes and the best students go on to professional high schools, where they can get a professional diploma. Those students who stop their schooling after the Segpa receive no diploma.⁵³²

Students are oriented to these classes based on the decision of a Commission⁵³³ composed of persons representing the Academic Inspectorate, the Department of Social and Sanitary Affairs, a Director of a Specialised Institution and an Association of Parents of Handicapped Children. The Commissions include inter alia doctors, psychologists and social workers.⁵³⁴

In the case of Traveller and Gypsy children, their so-called “cultural or social” shortcoming can be found in an insufficient academic level when they reach the age of secondary education. Thus the root of the problem clearly lies in the inadequate

⁵³¹ ERRC interview with Mr Hervé Londeix, March 5, 2004, Mérignac.

⁵³² See Eduscol - the Pedagogical site of the Ministry of National Education. “Enseignements adaptés dans le second degré”, available at: <http://eduscol.education.fr/index.php?/D0081/segpa.htm>. See also Circular on: “Adapted Teaching - Application of the reform of adapted general and professional teaching in the second degree”, 19 June 1998, available at: <http://www.education.gouv.fr/bo/mentor/word//1998/bo26/r5.doc>; and Circular on “Adapted Teaching - Pedagogical orientations for adapted general and professional teachers in the second degree”, 19 June 1998, available at: www.education.gouv.fr/bo/mentor/word//1998/bo26/r6.doc. Unofficial translation by the ERRC.

⁵³³ District Commissions of the Second Degree (Commissions de circonscription du second degré) (CCSD).

⁵³⁴ Website “L’aide aux élèves, l’adaptation et l’intégration scolaires”, available at: <http://www.aideeleves.net/reglementation/cdes.htm>.

schooling of Traveller and Gypsy children at a younger age. As ordinary French secondary school classes generally lack the necessary support programmes for these children, they are channelled into Segpa classes.

Mr Joseph Poirier, President of ASET told the ERRC: “For these children, their handicap is their limited level of schooling...instead of putting them in college classes where there is nothing for them by way of support, they are placed in Segpa classes.” He noted that depending on how the schooling in Segpa classes goes, the students can acquire skills that are useful for them. He pointed out that in this sense their orientation there is not only negative. “A child who cannot read or write in the sixth⁵³⁵ will simply be present in a college class to the extent that the college does not propose any special support...But it is also a way of marginalising them,” he said.⁵³⁶

Mr Londeix similarly commented: “Without a doubt there are children in Segpa classes who shouldn’t be there...It is quite tempting for teachers to propose an orientation towards a Segpa section, rather than college. They know that if the child goes to college, with limited previous schooling, the child will not learn anything. They know that in a Segpa class, the child can acquire professional skills.”⁵³⁷

While Traveller and Gypsy children may indeed acquire professional skills in Segpa classes, the curriculum is in no way equivalent to mainstream college classes and, at best, leaves children with a limited range of vocational options. For most Traveller and Gypsy children, who stop their schooling before the end of the four years of Segpa or continue no further than the final year, this schooling does not result in any formal professional qualification.

The disproportionately high number of Gypsy and Traveller children channelled into Segpa classes, in fact, testifies to the failure of mainstream schools – at both the elementary and secondary level – to respond to the needs of Traveller and Gypsy children.

Various persons the ERRC spoke with about this issue emphasised that the French education system is designed in such a way that if a child does not fit into

⁵³⁵ The first year of college.

⁵³⁶ ERRC interview with Mr Joseph Poirier, March 5, 2004, Mérignac.

⁵³⁷ ERRC interview with Mr Herve Londeix, March 5, 2004, Mérignac.

the traditional mould, he or she is directed into various specialised paths that at best lead to professional diplomas. There is a general lack of options within mainstream education for children who do not fit into the norm.

Mr Jose Brun of the Gypsy association Regards commented that children are channelled into Segpa classes “because there are no other solutions available. They do not say that the child has a deficiency. But the prescribed boxes do not foresee the case of a young adolescent with an insufficient level of schooling.”⁵³⁸

Segpa classes therefore constitute an inferior and marginalising substitute for the measures that need be carried out within the mainstream education system in order to ensure that Gypsy and Traveller children may fully exercise their right to education.

10.8 Applying Circular No 2002-101 of 25 April 2002 on the Schooling of Traveller Children and Non-Sedentary Families

The 25 April 2002 Circular sets out clear guidelines for increasing the participation of Gypsy and Traveller children in the French education system, and for including these children in mainstream structures. It also provides for the use of positive measures, where necessary, in order to better adapt schooling to a travelling lifestyle. Application of this Circular would clearly represent a significant step forward in the respect of Gypsy and Traveller children’s right to education.

However, for the moment, the Circular seems to be more of a symbolic step forward than a practical one. During its research the ERRC did not discover, although it tried, a clear plan of action or any form of coordination by the Ministry of Education in order to ensure that the guidelines set out in the Circular are in fact implemented at the local level.

A longtime observer of the situation of Travellers and Gypsies in the education sector, Professor Jean-Pierre Liégois, told the ERRC that he does not believe that the Circular has brought about any concrete changes. He believes it simply formally recognises different local initiatives that have been implemented in a dispersed and

⁵³⁸ ERRC interview with Mr Jose Brun, February 23, 2004, Tours.

uncoordinated manner over the years. However, he stressed that there has been no attempt to coordinate and harmonise such measures at the national level. He commented: “in France we have all the disadvantages of centralism, without taking advantage of the benefits that it could bring.”⁵³⁹

The ERRC was in fact surprised to find that the statistical studies of the situation of Travellers carried out in the Department of Gironde by Mr Londeix, and in the Department of the Rhône by Ms Marie Cannizzo, were simply local initiatives that are not being systematically carried out nation-wide. Such statistical studies clarifying participation rates, achievement levels, and the types of schools and classes in which Traveller and Gypsy children are placed, would seem to be a necessary first step enabling Education Departments to recognise the extent of exclusion and segregation of Gypsy and Traveller children and to develop and implement the necessary measures to include them into mainstream schools. This data would evidently need to be collected in conformity with principles concerning confidentiality and the voluntary self-identification of individuals.

Furthermore, it seems to be primarily in segregated structures that some Directors and teachers have developed innovative pedagogical methods as well as educational tools designed to allow for a continuity in the schooling of children who travel. But there is no indication of a coordinated approach by the Ministry of Education to incorporate such methods into mainstream schools and classes. Instead it seems that initiatives remain dependent on local will, which, to say the least, is not always present.

⁵³⁹ ERRC interview with Professor Jean-Pierre Liégois, November 24, 2004, Paris.

11. ANTI-DISCRIMINATION LEGISLATION

An effective legal framework aimed at combating racial discrimination is essential to promoting the equality of Travellers and Gypsies. Not only does such a framework need to offer redress to individuals who are victims of discrimination, but it also acts as a deterrent. Furthermore, effective anti-discrimination legislation can assist in revealing problems of discrimination that may otherwise remain hidden. And, the educative function of such legislation should not be underestimated as it sends a message to society that racial discrimination will not be tolerated.

The obligation of States to put in place a legal framework prohibiting racial discrimination in key fields of life is firmly anchored in international law. At the international level, Article 6 of ICERD⁵⁴⁰ is the fullest expression of this obligation providing that:

States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

Adequate reparation involves not just punishment of perpetrators, but also material and moral compensation of victims.⁵⁴¹

In recent years, at the European level, legal obligations upon States to provide for effective anti-discrimination legislation have undergone rapid evolution, with detailed norms being set out. In June 2000, the Council of the European Union adopted

⁵⁴⁰ International Convention on the Elimination of All Forms of Racial Discrimination.

⁵⁴¹ Committee on the Elimination of Racial Discrimination, General Recommendation XXVI “The right to seek just and adequate reparation or satisfaction” (Fifty-sixth session, 2000), U.N. Doc A/55/18, annex V at 153 (2000), available at: <http://www1.umn.edu/humanrts/gencomm/genrexxvi.htm>.

Directive 2000/43/EC on “implementing the principle of equal treatment between persons irrespective of racial or ethnic origin” which was to be transposed into the domestic legal system of all member States (including France) by June 2003.⁵⁴² In addition, the European Commission Against Racism and Intolerance (ECRI) in February 2003 published a General Policy Recommendation on “National Legislation to Combat Racism and Racial Discrimination.” This recommendation provides further details as to substantive and procedural components that should be included in national legislation addressing racial discrimination.⁵⁴³

Furthermore, on 4 November 2000, the Council of Europe opened Protocol 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) for signature by member States. With this Protocol, a general self-standing right to non-discrimination will be legally enforceable before the European Court of Human Rights. This considerably broadens the scope of the guarantee provided in Article 14 of the ECHR, which is of an accessory nature, applying only to the enjoyment of rights already enshrined in the Convention. Protocol 12, on the other hand, applies to “any right set forth by law” (Art 1(1)). This Protocol entered into force on April 1, 2005 but only applies to those State Parties that have ratified it. France has not yet ratified Protocol 12.

France has for many years violated its international legal obligations in the field of equality through a lack of effective anti-discrimination legislation. However, in recent years, in response to European developments, dramatic steps have been taken to introduce new anti-discrimination legislation and to improve the application of existing legislation. Although not yet sufficient, these ongoing changes are welcome and badly needed steps to fight against the discrimination that Travellers and Gypsies experience in so many aspects of their daily existence.

⁵⁴² Council Directive 2000/43/EC of 29 June 2000 on “implementing the principle of equal treatment between persons irrespective of racial or ethnic origin”, Official Journal of the European Communities, July 19, 2000, available on the Internet at: http://www.era.int/www/gen/f_13049_file_en.pdf. A second more specific Directive also applying to EU Member States was also adopted: “Directive 2000/78/EC of the Council of the European Union establishing a general framework for equal treatment in employment and occupation”. This Directive covers discrimination in employment and occupation on the grounds of religion or belief, disability, age or sexual orientation.

⁵⁴³ European Commission against Racism and Intolerance, “General Policy Recommendation No. 7 on National Legislation to Combat Racism and Racial Discrimination”, CRI (2003) 8, adopted December 13, 2002, available at: http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/3-General_themes/1-Policy_Recommendations/Recommendation_N%B07/3-Recommendation_7.asp#TopOfPage.

French penal legislation prohibits discrimination in certain sectors (provision of goods and services; hindering the normal exercise of economic activities; different stages of the employment process; training), whether committed by public or private actors.⁵⁴⁴ In addition, persons “disposing of public authority or carrying out a public service mission” are penally responsible for discrimination consisting in refusing a benefit accorded by law.⁵⁴⁵

These provisions have been widely criticised as more symbolic than effective in providing remedies to victims of discrimination. For instance, in its Second Report on France, the European Commission Against Racism and Intolerance (ECRI) stated that “these provisions are, however, applied very rarely... The main difficulties in application, as in most other countries, are related to the proof of the intention to commit a discriminatory act.”⁵⁴⁶

However, in recent years, there have been improvements in the application of these provisions. Thus in its recent Third Report on France, ECRI noted that “the number of convictions on counts of racial discrimination is increasing, especially for cases of discrimination in access to goods and services. This development is partly due to the acceptance in penal law of evidence obtained through the method of ‘testing’ as an admissible form of proof.... The Court of Cassation⁵⁴⁷ has ruled that evidence gathered in this manner is not to be deemed unlawful or unfair, in application of the principle of freedom of evidence in criminal proceedings.”⁵⁴⁸

Despite these improvements, convictions remain few considering the scope of the problem of racial discrimination. For instance, official data indicates that in 2001, there were a total of 7 convictions, in 2002 a total of 24 convictions, and in 2003 a total of 9 convictions for discrimination in the offer or provision of a good or service on grounds

⁵⁴⁴ See articles 225-1 through 225-4 of French Penal Code.

⁵⁴⁵ See Article 432-7 French Penal Code.

⁵⁴⁶ ECRI Second report on France, adopted on 10 December 1999 and made public on 27 June 2000.

⁵⁴⁷ Court of Cassation, Criminal Division, 11 June 2002, SOS Racisme.

⁵⁴⁸ ECRI Third report on France, adopted on 25 June 2004 and made public on 15 February 2005. Available at: http://www.coe.int/T/E/human%5Frights/Ecri/1%2DECRI/2%2DCountry%2Dby%2DCountry%5Fapproach/France/France_CBC_3.asp#TopOfPage.

of origin, ethnicity, nationality or race. With respect to employment (offers, hiring, firing) in 2001 there were a total of 6 convictions, in 2002 a total of 2 convictions, and in 2003 a total of 9 convictions for discrimination on grounds of origin, nationality, ethnicity or race.⁵⁴⁹

Although the ERRC's research indicates that discrimination is commonplace against Travellers and Gypsies in the sectors covered by penal legislation, such as access to goods and services, it is not aware of a single case where a party was convicted for discrimination against a Traveller or Gypsy based on these provisions. Most persons the ERRC interviewed simply did not lodge complaints out of a belief that their complaints would not lead to results. However, the few that did were clearly discouraged by the police in pursuing their complaint and were informed by judicial authorities that their case had been filed without any explanation given as to the reasons.⁵⁵⁰

More generally, criminal legislation is widely believed to be inadequate for providing redress for discrimination.⁵⁵¹ It is especially difficult to address indirect discrimination via criminal legislation and to incorporate important procedural

⁵⁴⁹ See *La lutte contre le racisme et la xenophobie*, 2003, Rapport de la Commission Nationale Consultative des Droits de l'Homme, Annexe 2 "les condamnations inscrites au casier judiciaire en 2002", pg. 559. 2003 statistics supplied by Ministry of Justice during meeting of CERD, Geneva, February 18, 2005.

⁵⁵⁰ See for example the case of Ms Ca.M. and Ms C.M. on pp. 209-210 of this report.

⁵⁵¹ There are a number of problems specific to the criminal law: (i) the burden of proof: the criminal law generally requires that the alleged offence be proved beyond reasonable doubt (as opposed to the civil law standard of balance of probabilities). This standard is often prohibitive for victims of discrimination because the evidence often lies exclusively in the hands of the discriminator; (ii) recourse to the criminal law depends on the attitude of the law enforcement authorities. In many instances, ethnic minority communities lack sufficient confidence in the police to make a complaint. Moreover, unless there is legal standing for anti-racism groups, decisions concerning the handling of the case, in particular, whether or not to prosecute, lie with the police; the victim may be left with very little control over the direction of the case; (iii) remedies: the criminal law sanctions may not provide direct compensation to the victim of discrimination, reducing the motivation for the individual to make a complaint in the first place. (See discussion on this issue in "European Union Anti-Discrimination Policy: From Equal Opportunities between Women and Men to Combating Racism", Chapter 2. Directorate-General for Research Working Document, Public Liberties Series LIBE 102 EN, European Parliament, December 1997, available at: http://www.europarl.eu.int/workingpapers/libe/102/text2_en.htm#N_70_).

measures, such as shifting of the burden of proof to the respondent as required by Directive 2000/43/EC.⁵⁵²

France has recently introduced new anti-discrimination legislation into its civil and administrative law in certain fields largely in response to this Directive. The Law of 16 November 2001 “relating to the fight against discrimination” prohibits both direct and indirect discrimination at various stages of the work relationship, from training to dismissal. Prohibited grounds of discrimination include origin, customs, physical appearance, name, and belonging or non-belonging, real or supposed to an ethnicity, nation. This law also provides for a shared burden of proof between the persons claiming to be a victim of discrimination and the author of the alleged discriminatory act. The Court may order any forms of investigation it deems necessary in order to make its decision. Furthermore trade unions may bring court actions on behalf of victims, unless the victim objects, and labour inspectors can report any document or element of information that could be useful in providing evidence of discrimination. The Law of “Social Modernisation” of 17 January 2002 introduced the prohibition of discrimination in access to rented accommodation on a list of grounds including origin, name, physical appearance, customs, race and nationality, and also provided for a shared burden of proof between plaintiff and respondent. There are so far no relevant publicly available statistics that allow for the effectiveness of these new provisions to be accurately assessed.

In addition, Law no. 2004-1486 on “creating a high authority for the fight against discrimination and for equality”, adopted on 30 December 2004 (Law of 30 December 2004), significantly improves France’s legal framework for fight-

⁵⁵² In the Explanatory Memorandum to its General Policy recommendation No 7 on National Legislation to Combat Racism and Racial Discrimination, the ECRI stated: “ECRI believes that appropriate legislation to combat racism and racial discrimination should include provisions in all branches of the law, i.e. constitutional, civil, administrative and criminal law. Only such an integrated approach will enable member States to address these problems in a manner which is as exhaustive, effective and satisfactory from the point of view of the victim as possible. In the field of combating racism and racial discrimination, civil and administrative law often provides for flexible legal means, which may facilitate the victims’ recourse to legal action.” See European Commission against Racism and Intolerance, ECRI general policy recommendation N°7 on national legislation to combat racism and racial discrimination, Adopted by ECRI on 13 December 2002, Explanatory Memorandum to ECRI’s General Policy recommendation No 7 on National Legislation to Combat Racism and Racial Discrimination, paragraph 3, at: http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/3-General_themes/1-Policy_Recommendations/Recommendation_N%B07/3-Recommendation_7.asp#P128_11460.

ing against discrimination.⁵⁵³ This Law introduces a specialised body mandated to combat discrimination and to promote equality. It extends existing anti-discrimination legislation to cover direct and indirect discrimination in all of the fields of life required by Directive 2000/43/EC. It also provides for a shifting of the burden of proof in cases in which discrimination has been *prima facie* established.⁵⁵⁴

Even with these commendable developments, the legal framework for combating discrimination still does not cover all of the fields of life required by France's international commitments. It needs to be further extended to cover various other rights such as:

- Administration of justice, including protection of security of the person (ICERD 5 (a) and (b)/ECHR Arts. 5, 6, 13, 14);
- Political participation, including the right to vote, stand for election, take part in Government and in the conduct of public affairs at any level, as well as to have equal access to public service; (ICERD, 5 (c)) (ECHR Art. 14 and Protocol No. 1 Art. 3);
- The right to freedom of movement and residence within the border of the State (ICERD, 5(d)(i)/ECHR Protocol No.4 Art. 2 and Art. 14);
- The right to freedom of peaceful assembly and association (ICERD, 5(d) (ix)/ECHR Articles 11 and 14).

⁵⁵³ Law no. 2004-1486 of 30 December 2004 "creating a high authority for the fight against discrimination and for equality". Unofficial translation by the ERRC.

⁵⁵⁴ Article 19 provides that: "With respect to social protection, health, social advantages, education, access to goods and services, provision of goods and services, membership and participation in a union or professional organisation, including advantages so derived, as well as access to employment, independent or non-salaried employment or work, every person has the right to equal treatment, regardless of national origin, belonging or non-belonging, real or presumed to an ethnicity or race.

All persons who believe themselves to be victims of direct or indirect discrimination in these areas need to establish before the competent jurisdiction facts that allow for the existence of such discrimination to be presumed. Given these elements, it shall be for the respondent to prove that the measure in question is justified by objective reasons void of any discrimination."

The preceding paragraph does not apply under penal law.

Law no. 2004-1486 of 30 December 2004 "creating a high authority for the fight against discrimination and for equality", Official Journal no. 304, December 31, 2004, p. 22567.

The effective implementation of the Law of 30 December 2004 as well as other anti-discrimination legislation would be an important step forward in fighting against discrimination in France. The ERRC hopes that this new legislation will not remain purely formal, but will translate into concrete results. This means that victims of discrimination need to be provided with remedies and compensation for the significant harm of experiences of direct or indirect discrimination. This also means that the French public needs to become aware that discrimination is unacceptable and that acts of discrimination will result in legal sanctions. And this means that officials at all levels of the French justice system and the new equality authority will need to play an active role in applying this legislation. These developments are urgent in order to bring an end to the existing state of impunity for acts of racial discrimination committed against Travellers and Gypsies in France.

12. SUBJECTING ROMANI MIGRANTS TO INHUMAN AND DEGRADING TREATMENT

12.1 Introduction

Twenty-four-year-old C.S. is a Romani woman from Romania who arrived in France 12 years ago, at the age of 12, seeking political asylum with her mother, father and three sisters. At first the family was housed in a reception centre for asylum seekers in Franconville on the outskirts of Paris. The family was provided with food and the children went to school in the reception centre. However, according to C.S., one day, after the family had spent about six months at the reception centre, an employee of the centre told them: “We do not want Roma here. We kept you for the winter. Now you have to leave.” From that day on, C.S. has lived in a run-down caravan, constantly moving from one place to another, each time the family is evicted by the local authorities. She has lived in over 90 different unauthorised camps since she has been in France, always in slum conditions without water, electricity, toilets or garbage pickup. She has not been able to return to school due to the fragility of their existence.

As the family has not received any state assistance from the time that they left the reception centre nor are they able to work legally, C.S. spent her youth begging on the streets of Paris. She told the ERRC about a particularly difficult period she experienced at the age of 14. Her father had left, and she was living with her mother, T.S., two younger sisters (A.S., 10 years old and I.S., 8 years old) and younger brother, V.S. (still a baby) on a site at Pontoise where about 60 other families were also living.⁵⁵⁵ At 6:00 AM, the police raided the site. They banged on the caravans with their fists and truncheons, and, if the family did not open, they broke the door. They entered each caravan. The police saw that C.S. spoke good French (which she had learned herself). They told her to go with them to fill in everyone’s papers. They took at least 40 other people to the police station. She asked what she would gain and they responded that she would be allowed to go free. After translating for everyone, the police let her and her ten-year-old sister go. But they sent her mother and young brother to Romania. She told the police officers “that is my mother.” They said that they were not interested whether it was her

⁵⁵⁵ Her older sister had moved to Spain.

mother or not. She told them she wanted to go with her mother, but they told her to go, and forced her to go outside. Her other smaller sister was still in the caravan. C.S. found herself alone in Paris with her two sisters.

The girls survived by begging on the Champs Elysee each night until 5:AM. The three sisters could make between 200-300 Francs a night (30 to 45 Euros). Besides trying to survive, they had to earn money to send to their mother so that she could come back to France illegally. The only help they received was from charities. C.S.'s mother managed to come back to France but does not leave her 8 square meter caravan out of fear of being sent back to Romania again. C.S. has experienced as many police raids as places of residence, as each time the family was evicted it was via a police raid, sometimes violent. She estimates that she has also been arrested approximately 15 times for begging. Sometimes she was detained for two or three days, other times she was let free after a few hours. Police also subjected her to various forms of humiliating treatment, such as cutting her hair, and taking off her top and kicking her out onto the street topless.

The family's request for political asylum was rejected. C.S. therefore requested territorial asylum, a subsidiary form of protection that was available until reforms came into effect on January 1, 2004. This was also refused in July 2004, at which time she received an order to leave French territory. She appealed the decision, but the appeal procedure does not suspend the order to leave the territory. Normally, a person who spends 10 years in France is eligible to receive a residence permit. However, C.S. is unable to provide sufficient proof of her first years in France. Her family was not initially aware that they needed to collect such proof, and they also lost personal documents on an occasion when their caravan was destroyed by fire. C.S. also told the ERRC that the reception centre where the family first stayed refused to provide proof of their stay, supposedly due to an agreement with the authorities who financed the family's stay. C.S. is now in France illegally, still living in an unauthorised camp with no basic amenities, hoping that her appeal is successful and that she can finally lead a normal life.⁵⁵⁶

Non-citizen Romani migrants currently in France began arriving in the early nineties following the fall of the Communist regimes in Central and Eastern Europe. Their total population in France is estimated to number at most several thousand. A majority are from Romania. However, there are also a number of persons from the countries of former

⁵⁵⁶ ERRC interview with Ms C.S. September 27, 2004, Aubervilliers.

Yugoslavia, and smaller numbers from other countries of Central and Eastern Europe. The vast majority are fleeing the high levels of “anti-Gypsy” racism that surfaced along with the political instability, economic hardships and upsurge in nationalism that followed the fall of the Communist regimes in their home countries. This anti-Gypsy climate often translated into violent attacks against Romani communities, destruction of their property, and discrimination so widespread that survival became a near impossibility.⁵⁵⁷

The French State has adopted an incoherent and inhuman policy towards these Romani migrants. Its principle aim seems to have been to force the Romani migrants to leave the country without carrying out a collective deportation of all of them, which would evidently violate human rights standards in too overt a manner. Thus, instead, Romani migrants are subjected to various forms of violence, abuse, harassment and neglect that result in extreme violations of their rights in almost all aspects of life.⁵⁵⁸ The cumulative effect of these persistent human rights violations upon many Romani migrants is so serious as to amount to inhuman and degrading treatment.

12.2 Substandard Living Conditions: French Slums

Romani migrants live in conditions more reminiscent of slums in a developing country than the neighbourhoods on the outskirts of French cities in which they

⁵⁵⁷ Romania is an illustrative case of the type of mass violence that has been unleashed against Roma communities in peacetime, under the often supportive eyes of local authorities. Immediately following the fall of the Ceaușescu regime, a wave of pogroms broke out in more than thirty Romani communities. Local mobs attacked communities, burning entire villages and lynching Roma inhabitants to the sound of racist insults. At least five Roma died, and many more suffered serious injuries. A large number of people lost their homes and everything they possessed as they fled the attacks. For more details of these events and of the situation of Roma in Romania generally, see State of Impunity: Human Rights Abuse of Roma in Romania, A Report by European Roma Rights Centre, September 2001. Available on the ERRC website at: www.errc.org.

See Cahn, Claude and Lanna Hollo. “Poursuivis par le spectre du racisme: les Roms en Europe après 1989”. *Humanitaire*, No. 11, Autumn 2004, pp. 42-51.

⁵⁵⁸ Despite the efforts of the French authorities to directly or indirectly force Roma to leave, their numbers have remained stable over the last years. Those that are deported reportedly generally return within three to six months. See Collectif national droits de l’homme romeurope. Note de Synthèse sur l’Accueil des Roms Migrants en France, 9 November 2004, distributed by e-mail to weblist of Romeurope.

are located. For most, “home” is an unauthorised camp, in which families live in rundown caravans or in ramshackle hovels pieced together from scrap materials. Some live in equally substandard conditions in squats in dilapidated or partially built buildings. As a rule, basic infrastructure, such as water, electricity, sewage and solid waste removal, is completely lacking.

A camp in Aubervilliers is one example of the contrast between the living conditions of the Roma and those of residents of the surrounding area. From the street, only a thin white metal fence is visible. But upon entering a small opening in the fence, one can see dozens of rundown shacks made of scrap materials, generally wood and cardboard, with sheet metal roofs. Some have windows of glass; others only plastic sheets taped to the walls. The closest source of running water is a fire hydrant about one kilometre away from the camp. The city has not provided electricity to the camp, although the inhabitants have managed to illegally hook up to the electricity network and build themselves an outhouse. There is also no garbage pick-up, although the inhabitants carry their garbage to public bins. At night, the smoke and flames from home-made wood-burning heaters (wood inside an empty metal container) rise from the metal pipes jutting out of the roofs that serve as chimneys. Looming directly behind the shacks are the several floor-high apartment buildings of a modern city, with their balconies overlooking the camp, and their electric lights and television sets visible through the windows.⁵⁵⁹

A few minutes drive down the road are two other unauthorised camps in an industrial zone. In one, the Quai Marie Tjibaou camp, about 15 caravans are parked in two neat rows on either side of a narrow rectangular lot. The RER (metro/train that serves the suburbs of Paris) passes every few minutes along the bridge directly overhead. At longer intervals ordinary trains cross another bridge that also passes directly overhead. As of April 2005, the Romani residents had been allowed to stay for 18 months, however had not been provided with toilets, water or electricity. They have managed to illegally secure electricity by connecting to the streetlights. They therefore have electricity during the evening until the streetlights go off in the morning. However, this is insufficient for many household tasks, such as ironing. They have also created dangerous homemade heaters and have to steal water from fire hydrants. The corner of an empty field

⁵⁵⁹ ERRC visit to Aubervilliers camp, November 28, 2004.

is a short distance from the camp serves as a toilet. When evening falls, dozens of rats roam between the caravans.⁵⁶⁰

The other camp, a few hundred meters further along the same road, is located directly under a major freeway, between the RER and factories. During an ERRC visit on November 28, 2004, about 20 small broken-down caravans, with fresh dents and broken windows from the last eviction, were parked on the muddy ground between piles of garbage. The Romani residents had been there for about three weeks. They had no water, electricity or sewage, and the city services had not come to pick up the garbage.⁵⁶¹

A squat, a few kilometres away, in the nearby town of Villetaneuse, is another telling illustration of the deplorable conditions in which Romani migrants in France generally live. About 30 families reside in 25 makeshift apartments in a 4-story open roofed half-built building. A draft blew through the apartment of the C. family that hosted the ERRC on November 28, 2004, as the apartment was not insulated and the window openings at each end of the room were only covered by a thin white cloth. The room was heated with firewood that burned in a home-made heater in the corner of the room. The family had tried to make the apartment as comfortable as possible by covering the floor and walls with carpets. The residents' closest source of water is a fire hydrant located about 500 metres away. However Ms Mariana C. told the ERRC that they are afraid when they get water from the hydrant because police officers sometimes arrest them and take them to the police station. They are then kept

⁵⁶⁰ ERRC visit to Aubervilliers, May 2, 2004. In mid-February, 2005, the residents feared they would have to leave their camp. One day the local police arrived and told them that if they did not leave within a week, they would destroy their caravans. Ms R.S., acting as spokesperson for the residents told the police that they could not leave as they did not have cars to move the caravans and had no place to go. She also said that the town mayor had promised to give them a site to live. She provided the police with names of an elected local official. The police then left and came back each of the next days repeating their threat. The threatened eviction was in fact due to an order, it seems coming from relatively high up in the administration, to clean-up the Roma camps in Aubervilliers that were on the path of a visit of the International Olympic Committee scheduled for early March. The sub-prefect of Saint-Denis, Mrs Le Mouel came to the site a few days later along with the police chief and Mr Roland Tess, head of the mayor's office. A few days later she called R.S. to inform her that they could stay at the camp for the time being. ERRC interview with Ms R.S., March 27, 2005. E-mails circulated on mailing list of Romeurope.

⁵⁶¹ ERRC interview with Ms Maria C., November 28, 2004. ERRC visit to Aubervilliers, November 28, 2004.

in detention for hours, often until late at night, accused by the officers of stealing water.⁵⁶² The families had moved into this building at the end of July 2004, after having been violently evicted from another campsite, in the neighbouring town of Pierrefitte-sur-Seine, where they had lived in shacks that they had built out of recuperated scrap materials. The shacks were destroyed by police during their eviction. Various residents of the squat told the ERRC that they were worried that they would soon be evicted yet again.⁵⁶³ The building owner had launched an eviction procedure against them that was decided in the owner's favour at the end of November 2004. The ERRC learned that the residents were evicted in June 2005. The police reportedly raided the building at approximately 5 AM. Residents were ordered to leave the building immediately and were not allowed time even to gather their documents and personal belongings.⁵⁶⁴

On March 24, 2004, the ERRC visited one of the largest unauthorised camps in France located on Surville street in Lyon (Surville).⁵⁶⁵ Approximately 550 Roma, including 253 children, 53 less than 3 years of age from Romania and former Yugoslavia, lived in this slum located between a freeway and railroad tracks. Seventy-seven percent of the Roma from the countries of former Yugoslavia (33 families) were Convention Asylum seekers.⁵⁶⁶ Residents lived either in run-down caravans, mostly lacking wheels and covered with dents and holes, or in shacks that they had built with recuperated scrap materials, wood, cardboard and pieces of old furniture. Most of these materials were debris from demolished buildings that companies deposited on the site, which for them served as an easier dumping ground than the official waste disposal sites. Families also used this debris as a source of heating. Pieces of cardboard functioned as a primary source of "insulation".⁵⁶⁷ There was no running water

⁵⁶² ERRC interview with Ms Mariana C., November 28, 2004, Villetaneuse.

⁵⁶³ ERRC visit to squat in Villetaneuse, November 28, 2004.

⁵⁶⁴ ERRC interview with Ms R.S., August 16, 2005, Paris.

⁵⁶⁵ ERRC visit to Surville, March 4, 2004.

⁵⁶⁶ Persons seeking protection as refugees according to the standards set out in the International Convention relating to the Status of Refugees and its 1967 Protocol ("1951 Geneva Convention"). Statistics in: Alpil, Médecins du Monde and Secours Populaire. "Sortir du bidonville...Enquête auprès des familles du bidonville de Surville". Report, January 15, 2004, p. 6.

⁵⁶⁷ *Ibid*, p. 10.

and no toilets in the camp and the only electricity came from wires that residents illegally hooked up to the electricity network. The only water available came from a fire hydrant about two kilometres away. The city services also neglected to collect garbage from the camp, which contributed to the pungent odour of rotting garbage that pervaded the camp, emanating from the piles of garbage deposited around the site. Rats were also a regular presence at the camp, roaming between the garbage and caravans, presenting serious health risks to residents. A number of children reportedly had been bitten when playing outside.

In a report on the conditions in this slum, a number of local non-governmental associations commented:⁵⁶⁸

The presence of children of a young age in a slum constitutes a particularly shocking fact. It contributes to the banalisation of familial homelessness which should be fought. For our city, this banalisation is directly related to the presence of Roma in the agglomeration of Lyon. Before 1995, it was unthinkable to find children in the street, homeless, in our city. It is only from the moment it was possible to say: “With the Gypsies, it is different!” that these facts were, if not accepted, at the very least admitted through the collective unwillingness to act. This represents a considerable regression in our fundamental values as a civilisation that rests on the equal dignity of all human beings.⁵⁶⁹

Two weeks after the ERRC’s visit to Surville local officials took notice of the camp when the death of two young girls who burned in their caravans made the local newspaper headlines. Marianna and Simona, 14 and 17 respectively, suffocated and burned to death due to the dangerous homemade heating system they used.⁵⁷⁰ The funeral was reportedly presided over by the Cardinal of Lyon, and elected of-

⁵⁶⁸ Alpil, Médecins du Monde, Secours Populaire.

⁵⁶⁹ Alpil, Médecins du Monde, Secours Populaire, Bidonville, p. 8.

⁵⁷⁰ Similar dangerous homemade heating systems are used by many other Romani migrants.

See Vanderlick, Benjamin. “Une mondialisation par le Ban: Etude aupres des Rroms en bidonvilles sur l’agglomération lyonnaise depuis 2001.” Institut Lyonnais d’Urbanisme – Université Lumière Lyon 2, June 2004.



Homemade shacks built from recuperated materials by Roma living in the unauthorised camp on Surville street in Lyon, between a freeway and railroad tracks. The camp was home to approximately 550 Romani migrants when the ERRC visited the site in March 2004.

PHOTO: LANNA YAEL HOLLO



Rotting garbage was spread throughout the Surville camp, which was neglected by all city services, including garbage collection.

PHOTO: LANNA YAEL HOLLO

ficials of different political parties attended. The Prefect of the region visited the site. Promises were made that more humane living conditions would be created for the families residing in the camp. The authorities of the greater Lyon area cleaned part of the site (reportedly of 700 tons of garbage) and installed two water taps. Three families were provided with accommodation. And then, nothing further was done. Instead, the remaining families were subjected to regular police harassment, including raids every few days, confiscation of vehicles, and destruction of caravans. And, aware that an eviction order would soon be executed against them, the families that could find alternative accommodation for themselves – setting up new slum neighbourhoods or finding shelter in squats in disaffected buildings. The least mobile families, those with children, elderly, sick or handicapped persons, remained.⁵⁷¹ At least 60 children remained on the site. These families were evicted on the morning of July 19, 2004. Some of the evicted families were provided with temporary emergency accommodation. The rest, in their turn, dispersed to squats or set up camp elsewhere around the Lyon area.⁵⁷²

12.3 Pattern and Repeated Forced Evictions

In all likelihood, by the time this report is published, most of the other camps visited by the ERRC will also have disappeared. Residents will have been evicted and sent to wander until they find another spot to set up camp or squat until the next eviction. Many Romani migrants told the ERRC that their daily existence is considerably worsened by the constant psychological stress of the next eviction. They know that at any moment the police could arrive in order to chase them out and that they may lose their few belongings in the process as well as be subjected to insults and violence.

At the national level, the French authorities have until now refused to find a coherent and humane national solution to the housing of Romani migrants on French territory.

⁵⁷¹ Patrick Odiard. “Bidonvilles a Lyon: un moment d’emotion est si vite passe!”, Alpil, June 29, 2004, available at: <http://www.gauches.net/article1288.html>. Mr Odiard was Adjunct to the Mayor of the 8th district of Lyon delegated to social action at the time of writing this article.

⁵⁷² E-mail message to web group of Romeurope network from the non-governmental association Alpil, “Fin du bidonville de Surville”, July 19, 2004.

Instead, each Prefect⁵⁷³ is left to handle as he or she sees fit what is perceived largely as a problem to be pushed away, but not resolved.⁵⁷⁴ Influenced by the anti-Gypsy racism rampant at local level, the solution most widely pursued by State authorities has been the eviction of Romani migrants as rapidly as possible from the camps and squats in which they settle without authorisation. The authorities thereby force the Roma out of one site to wander, more disaffected and battered than before, until they find another site to reside for a short period.⁵⁷⁵ Likewise, the overwhelming majority of municipalities have adopted a short-sighted “not in my backyard” policy, generally responding to the indecent conditions of Romani migrants living on their municipality by evicting them.

A few municipalities, (such as Achères, Saint-Denis, Choisy-le-Roi, Vitry-sur-Seine, Bonneuil and Saint-Michel-sur-Orge) have accepted to house a certain number of families on their territory. In Ile de France,⁵⁷⁶ where approximately 3000 Romani migrants are estimated to reside, such housing projects have benefited at most 250 persons. In addition, in the town of Lieusaint state and municipal officials are cooperating in carrying out an integration project benefiting approximately 35 families (around 150 persons).⁵⁷⁷ However, these are exceptional situations only affecting a small minority of Romani migrants in France.⁵⁷⁸

Mr Albert Lévy, a magistrate in the Public Prosecutors Department in Lyon, commented to the ERRC: “The short-sighted logic that they all have is to say ‘next

⁵⁷³ The Prefect is the representative of the Prime Minister and all of the Ministers in the Department and thus acts as a link between the State, the Government and the Department.

⁵⁷⁴ Collectif national droits de l’homme Romeurope. “Compte rendu rencontre Monsieur Jean de L’Hermitte au Ministère de l’intérieur le 16 Juillet 2004.” November 9, 2004, distributed by e-mail to weblist of Romeurope.

⁵⁷⁵ See Collectif national droits de l’homme Romeurope. “Les Rroms Migrants : La répression et la précarité continuent malgré les discours ministériels.” September 6, 2004, distributed by e-mail to weblist of Romeurope.

⁵⁷⁶ The above-mentioned cities are all within the region of Ile-de-France, which includes the Departments surrounding Paris.

⁵⁷⁷ ERRC interview with Mr Michel Févre, representative of Support Committee for Roma of Val-de-Marne, April 6, 2005, Paris.

⁵⁷⁸ See Collectif national droits de l’homme Romeurope. “Note de Synthèse sur l’Accueil des Rroms Migrants en France.” November 9, 2004, distributed by e-mail to weblist of Romeurope.

door but not here'. This logic is like a serpent that bites its tail, because the people who are kicked out in Grenoble will be kicked out again in Lyon, and so on."⁵⁷⁹

Most Romani migrants therefore find themselves caught in a cycle of evictions, being chased from one municipality to the next, only to return to where they started as they have nowhere else to go. The majority of Romani migrants that the ERRC met seem to experience an average of seven or eight evictions per year, sometimes more. For instance, twenty-four year-old Ms C.S. told the ERRC that in 2003 she lived in 14 different sites. "Sometimes evictions occurred every day", she said. "We were chased out so often that we could not sleep."⁵⁸⁰ Mr Niku C. told the ERRC that he has been evicted 50 or 60 times since 1999. The longest period that he was able to stay in any one place was eight or nine months.⁵⁸¹ Ms Loredana B. lived with her parents on 12 or 13 sites in the last two years. She told the ERRC that this is particularly stressful for her father who has heart problems.⁵⁸²

12.4 Abusive Police Conduct During Evictions

ERRC research indicates that in carrying out evictions of Romani migrants, French law enforcement authorities frequently behave in an abusive manner. Typically, sites are raided in the early morning hours by large numbers of police officers armed and dressed in combat gear. Police wake residents by banging on their caravans, makeshift shelters or rooms. They generally check the identity documents of residents and collectively arrest a certain number of individuals. The remaining residents are ordered to leave the site immediately, leaving them little time to collect a few belongings. This generally means that families leave many personal items at the site. Sometimes the site is very quickly razed, along with former residents' caravans, shelters and any belongings that remained inside.

⁵⁷⁹ ERRC interview with Mr Albert Lévy, March 26, 2004, Lyon.

⁵⁸⁰ ERRC interview with Ms C.S., February 15, 2004, Paris.

⁵⁸¹ ERRC interview with Mr Niku C., November 28, 2004, Villetaneuse.

⁵⁸² ERRC interview with Ms Loredana B., April 11, 2004, Le Bourget. Initial of last name assigned by the ERRC in order to respect the interviewee's anonymity.

For instance, shortly after 6:00 AM on the morning of April 14, 2003, hundreds of police officers raided a squat on Paul Doumer street in Montreuil in which approximately 150 Roma migrants had been living for over a year.⁵⁸³ Ms Lali Gheorlan, member of the support Committee for Roma of Montreuil, told the ERRC that there were approximately five or six police officers for each Romani resident. They ordered all residents out of the building, separated men, women and children and lined them up against a wall. They carried out full body searches on all of the residents including small children. Ms Argentina Anguel reported to the support committee of Roma of Montreuil that police even searched in the diapers of her newborn grandchild, only a few weeks old. Residents were only given time to take a few personal belongings, generally clothes, leaving behind covers, carpets, furniture, electrical appliances and any other items that they did not manage to take with them. By 10:00 AM all of the residents of the squat had left. At the end of the morning bulldozers razed the building as well as the small shacks in which the Romani migrants had lived, simultaneously destroying any belongings that had been left inside.⁵⁸⁴

After checking the documents of all of the residents, the police also collectively arrested 52 persons in order to expel them to Romania, some of whom were still within the time-period of their three-month visa. In the end, nine persons were deported, six adults and three children, including two pregnant women and one man whose seriously ill wife and young child remained in France.⁵⁸⁵ Different French courts ordered that the other 43 detained persons be released for various reasons.⁵⁸⁶ Ms Lali Gheorlan informed the ERRC that she subsequently met with Ms Stava – one of the women expelled to Romania who was pregnant at the time – in Sepreus, Romania. Upon her return to Romania, Ms Stava was banned from leaving Romanian territory for five years.⁵⁸⁷

⁵⁸³ The first residents arrived in the squat in September 2001.

⁵⁸⁴ ERRC interview with Ms Lali Gheorlan, March 31, 2005, Paris.

⁵⁸⁵ Le Collectif de soutien aux Roms de Montreuil. “Situation le 20 avril”. On the Internet at: <http://montreuil.rrom.org>.

⁵⁸⁶ Le Collectif de soutien aux Roms de Montreuil. “Lundi le 21 avril 2003 Roms expulsés de Montreuil: 8^{ème} jour a la Maison ouverte, 17 rue Hoche (Métro Mairie de Montreuil)”. On the Internet at: <http://montreuil.rrom.org>.

⁵⁸⁷ ERRC interview with Ms Lali Gheorlan, March 31, 2005, Paris.

Another highly publicised police raid, accompanied by collective arrests, took place on December 3, 2002 in the town of Choisy le Roi in the Department of Val-de-Marne, just south of Paris. Mr Nicolas Sarkozy, Minister of the Interior, had visited the town of Choisy le Roi in October 2002 and undertook to “deal with the entirety of the issue of illegal Roma camps in Val-de-Marne before the end of November.”⁵⁸⁸ The well-known Abbé Pierre (Priest Pierre) had in turn selected the Roma slum camp at “Voie des Roses” in Choisy le Roi to deliver a declaration on November 4, 2002, denouncing the proposed Security Law⁵⁸⁹ and call for decent living conditions and reception of Roma.⁵⁹⁰

At around 6:00 AM on December 3, 2002, at least 450 police officers in combat gear, raided the unauthorised camp at Voie des Roses, home to approximately 200 persons, and the nearby squat and unauthorised camp on Sebastopol street, home to approximately 60 persons.⁵⁹¹ These raids were clearly intended to show Mr Sarkozy’s resolve to expel Romani migrants from French territory.

The neighbourhood was completely sealed off during the raid and access was barred to non-governmental associations and journalists, including doctors from the non-governmental organisation Medecins du Monde (MDM) who wished to reach sick individuals. According to the account of MDM, “police officers arrived screaming and banged on the doors of caravans with their truncheons; children were pulled from their bed during their sleep, and residents were only authorised to take one or two garbage bags with their belongings; the caravans were numbered, marked and then destroyed...”⁵⁹²

Mr Michel Fèvre, member of the support Committee for Roma of Val de Marne, told the ERRC that the police sorted the residents, distinguishing between those that they believed were in a regular situation and those that were not. Those that were

⁵⁸⁸ “Sarkozy chasse les roms de Choisy-le-Roi.” *Libération* December 4, 2002.

⁵⁸⁹ Law of 18 March 2003 for Interior Security.

⁵⁹⁰ Weisberger, Laura and Annabelle Quenet. “Objet: expulsion de Roms à Choisy le Roi.” December 3, 2002, on the Internet at: <http://montreuil.rrom.org>.

⁵⁹¹ ERRC interview with Mr Michel Fèvre, April 6, 2005, Paris.

⁵⁹² Médecins du Monde. Mission Banlieue, Rapport d’activité. 2002, p. 48.

deemed to be in an irregular situation were immediately arrested. “Sometimes, in a single family, parents were separated from their children through this process,” Mr Fèvre said. He pointed out that this was not only an eviction but also a collective arrest.⁵⁹³

On the same day, the police forces also evicted approximately 60 persons from another site in Rungis.⁵⁹⁴ Approximately 71 residents were detained and given orders to leave French territory. Four persons were sent by plane to Romania the following day in a Franco-Spanish Charter. The remaining expulsions from French territory did not take place, as they were invalidated by French courts.⁵⁹⁵

In late November 2004, the ERRC encountered a group of Roma in Aubervilliers who had recently been evicted from an unauthorised camp in Le Bourget where they had resided for close to one and a half months. Thirty-year-old Ms P.L. told the ERRC that at 5:00 AM on a morning in early November 2004, about 200 armed police officers arrived at the camp with police dogs. There were about 100 persons at the camp at the time, including approximately 50 children. The police surrounded the camp and woke up residents by banging on their caravans with their fists and truncheons. They ordered all of the residents to leave immediately and remained on the site until all of the residents had left. Ms P.L. and her husband showed the ERRC numerous caravans halted in Aubervilliers with holes, dents and smashed windows that they said were the result of the police behaviour during this eviction. Ms P.L. also told the ERRC that she believes that her mother-in-law died because of the stress of the eviction. Some of the children had been attending a local school in Le Bourget. The eviction put an end to their schooling.⁵⁹⁶

These examples are only a selection of what appears to be a relatively frequent practice by police, with reports of an abusive eviction at least once every two or three months.

⁵⁹³ ERRC interview with Mr Michel Fèvre, April 6, 2005, Paris.

⁵⁹⁴ Médecins du Monde. Mission Banlieue, Rapport d’activité. 2002, p. 48. Médecins du Monde – Ligue des Droits de l’Homme. Les Roms Dossier Presse. May 2003, pp. 18-19.

⁵⁹⁵ Damiens, Caroline. “Sarkozy, les médias et l’invention de la mafia roumaine.” March 17, 2005 published in two parts on the Internet site “Les Mots sont importants” at: http://lmsi.net/article.php3?id_article=356 and http://lmsi.net/article.php3?id_article=357. See also Médecins du Monde, *Ibid.*, p. 48.

⁵⁹⁶ ERRC interview with Mrs P.L., November 28, 2004, Aubervilliers.

12.5 Police Harassment Aimed at the Expulsion of Roma

In addition to evictions, police regularly implement a more indirect method of forcing Romani migrants to leave the sites on which they reside. This involves subjecting the Romani residents to constant threats, searches, destruction of property and other harassment.⁵⁹⁷

For instance, Romani migrants living in a squat in Villeteuse experience regular harassment by police who enter and search residents' apartments several times a week. Residents told the ERRC that police come to the squat two or three days a week, sometimes during the day and sometimes at night. Ms Mariana C. said, "police even come at 1:00 AM. They bang on the doors, wake us up and come into our rooms and search everything...Sometimes when we go begging or to sell things, we are not at home. And then, when we return, we see that the doors to our apartments have been broken. The police come here regularly. We do not lock our doors anymore as police break them."⁵⁹⁸ Mr Dumitru C. added that when the police see that no one is at home, they come in and search anyway. He had recently had his portable telephone confiscated by the police during a search in his presence. The police had asked him for a receipt to prove that he bought his telephone, which he no longer had.⁵⁹⁹ According to another resident, Mr Niku C., when the residents are there, the police sometimes make them go outside while they search. He also said, "sometimes they put handcuffs on us. Once they took me to the police station, kept me 2 hours and then let me go."⁶⁰⁰

⁵⁹⁷ The National Human Rights Collective Romeurope, federating a wide number of non-governmental associations and local support committees that have been following the situation of Roma migrants in France for a number of years, commented in November 2004 that: "There exists another way regularly used to make the Roma leave a site or a squat without having recourse to legal procedures: the police come every day, sometimes several times, to the sites, inform the residents that they have to leave, carry out countless checks on papers, even searches. The Roma don't have the means to distinguish this "intimidation" from real evictions. Faced with this harassment and threatening ultimatums, families end up leaving the sites." Collectif national droits de l'homme Romeurope. "Note de Synthese sur l'accueil des Roms migrants en France." November 9, 2004

⁵⁹⁸ ERRC interview with Ms Mariana C., November 28, 2004, Villeteuse.

⁵⁹⁹ ERRC interview with Mr Dumitru C., November 28, 2004, Villeteuse.

⁶⁰⁰ ERRC interview with Mr Niku C., November 28, 2004, Villeteuse.

Police also harass the residents when they go to get water at a nearby fire hydrant. Ms Mariana C. told the ERRC: “When we go to get water, if the police see us, they take us to the police station. They keep us there a number of hours, sometimes until midnight...They ask us ‘why are you stealing water? We pay for water.’”⁶⁰¹ This is apparently a regular practice. A week prior to an ERRC visit to the squat, in mid-November 2004, Mariana C’s daughters, aged 13 and 15, had been taken into detention around 4:00 PM and released around 11:00 PM. When the girls asked to go home, telling police that their mother did not know where they were and would worry, the police reportedly responded, “No, you cannot go because you steal water.” The girls also said that the police remarked, “You are Gypsies – go home.”⁶⁰²

When the ERRC visited the Surville squat in Lyon on March 24, 2004, the non-governmental associations Alpil⁶⁰³ and MDM told the ERRC that for the past three weeks the police had been conducting raids on the camp once a week, confiscating and destroying cars as well as some caravans.⁶⁰⁴ Raids had taken place on March 3, March 11 and March 18, 2004. Each time more than 100 police officers arrived. Any vehicle that was not properly registered in France was either destroyed on the spot in a dramatic manner using explosives or seized. Residents of the camp told the ERRC that the police had controlled everyone, their identity papers and the papers of their vehicles. If a paper was missing, or something was not exactly as it should be, the vehicle was seized or destroyed. Many people had lost their cars and some their homes in these raids. In fact, a number of old caravans that no longer had wheels and therefore served purely as housing were also destroyed, reportedly under the pretext that they did not possess license plates.

A journalist from the *Le Progrès* newspaper, who witnessed the March 11 raid, reported that 17 vehicles were destroyed and that checks were underway concerning another seven that had been seized.⁶⁰⁵ Five persons were also detained and then released.

⁶⁰¹ ERRC interview with Ms Mariana C., November 28, 2004, Villeteuse.

⁶⁰² ERRC interview with Ms L.C. and Ms B.C., November 28, 2004, Villeteuse. First initial assigned by the ERRC in order to protect the anonymity of the family.

⁶⁰³ Action for social inclusion through housing. (Action pour l’insertion sociale par le logement)

⁶⁰⁴ ERRC interview with Mr Nicolas Molle, project coordinator at Alpil, March 24, 2002, Lyon.

⁶⁰⁵ “Lyon 7e: 17 véhicules détruits dans le squat de surville”, *Le Progrès*, March 13, 2004.

One of the vehicles destroyed was the truck of a Bosnian family that had arrived that same night. With their transportation destroyed they were stuck in Lyon.⁶⁰⁶ In the 18 March raid, the police reportedly arrested and seized the caravan of a woman with a baby of 4 months. In addition to losing her shelter, the mother was unable to breastfeed her baby while in detention, as the baby remained with her younger sister at the camp. These cruel and abusive raids that dispossessed people of their few remaining possessions were obviously specifically aimed at intimidating the residents into leaving the slum. With respect to the asylum seekers living at the site, these actions amount to a severe violation of the Geneva Convention relating to the Status of Refugees.

In another illustrative example, police belonging to the general surveillance unit (SUGE) of the national railway police (SNCF police) harassed the mostly Romani and Algerian residents of a squat in the town of Saint-Denis, just north of Paris, on numerous occasions over a period of more than six months in 2003. Approximately 200 persons lived in various unused buildings and the abandoned wagons of an old train located on a disused piece of land belonging to the SNCF (the public railway company).⁶⁰⁷ On various occasions a group of five officers came to the squat, vandalised residents property, physically mistreated residents, and threatened further violence if residents did not leave.

Thirty-two year old Mr Dan Eugen Utu reported his experiences on several such occasions. At 3:30 AM on a night at the end of June or beginning of July 2003, five agents of the railway police came to the building in which he was living. He stated that “they broke doors and put water and coffee in beds. They threatened us and told us to leave. They made everyone go outside. They hit an Arab after saying that they knew him from the North train station (gare du nord). When they left the squat they gassed him...The officer who gassed him threatened to kidnap the daughter of my sister.” He described another incident that occurred on a night in September or October 2003: “A heavysset, unknown officer of the railway police, fat, fleshy, dirty blond and half-bald, entered my home. He broke a table. He violently pushed me outside. Another officer was waiting outside. He obliged me to remain standing with my hands behind my back.” Mr Utu has one leg.

⁶⁰⁶ Bertrand, Olivier. “Roms en stationnement gênant à Lyon”. *Libération*, March 16, 2004.

⁶⁰⁷ Commission Nationale de Déontologie de la Sécurité, Procès-verbal d’audition M. Didier Inowlocki, November 23, 2004, Paris.

Mr Utu said that the same five officers that had come to the squat at the end of June returned on the night of 30 November 2003:

I heard a door being broken down. I opened the door of my room. I said ‘good evening, you here, it is cold at night, and I am sick.’ An officer with a beard responded ‘I am not interested, I know everything.’ Three of them were standing in front of my room holding truncheons. The bearded officer first, the blond one second and the third with glasses. The bearded officer broke the door, broke a table with a cooker on it, and slashed the wall-paper with a knife. He also tore the paper that covered the window-opening. The two others watched. They said that they would put a bomb here if we didn’t leave. They went away. In all this lasted three minutes.

The officers returned the following evening, December 1, as well. Mr Utu said that he was sleeping when he heard someone yell “police.” He opened the door and handed police his passport and a medical certificate indicating that he had an appointment for a prothesis. The bearded officer reportedly responded by cursing at him and accusing him of lying. Mr Utu described the subsequent events as follows: “The bearded officer knocked the pan to the floor. He turned his truncheon in his hand. He put coffee and food on the floor in the room. The room looked like a garbage dump. I went out onto the street with my wife... When I went out, the bearded officer opened the bottle of gas. Nasser⁶⁰⁸ also came outside. The Support Committee arrived at this moment.”⁶⁰⁹

Mr Didier Inowlocki of the Support Committee for Roma of Saint-Denis is one of four members of the Support Committee who arrived at the squat at approximately 2:15 AM on the night of December 1, 2003. He told the ERRC, “When we arrived at the squat, we saw people who were afraid; men and women in tears. We saw doors broken, mattresses wet from milk or coffee, furniture overturned. And we saw the railway police, five persons. They were always five during these incidents and they were on duty.” The Support Committee members called the national police, who arrived along with a manager from the SNCF.⁶¹⁰ Ms Gwenaëlle Cavaro, another member of the Support

⁶⁰⁸ Another resident.

⁶⁰⁹ Statement provided by Dan Eugèn Utu to Support Committee for Roma of Saint-Denis intended for use in judicial proceedings, December 7, 2003.

⁶¹⁰ ERRC interview with Mr Didier Inowlocki, April 2, 2005, Paris.

Committee, reported that she heard the manager recognise the illegal nature of the acts of his colleagues and that measures would be taken.⁶¹¹

Mr Inowlocki informed the ERRC in April 2005 that the agents involved in these events had been removed from their previous functions but had not yet been further sanctioned. He thought that they had perhaps been muted to other functions within the SNCF. He noted that a judicial complaint was also lodged, and an investigation has been opened.⁶¹²

A few months later, on May 5, 2004, the squat was raided at around 6:00 AM by approximately 100 armed police officers (CRS) and the residents were evicted.⁶¹³

12.6 Denying Romani Migrants Means of Survival

Romani migrants in France, regardless of their administrative status, are not permitted to work. In addition, the vast majority of Romani migrants receive no state assistance. They therefore have to find an alternative means of survival. Only those persons officially recognised as asylum seekers receive minimal financial assistance for a limited period of time. However, as there are periods where asylum seekers receive no assistance, or where the amount that they receive is insufficient, asylum seekers also sometimes need to find other sources of income in order to survive.

Very few Romani migrants seem to find work on the black market. More try to make a minimal amount of money in order to meet their basic needs through selling flowers or newspapers, washing car windows or playing music. A majority seem to resort to begging.⁶¹⁴

⁶¹¹ Witness statement of Ms Gwanaëlle Cavaro.

⁶¹² ERRC interview with Mr Didier Inowlocki, April 2, 2005, Paris.

⁶¹³ ERRC interview with Mr Didier Inowlocki, April 2, 2005, Paris.

⁶¹⁴ See Médecins du Monde – Ligue des Droits de l’Homme. “Les Roms Dossier Presse.” May 2003. See also Collectif national droits de l’homme Romeurope. “Note de Synthèse sur l’accueil des Roms Migrants en France.” November 9, 2004, distributed by e-mail to weblist of Romeurope.

The French authorities, however, subject Romani migrants who carry out these different activities to regular abuse and harassment that severely impinges upon their ability to make even a minimal livelihood.

Every Romani migrant that the ERRC spoke with who has begged, except one woman in her seventies, reported regular harassment and abuse by police while begging. The ERRC received reports of many different types of abusive police behaviour towards Romani migrants including: racist insults; theft or disposal of their money; destruction of their identity papers; physical violence as well as abusive detentions. Romani migrants who beg also run the risk of being arrested and deported on the grounds that they do not have sufficient resources for their stay in France, whether or not they are legally resident on French territory.⁶¹⁵

For example, eighteen-year old Ms A.S. described to the ERRC one instance of physical abuse she experienced when a group of police officers caught her begging at the Invalides station of the Paris metro in December 2003. She was taken into a small room in the metro station by four or five police officers. She told the ERRC that she did not know whether the officers were municipal police officers or RATP⁶¹⁶ (private) security guards. A.S. was pregnant at the time. Two officers kicked her on her ankles and her stomach. She said that she tried to stop the beating by saying “Why are you hitting me, you do not have the right, I am pregnant.” The police officers reportedly responded by hitting her harder. After a few minutes, the beating stopped, and the officers kicked her out of the room.⁶¹⁷

Another case of abusive police behaviour reportedly occurred in the town of Creteil, just outside of Paris, in April 2004. Fourteen year-old Romani Ms A.V.⁶¹⁸ told the ERRC that she was begging in front of a local store, “Carrefour”, when two police officers approached her. She said that the officers showed her a police badge, told her that she should not beg and then ordered her to give them her money. They took the money. The officers then hit her on her back and face with their truncheons.

⁶¹⁵ See section 12.10 “Romani Migrants Targeted for Deportation” below.

⁶¹⁶ The company that runs the Paris metro system.

⁶¹⁷ ERRC interview with Ms A.S., May 2, 2004, Aubervilliers.

⁶¹⁸ Initials assigned by the ERRC in order to respect the interviewee’s wish to remain anonymous.

When the ERRC met A.V. she had only been in France for three months and said that she had already been taken into detention seven times, on some occasions for not having a metro ticket and on other occasions for begging.⁶¹⁹

In July 2004, police detained three teenage Romani girls who were begging together on line 10 of the Paris metro. Fifteen-year-old Ms Veta K. told the ERRC that they were held in detention for 24 hours and given nothing to eat during this period. She said that she was hit with a truncheon on her feet, elbows and back during her detention. Fourteen-year-old Ms L. C. told the ERRC that she was literally pulled into the police car and from the police car into the police station. She reported that during her detention, two police officers hit her. One said: “Stop begging. if I see you begging again, I will hit you even harder.” L.C. and Veta K. both also told the ERRC that while they were being hit, one of the police officers said to them, “You are dirty Gitans”.⁶²⁰

Another illustrative example is that of eighteen-year old Romani, Mr D.K.,⁶²¹ who begs regularly besides the canal du Midi in Toulouse. He told the ERRC that police officers frequently pass by, order him to give them his money and then throw it into the water. On three occasions, one a few days prior to the ERRC’s visit on March 9, 2004, the police had taken him into their car, driven him a fair distance away and then kicked him out of the car to find his own way home. He said that on the most recent occasion, they drove him a distance of about 50 kilometres before kicking him out of the car. He had had to return on foot as he had no money, no telephone and no other means of transportation. D.K also told the ERRC that on another occasion someone kind had left him some new clothes. The police saw the clothes, accused him of stealing them and took them away. As of March 9, 2004, D.K. had been detained for begging four times, most recently two weeks earlier. On that occasion, he had been taken to the police station located on Boulevard de la Marquette close to the spot where he was begging. He reported that he was held for four days, not given anything to eat or drink during this period and only allowed to go to the toilet twice a day. He was kept in the basement of the police station, in a small narrow room without light.⁶²²

⁶¹⁹ ERRC interview with Ms A.V, May 2, 2004, Le Bourget.

⁶²⁰ ERRC interview with Ms L.C. and Ms Veta K., April 11, 2004, Le Bourget.

⁶²¹ Initials assigned by the ERRC in order to respect the interviewee’s wish to remain anonymous.

⁶²² ERRC interview with Mr A.D., March 9, 2004, Toulouse.

The boy's mother, Ms L.K. reported that she had also been detained four times, once for a period of four days as well. She estimated that at least four or five times a month someone from their camp of about 10 caravans (approximately 40 people), populated by Romani migrants, is detained.⁶²³

Ms Irena Szabo, like many Romani migrants, no longer begs as she is too afraid of police abuse. She told the ERRC, "the police rip up our papers and hit us. Police beat us a lot. In the metro, police lift us up by the collar and hit us in the ribs and kick us. They ripped up my son's birth certificate."⁶²⁴

The ERRC met at least ten musicians who try to earn a minimal income by playing music on the Paris metro. All had experienced harassment, destruction of their instruments and abuse at the hands of RATP security guards or police.

In a typical case, Mr Cosmin N. was playing the accordeon on line 13 of the Paris metro in early February 2004. He did not see that the RATP police entered the metro car in which he was playing. When he realised, he stopped playing, but two police officers had already approached him. The police officers escorted him out of the metro at the next station. There the officers took him into a toilet, beat him on his ribs and cut the folds of his accordeon. They yelled at him, but he could not understand what they said as he does not speak French.⁶²⁵

Another typical case occurred in mid-April 2004 when Mr G.M. was caught by police playing his accordeon in the Paris metro. G.M. reported that he was approached in the metro car by a few police officers who said "you do not have the right to play music or sing on the metro". He was then arrested and detained in a Paris police station for two days. He was kept in the basement of the police station in a room with no light, a metal bench, no blanket and nothing to eat for two days. He told the ERRC, "They mixed together musicians and thieves from Romania, making no distinction, and all together we were sent back to Romania."⁶²⁶

⁶²³ ERRC interview with Ms L.K., March 9, 2004, Toulouse.

⁶²⁴ ERRC interview with Ms Irena Szabo, May 2, 2004, Aubervilliers. The birth certificate was ripped up around September 2003.

⁶²⁵ ERRC interview with Mr Cosmin N., February 15, 2004, Aubervilliers.

⁶²⁶ ERRC interview with Mr G.M., May 2, 2004, Aubervilliers.

Findings consistent with those of the ERRC are cited in a report by a “National Commission on the relationship between Citizens and Security Forces, and on the Control and Treatment of this relationship by Judicial Institutions”.⁶²⁷ Mr Malik Salemkour, who participated in the Commission’s investigation into reports of ill-treatment of musicians on behalf of the non-governmental organisation LDH, told the ERRC that he had personally interviewed 14 persons, involving 5 different groups of musicians. His interviews revealed several cases in which musicians playing on the Paris metro were beaten by police officers in a separate room for technical personnel of the RATP. The beatings involved slaps and punches, including an incident involving abuse of a minor, a 17-year-old Romani boy. Several Romani musicians that he interviewed also reported having their musical instruments taken or broken by the police.⁶²⁸

One of the cases that is cited in the Commission’s report occurred in the month of October 2003. Five Romani men from Romania, three accordeonists, a saxophonist and a percussionist, entered a metro car in order to play music. Six or seven police officers accompanied by RATP controllers entered the car and arrested the musicians. They took them to a small room reserved for RATP technical personnel. The instruments were placed on the ground and the five men placed against the wall with their hands on their head and searched. All five had to present their administrative documents and empty their pockets. The officer in charge took their money, a sum of 70 Euros. They were told in a threatening manner that they had better not be caught again, and in order to intimidate them, the police officers destroyed the drum and an accordeon with their truncheons and broke the saxophone in two around the mouthpiece.⁶²⁹

⁶²⁷ Members of this Commission include: the non-governmental organisation League for Human Rights (LDH); the non-governmental organisation Movement against Racism and for Friendship between Peoples (MRAP); the Syndicate of Lawyers of France, and the Syndicate of Magistrates. See Commission nationale sur les rapports entre les citoyens et les forces de sécurité, sur le contrôle et le traitement de ces rapports par l’institution judiciaire. Rapport d’Activité de Juillet 2002 à Juin 2004. pg. 21.

⁶²⁸ ERRC interview with Mr Malik Salemkour, February 6, 2004, Paris.

⁶²⁹ Commission nationale sur les rapports entre les citoyens et les forces de sécurité, sur le contrôle et le traitement de ces rapports par l’institution judiciaire. Rapport d’Activité de Juillet 2002 à Juin 2004. pg. 21.

12.7 Penal Sanctions Against Roma Who Beg

Many Romani migrants are increasingly afraid to beg, even when they have no other sources of income, due to the severe penal sanctions to which they may be subject, including deportation, under new penal code provisions enacted by the “Law of 18 March 2003 for Interior Security” (Security Law). These provisions, widely denounced by human rights organisations as criminalising poverty, do not penalise begging per se, but penalise begging in an “aggressive manner” (sanctioned by up to 6 months imprisonment and 3,750 Euros fine)⁶³⁰ or the exploitation of begging (sanctioned by up to 3 years in prison and 45,000 Euros fine).⁶³¹ When the latter involves a minor, the penalty increases to 5 years imprisonment and a fine of 75,000 Euros.⁶³² When a foreigner is found guilty of one of these infractions, he or she can additionally be banned from entering French territory either definitively or for a period of up to 10 years.⁶³³

These laws in effect mean that when a child or teenager is with a parent begging, the parent can be charged with the exploitation of a minor for begging. Even if the parent is not present with the child at the time of the act, the fact that the parent cannot demonstrate other sources of income may be sufficient for charges to be laid. Furthermore, as begging in “an aggressive manner” is a vague expression, persons who ask a passerby for money in a public location cannot be sure whether or not they will be charged under this article. These articles have been applied against Romani migrants who resort to begging for survival.

For example, when the ERRC met thirty-year-old Romani Ms M.M. at the end of November 2004, she faced charges of “exploiting a minor for begging”. The ERRC met her in her run-down caravan with a taped up window on a polluted site in Aubervilliers lacking all basic utilities. She told the ERRC that she begs on the Champs Elysées from 6:00 PM to 6:00 AM most days. She makes 10 or 15 Euros on a good night. Her thirteen-year-old daughter B.M. was walking with another teenage girl on the Champs Elysées when police arrested the two girls for begging and placed them in detention at a local police station. M.M. was not with her at the time. Ms M.M.

⁶³⁰ Article L 312-12-1 French Criminal Code, in Section 2 bis.

⁶³¹ Article L 225-12-5 French Criminal Code, in Section 2 ter.

⁶³² Article L 225-12-6 French Criminal Code, in Section 2 ter.

⁶³³ Article L 225-21 French Criminal Code.

went with the other girl's mother, Ms V.R., to the police station to get her daughter and the two women were then also arrested.

The mothers and the daughters were kept in detention, for three days each. The daughters were separated from their mothers. M.M. told the ERRC that they did not get any food or drink in detention. They were not allowed to leave their small narrow cell to go to the toilet and had to sleep on hard benches. M.M. said that the police were aggressive and beat them all over their body but in places that do not leave traces. The second woman has diabetes but was nonetheless hit by police.

M.M.'s hearing was scheduled for December 7, 2004 at the First Instance Court of Paris. She told the ERRC that she paid 800 Euros for a lawyer. Others pooled money together to help pay this amount. She will have to return the sum.⁶³⁴

Magistrate Albert Levy told the ERRC of a case in Lyon in which a mother who was begging in the street with her baby of between six to eight months was charged with aggressive begging. A Court ordered her child to be taken from her and placed in social care. He thinks that she also spent one day in prison before being freed with a fine of 800 Euros. She managed to recover her child but with considerable difficulties.⁶³⁵

12.8 Denying Romani Migrants the Right to Health

Until recently persons with limited financial resources living on French territory without a residence permit were able to access a system of State Medical Aid (AME) providing them with free medical care. However, as a result of changes to this system enacted in December 2003, individuals may now only benefit from AME after three months of uninterrupted presence on French territory. These changes have excluded from AME many Romani migrants who come to France for three-month periods as tourists, as they are legally entitled, before exiting the country and then re-entering. Even those Romani migrants that have the legal right to AME, often encounter difficulties accessing it in practice due especially to problems with providing proof of a 'domicile' for this purpose.

⁶³⁴ ERRC interview with Ms M.M., November 28, 2004, Aubervilliers.

⁶³⁵ ERRC interview with Mr Albert Lévy, March 26, 2004, Lyon.

This means that Romani migrants who cannot access AME need to go to the emergency section of hospitals in order to seek treatment. In practice, for basic care, many Romani migrants rely upon the rounds of the volunteer doctors from the non-governmental organisation MDM who come to their unauthorised camps and squats.

According to the studies carried out by the National Human Rights Collective Romeurope (Romeurope), the health situation of Romani migrants is considerably worse than that of the French population more generally. The newborn and infantile death rates are five times higher than in the rest of the population. Furthermore, the indecent living conditions of most Romani migrants engender a range of infectious, allergic and parasitic illnesses. Cases of tuberculosis have been reported in Romani camps around Lyon and around Paris.

Many Romani migrants also have illnesses related to the psychological stress and suffering generated by their precarious existence, constant evictions, identity controls and fear of deportation. According to Romeurope, “Some somatise and develop ulcers, hypertension, infarct. Others become depressed or aggressive”.⁶³⁶

In 2003, MDM carried out 89 medical consultations with Romani migrants living in the Surville slum in Lyon. Seventy-two of these revealed pathologies requiring medical care. Twenty-five percent of the pathologies were directly related to the individuals’ living conditions.⁶³⁷

12.9 Denying Romani Migrants the Right to Education

The ERRC encountered very few Romani migrant children able to attend school. In the camps and squats it visited, the children were generally denied this right, despite their and their parents’ desire to attend school. Non-schooling seems to be due to different reasons, including refusals by mayors or an unwillingness on the part of

⁶³⁶ Collectif national droits de l’homme Romeurope. Note de Synthese sur l’accueil des Rroms Migrants en France. November 9, 2004, distributed by e-mail to weblist of Romeurope, pp. 9-10. Both the living conditions of Roma and the lack for many of access to care other than emergency treatment amounts to a violation of the right to health.

⁶³⁷ Alpil, Médecins du Monde and Secours Populaire. Sortir du bidonville...Enquête auprès des familles du bidonville de Surville. Report, January 15, 2004, p. 11.

the Department of Education to provide the necessary resources. Reasons for refusals are not always clear, with authorities placing the blame on each other.⁶³⁸ The living conditions of families also make it difficult for parents to send their children to school. Furthermore constant evictions mean that children who do attend a local school can, in effect, be obliged to drop out.

An illustrative case is the former slum camp of Surville, in Lyon, in which the large number of Romani migrant children residing in the camp (200 children over the age of 3) did not attend school. ERRC interviews with families in Surville indicated that families lacked information about their right to attend school as well as about possibilities of doing so. Families stated that they did not have any contact with the Department of Education and did not believe that their children would be allowed to attend schools. Some families also questioned how it would be possible for their children to attend school given their living conditions.⁶³⁹ L.M. and T.M., two teenage Romani girls from Bosnia residing in Surville, told the ERRC that they could not go to school as they did not have a house. They said that their cousin has a house and could therefore attend school. They indicated that an official had told them this, however, it was unclear who. L.M. and T.M. had received territorial asylum in France.⁶⁴⁰ In the Lyon area, Romani children living in other unauthorised camps had previously been refused schooling by local education authorities.⁶⁴¹

12.10 Romani Migrants Targeted for Deportation

On August 30, 2002, France and Romania concluded an agreement providing for the return to Romania of all Romanian citizens in an irregular situation in France. The countries also agreed that a procedure would be put in place whereby charter

⁶³⁸ See Collectif national droits de l'homme Romeurope. Note de Synthèse sur l'accueil des Rroms Migrants en France. November 9, 2004, distributed by e-mail to weblist of Romeurope, p. 12.

⁶³⁹ ERRC visit to Surville, March 24, 2004, Lyon.

⁶⁴⁰ ERRC interview with L.M. and T.M, March 24, 2004, Lyon. Initials assigned by the ERRC in order to respect the girls' wish to remain anonymous.

⁶⁴¹ See Alpil, Médecins du Monde and Secours Populaire. "Sortir du bidonville...Enquête auprès des familles du bidonville de Surville." Report, January 15, 2004, p. 9.

flights would be specifically provided for this purpose. The tickets would be paid for by France, and the passengers accompanied on board by Romanian civil servants.⁶⁴²

It is widely agreed that this agreement marked a turning point in French policy towards Romani migrants, and especially towards those from Romania. Not only did police raids and evictions of Romani migrant camps and squats seem to increase, in frequency and level of aggression, but there was also a multiplication of deportation orders (APRF) without an adequate examination of each individual's situation.

It is not only Romanian Roma on French territory illegally who are deported, but also those legally on French territory. Since January 2002, visas are no longer necessary for Romanian Roma who wish to enter France. Individuals are entitled to remain within the European Union as tourists for periods of up to three months. However, many Romanian Roma who are well within this time-limit are nonetheless deported by French authorities on the grounds that they do not have sufficient resources for their stay. To do so, the French authorities make use of article 5c of the Schengen Agreement which provides that individuals entering the Schengen zone must prove that they have sufficient resources to cover their stay and return trip. Once deported, Romanians risk penal sanctions under Romanian legislation that can result in a prison term and them being unable to leave Romanian territory for up to five years.⁶⁴³

The actions of French law enforcement officials reveal a pattern of specifically targeting Romani migrants for arrest and deportation. The frequent raids of unauthorised camps or squats as well as identity checks near these places of residence are often accompanied by arrests and deportation orders. This has also become common practice when police catch Romani migrants trying to make a living through various street activities – selling flowers or newspapers, washing

⁶⁴² See Bissuel, Bertrand. "Les municipalités confrontées à la réapparition des bidonvilles". *Le Monde*, November 27, 2002.

⁶⁴³ Article 1 of Emergency Ordinance 112 of 30.08.2001 "On sanctioning deeds committed outside the country by Romanian citizens or stateless persons with residence in Romania" states: (1) Entering or exiting a foreign state by illegally passing its border by a Romanian citizen or a stateless person with residence in Romania shall be a crime and shall be punished by terms in prison between 3 and 24 months;... Article 5 of the Ordinance provides that a person convicted of the crime specified under Article 1 "shall be denied the issuance of a passport or, as the case may be, shall be suspended the right to use it for 5 years."

car windows, playing music in the metro, begging. They are presumed to have insufficient resources. In July 2004 Romeurope tried to clarify with the French Ministry of Interior the exact amount and nature of resources considered to be sufficient for a stay in France; however, the organisation was not provided with a clear response.⁶⁴⁴

From the fall of 2002, the non-governmental organisations MDM and LDH also observed an increase of attempts by French officials to carry out collective deportations; however, they note that these efforts were frequently prohibited by French Courts.⁶⁴⁵

Collective deportations have nonetheless been carried out by the French authorities in explicit contravention of Article 4 of Protocol 4 of the European Convention on Human Rights, which bans the collective expulsion of aliens.⁶⁴⁶

For example, a collective expulsion took place on September 28, 2004.⁶⁴⁷ A special charter plane belonging to the company Aigle Azur left Paris's Roissy Airport with at least 27 Romanian citizens aboard with deportation orders, a large percentage of whom were reportedly Roma. The plane stopped in Spain, Italy and Belgium before arriving in Bucharest at 6:20 PM, with 75 Romanians aboard. Each person was reportedly escorted by 3 police officers. Of the persons returned, some had been in

⁶⁴⁴ Collectif national droits de l'homme Romeurope. Compte rendu rencontre Monsieur Jean de L'Hermitte au Ministère de l'intérieur le 16 Juillet 2004. November 9, 2004, distributed by e-mail to weblist of Romeurope.

⁶⁴⁵ Médecins du Monde and the League for Human Rights. Les Roms Dossier Presse. May 2003.

⁶⁴⁶ ECHR, Protocol 4, Article 4. In its judgement in the case *Conka v. Belgium*, involving the collective expulsion from Belgium of Romani asylum-seekers from Slovakia, the European Court of Human Rights found Belgium in violation of the prohibition of collective expulsion. The Court reiterated its case-law whereby collective expulsion, within the meaning of Article 4 of Protocol 4, is to be understood as any measure compelling aliens, as a group, to leave a country, except where such a measure is taken on the basis of a reasonable and objective examination of the particular case of each individual alien in the group. (See *Conka v. Belgium*, App. No. 00051564/99, Eur. Ct. H.R. (5 February 2002).

⁶⁴⁷ In a press release the French Ministry of the Interior, Internal Security and Local Freedoms indicated that a flight had been organised in cooperation with the Italian, Spanish and Belgian authorities repatriating 75 Romanian citizens. Ministère de l'Intérieur, de la Sécurité Intérieure et des Libertés Locales. Communiqué de Presse. September 28, 2004.

France for less than the three months they are authorised to stay but were deemed to have insufficient financial resources.⁶⁴⁸

On November 28, 2004, the ERRC visited 4 different sites where Romani migrants resided. At three sites, residents repeated a curious story – many Roma had been arrested and deported over the previous weeks, and they were told by Romanian speaking police officers that they were being sent back to Romania in order to vote.

Ms Maria L. and Mr Gheorghe L., Romani migrants living in a camp in Aubervilliers, told the ERRC that they believed, based on information that they had received from Roma in different camps, that in the previous weeks hundreds of Romani individuals had been sent back to Romania. As far as they knew, Romani persons from all of the different camps or squats around the Paris area had been sent back. Gheorghe L. said that 3 or 4 people had been expelled from his camp in Aubervilliers. Two individuals were arrested when they went to the store to go shopping, and the other two were arrested while begging.⁶⁴⁹ Ms C.S., who resides at a different camp in Aubervilliers, told the ERRC that two women had gone to get water and were arrested at the fire hydrant. They were apparently put on planes and sent back to Romania. The women had only been on French territory for one month before their deportation.⁶⁵⁰ Residents of a squat in Villetaneuse told the ERRC that 4 persons had been arrested from their building and were sent back to Romania. Mr Niku C., a resident of the squat, told the ERRC that “the Romanian Minister paid for two planes to take Roma back.”⁶⁵¹

Gheorghe L. also told the ERRC that he knows of one site from which 18 people were arrested and expelled. He said, “They took them and sent them back – a few days ago. And they had their visa.⁶⁵² They were held for two days in a detention centre and then sent directly back to Romania...apparently there were even Romanian police, and they told them ‘we are taking you back to vote. There is no one in Romania to vote.

⁶⁴⁸ La Cimade and the Collectif Romeurope. “L’Europe expulse 75 roumains par charter”. Communiqué de Presse, October 4, 2004.

⁶⁴⁹ ERRC interview with Mr Gheorghe L. and Mrs Maria L., November 28, 2004, Aubervilliers.

⁶⁵⁰ ERRC interview with Ms C.S., November 28, 2004, Aubervilliers.

⁶⁵¹ ERRC interview with Mr Niku C., November 28, 2004, Villetaneuse.

⁶⁵² In other words, they were within the 3-month period legally allowed.

After you vote, then you can go back to France.’ They also received a stamp in their passport forbidding them from entering France.’⁶⁵³

It seems to be a relatively frequent practice for families to be separated during deportations, including parents from young children.⁶⁵⁴ For example, Mr Marius M. told the ERRC that he was deported in January 2000. His six-year-old son., S.M., remained in France. At the time, the boy’s mother, V.S. was in prison. When Marius M. was in the detention centre, he appealed to the Court in order to be able to take S.M. with him. S.M. was born in France under another name, but Marius M. was officially recognised as the father. He told the ERRC that he explained to the judge that there was no one to look after his child. He did not receive a written decision. He was simply informed by police in the detention centre that the judge had decided to send him to Romania. S.M. remained with his grandparents in France; however he was killed in a car accident two months later with his grandfather when they were fleeing in haste after having been evicted from a camp in which they were living.⁶⁵⁵

In another case that local non-governmental organisations believe was designed to intimidate residents of a camp in Choisy-le-Roi, Ms Olympia V was arrested on September 24, 2002 for “irregular conditions of stay” (*irrégularité de séjour*) in front of her caravan and two children. Her oldest child, aged six, attended school at the time. Forty-eight hours later she was sent back to Romania without her children. The non-governmental organisation MDM had to intervene so that the children could join their mother.⁶⁵⁶

Not only family ties, but other personal ties and relationships developed after many years in France are also insufficiently considered in deportation decisions.

For example, Mr Toma Christa was deported to Romania in November 2004 after having spent 15 years in France. His wife and son remained in Choisy le Roi, where the family had just moved into housing put at their disposal by the General Counsel of the Department of Val-de-Marne as part of an integration project. His son has been schooled

⁶⁵³ ERRC interview with Mr Gheorghe L., November 28, 2004, Aubervilliers.

⁶⁵⁴ Any act by a public authority aimed at separating those who have a family life together amounts to an interference with the rights secured under Article 8 of the European Convention of Human Rights.

⁶⁵⁵ ERRC interview with Marius S., November 28, 2004, Aubervilliers.

⁶⁵⁶ Médecins du Monde. *Mission Banlieue Rapport d’activité 2002*. p. 48.

in France and has begun a professional training period in a company. Mr Christa also has other family members in France and has developed considerable other close personal relationships in his years in France. Mr Daniel Davisse, mayor of Choisy le Roi and Mrs Hélène Luc, Senator from Val-de-Marne, provided testimony on Mr Christa's behalf with respect to his integration in French society during judicial procedures concerning his expulsion. His request for residency was in the process of being considered at the Prefecture. The local Support Committee of Roma in Val de Marne⁶⁵⁷ that monitored this deportation also pointed out its absurdity. In fact, Mr Christa was arrested on November 11, 2004, with three other family members when they were on their way to Romania to renew their papers. Mr Christa was still within the 3-month period of stay allowed him as a tourist. Thus he was expelled to Romania while he was on his way there anyway.⁶⁵⁸ Mr Christa is currently unable to return to his family in France as he has been forbidden to leave Romania for a period of one year due to penal sanctions imposed upon him by the Romanian authorities as a result of his deportation from France.⁶⁵⁹

12.11 Discrimination Against Romani Political Asylum Seekers

In a visit to the Surville slum camp in Lyon on March 24, 2004, the ERRC encountered dozens of asylum seekers from former Yugoslavia living in makeshift shacks without any basic facilities, and without public assistance of any sort.

One middle-aged Romani man, Mr T.C., who seemed totally disoriented, approached the ERRC asking where he could get something to eat and drink. He said that he had arrived from Kosovo a few days earlier. He had fled after the violence against minority communities that had taken place in the province from March 17-21, 2004.⁶⁶⁰ He told the ERRC that his house had been burnt down.

⁶⁵⁷ This Committee, which is part of Romeurope, is composed of citizens in support of the Romani migrants of the Department.

⁶⁵⁸ E-mail communications from Support Committee of Roma in Val-de-Marne, Wednesday November 17, 2004, and Sunday November 21, 2004.

⁶⁵⁹ ERRC interview with Mr Michel Fèvre, April 6, 2005, Paris.

⁶⁶⁰ See UNHCR Kosovo. Update on the Kosovo Roma, Ashkaelia, Egyptian, Serb, Bosniak, Gorani and Albanian communities in a minority situation. June 2004, available at: http://www.unhcr.se/Protect_refugees/pdf/Kosovo_minorities_June.pdf.

Mr T.C. had been to the Prefecture to submit his request for political asylum, however, he evidently had received no material assistance. He showed the ERRC the paper that he had received from the Prefecture. On one side, written in French, the text stated that Mr T.C. had made a request for asylum. On the other side, written in English, the text stated that France is not responsible for taking this request for asylum, that it is the responsibility of another nation. This nation was not named. On the bottom of the paper were ten boxes.

According to Mr Nicolas Molle of the non-governmental association ALPIL, this is the manner that the French authorities apply the Dublin Convention.⁶⁶¹ Every week or two the asylum seeker has to return to the Prefecture and one of the boxes are stamped. During this time the person's file is examined and the authorities investigate whether the person went through another country that should be responsible for the asylum request. The person receives no assistance during this time. If after all the boxes have been stamped, the individual still persists in his or her asylum request, then the request is accepted.⁶⁶² This initial period before a person's asylum claim is officially accepted can reportedly last up to six months, and during this time the individual receives no assistance whatsoever.

Once a person's asylum request is accepted, he or she should in principle be housed in a Centre for Asylum Seekers (CADA).⁶⁶³ In these centres, asylum seekers are provided with shelter, food and social assistance. There is, however, a severe shortage of places in these centres in France, and some asylum seekers are therefore housed in Urgent Reception Centres for Asylum Seekers (AUDA),⁶⁶⁴ where they are also provided with food and some social assistance. Others are given a temporary

⁶⁶¹ The Convention for the Determination of the State Responsible for Examining an Application Lodged in One of the Member States of the European Communities (Dublin Convention). This Convention allows a State in which an asylum request is launched to refuse responsibility on the basis that another member state is responsible based on a range of criteria – family member, visa or residence permit, illegal border crossing and responsibility for border control.

⁶⁶² ERRC interview with Mr Nicolas Molle, March 26, 2004, Lyon. See for a detailed description of this procedure *The Dublin Convention: Study on its Implementation in the 15 Members States of the European Union*, European Commission and Danish Refugee Council, January 2001, p. 36. Available at <http://www.flygtning.dk/publikationer/rappporter/dublin/dublin.pdf>.

⁶⁶³ Centre d'accueil pour demandeurs d'asile.

⁶⁶⁴ Centre d'Accueil pour Demandeurs d'Asile (AUDA)

housing allocation or housed in hotels. The least fortunate are simply not provided with any accommodation and have to find their own shelter. A disproportionate number of Roma asylum seekers figure amongst the least fortunate. For instance, ALPIL estimated in March 2004 that there were approximately 500-600 Romani asylum seekers in the Lyon area, and 90% of them were living in slums and squats.⁶⁶⁵

Ms Michele Mézard, responsible for the Roma mission at Médecins du Monde, told the ERRC that “the Roma do not have the same access to accommodation as other asylum seekers. There are many stereotypes held by the authorities. For instance, they say ‘We can’t receive them like others because they wish to live in caravans and in a community. They don’t want housing.’ One needs to see the racism behind this.”⁶⁶⁶

The subsistence allowance provided by the French state is barely enough for families to survive; each adult is provided with approximately 280 Euros per month regardless of family size. This assistance only lasts for a year, even if the asylum procedure is still underway. After this period asylum seekers can apply to the General Council for exceptional child protection assistance. However, there is no guarantee that they will receive this assistance, and in the prevailing political climate, there is a strong pressure on officials not to grant it.⁶⁶⁷

For those who are not provided with any form of housing, there is little choice but to live in a slum or squat, unless the individuals happen to have personal resources allowing for them to pay for their own accommodation. This is not the case with the vast majority of Romani asylum seekers.

On March 26, 2004, the ERRC encountered a group of 10 Roma from the former Yugoslavia in a square in the centre of Lyon, the P. and M. families. There were two small babies amongst the group and one of the women was pregnant.

⁶⁶⁵ ERRC interview with Mr Nicolas Molle, March 26, 2004, Lyon. The treatment of Roma asylum seekers explicitly contravenes the standards set out in the Geneva Convention which provide that there should be no discrimination in the treatment of asylum seekers based on race, religion or country of origin.

⁶⁶⁶ ERRC interview with Ms Michele Mézard, January 15, 2004, Paris.

⁶⁶⁷ ERRC interview with Ms Marion Gachet, Médecins du Monde, February 2, 2004, Lyon. ERRC interview with Mr Nicolas Molle, ALPIL, March 26, 2004, Lyon.

Ms R.M. told the ERRC that they had nowhere to sleep, nothing to eat, and received no assistance. They had applied for political asylum but did not seem to know the status of their request.⁶⁶⁸

12.12 Conclusion: The Urgent Need to Provide Protection to Romani Asylum Seekers

Apart from a small minority of Romani migrants from former Yugoslavia, Romani migrants have no chance of gaining political asylum in France. The vast majority are not considered to qualify for subsidiary forms of protection either. A small number receive permits to stay based on health reasons. And the vast majority of the rest are at a constant risk of deportation.

The ERRC considers that instead of subjecting Romani migrants to continual human rights violation and attempting to directly or indirectly force their return to their countries of origin, the majority should be given protection on French territory.

All too often, Romani migrants are sent back to a reality of ongoing discrimination and marginalisation so severe as to amount to persecution as defined in the Geneva Convention relating to the Status of Refugees (Geneva Convention). The Office of the United Nations High Commissioner for Refugees (UNHCR) has made clear that refugees are not only those persons fleeing torture or other serious harm on racial, ethnic or religious grounds, but that non-violent discriminatory measures may also rise to the level of persecution: “This would be so if measures of discrimination lead to consequences of a substantially prejudicial nature for the person concerned, e.g. serious restrictions on the right to earn his livelihood, his right to practice his religion, or his access to normally available educational facilities.”⁶⁶⁹ The situation of many Romani communities in a variety of Eastern and Central European countries undoubtedly reaches such a level.

It is this sort of situation that many of the Romani migrants that have arrived in France since the early 1990s are fleeing. It is perhaps easier to portray them as criminals, and to

⁶⁶⁸ ERRC interview with Ms R.M., March 26, 2004, Lyon.

⁶⁶⁹ Office of the United Nations High Commissioner for Refugees. Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees. Geneva, 1992.

evict them from town to town, from slum to slum, than to recognise them as victims of gross violations of human rights, many of whom should, in fact, qualify for Geneva Convention Refugee Status. However, in many cases, such actions may violate international human rights law. Indeed, the waves of expulsions of Romani migrants conducted by French authorities fundamentally call into question France's human rights record. There is an urgent need for policies to correct the damage of recent years and remedy the abuses visited on thousands of individuals.

13. CONCLUSION: FAILED EQUALITY

The United Nations Committee on Economic, Social and Cultural Rights (CESCR) recently expressed concern about the lack of recognition of minorities in France. It opined that “the fact that all individuals are guaranteed equal rights in the State party and that they are all equal before the law does not mean that minorities do not have the right to exist and to be protected as such in the State party.” It further emphasized that “equality before the law is not always adequate to ensure the equal enjoyment of human rights, and in particular economic, social and cultural rights, by certain minority groups in a country.” It recommended that France “review its position with regard to minorities, ensuring that minority groups have the right to exist and to be protected as such in the State party.”⁶⁷⁰

The ERRC’s research in France confirms the accuracy of CESCR’s observations. French Gypsies and Travellers are unequal citizens. They suffer from dramatic levels of discrimination that affect a wide range of civil, political, social, economic and cultural rights. This discrimination is twofold. On the one hand due to the fact that their specificity is not taken into account in laws, policies and regulations, they find themselves excluded from basic rights and services that are guaranteed to the majority population. On the other hand, their specificity is sometimes taken into account by French lawmakers, local officials and other authorities, but in a way that targets them for negative treatment.

Discrimination arising from failure to take into account the travelling lifestyle particularly affects the social, economic and cultural rights of Gypsies. The situation has reached crisis proportions in the area of housing, where the many laws and regulations relating to land use, urban planning and access to public infrastructure fail to make place for the specific needs of Gypsies and Travellers who live in caravans. Thousands of Gypsies and Travellers who buy land therefore find themselves harassed, threatened with eviction and denied basic amenities such as water and electricity. Furthermore, although required to do so by a specific law (the Besson Law),

⁶⁷⁰ Concluding Observations of the Committee on Economic, Social and Cultural Rights: France, 30/11/2001, E/C.12/1/Add.72. (Concluding Observations/Comments).

municipalities have for the most part failed to include halting areas for Travellers in their urban plans and regulations and are unwilling in practice to establish such areas on their territory.

Such discrimination also extends across other key sectors of life, magnifying the effect of each single instance of discrimination, so that many Travellers and Gypsies find themselves caught in a snowballing cycle of marginalisation and exclusion. The official denial of this discrimination, often shrouded in the language of “universal equality”, only serves to prolong its persistence. This cycle is set in motion when Travellers and Gypsies are still children, presented with a French education system that has historically resisted adapting and taking into account the specific culture of Travellers and Gypsies, and instead imposes a rigid mould into which children need conform. In practice, a shocking percentage of Traveller and Gypsy children receive no education, drop out before reaching the secondary level or attend segregated structures that provide only minimal education. Even when they attend school, Gypsies and Travellers seem all too often to receive a substandard education, often not even equipping them with basic literacy skills. Later in life, the opportunities for Travellers and Gypsies to earn their livelihood are further impaired by the ever-increasing regulations affecting economic activities they exercise, that are developed without taking into account their way of life and specific situation. Exacerbating their economic situation, low-income Traveller and Gypsy families find themselves excluded from various forms of housing assistance available to other French citizens, due to the fact that caravans are not considered as a form of housing.

Members of the majority population are not asked to give up significant elements of their culture in order to benefit from basic rights and state services. However, this is the indecent choice with which Travellers and Gypsies are presented. To benefit from the same rights and public services as others, they are required to give up significant parts of their identity. Or, they can “choose” to maintain their way of life and therefore suffer the effects of discrimination. Thus, in treating their cultures as illegitimate or otherwise not subject to recognition, the French state in fact denies equality to Travellers and Gypsies.

Paradoxically, the inequality of Gypsies and Travellers is considerably aggravated by various laws, policies and practices, underpinned by racism, in which their way of life is taken into account, but in a manner that infringes upon their fundamental rights.

This discrimination affects rights as basic as the right to vote, where, due to specific racist legislation, many Gypsies and Travellers are only able to vote after a 3-year period of “attachment” to a given municipality; whereas, other French citizens are able to vote after 6 months in a given municipality. Many Gypsies and Travellers also need to carry specific circulation documents, and present these documents for regular visa by police or gendarmes. They risk penal sanctions – fines and imprisonment – if they travel in the country without these documents or neglect to fulfil their visa obligations.

A series of racist laws have also made it illegal for Gypsies and Travellers to halt their caravans on most of French territory. Article 9 of the Besson Law effectively forbids Gypsies from halting outside of designated halting areas. These restrictions were further reinforced and extended in the Law of 18 March 2003 for Interior Security (Security Law) making illegal halting a crime that can be punished with severe penal sanctions. The Security Law in fact penalises Gypsies and Travellers for the very fact of their way of life. In addition, the Borloo Law makes a list of twenty-eight French cities with less than 20,000 inhabitants completely off-limits for Gypsies to stop.

In practice, there are very few halting areas, and even fewer that meet basic standards of decency. The parts of French territory that seem to be ‘reserved’ for Travellers and Gypsies tend to be physically segregated in unhealthy and polluted areas (such as near garbage dumps, sewage treatment plants, and polluting factories). However, Travellers and Gypsies are regularly evicted even from such indecent locations.

Gypsies and Travellers are also targeted for abusive forced evictions where police arrive heavily armed, in large numbers, and frequently subject residents to degrading treatment, including insults, damage to property and sometimes also physical violence. The ERRC’s research also indicates a systematic pattern of abusive raids involving searches, checks or arrests, in which all of the Gypsies and Travellers who happen to be residing at a particular location are treated as collectively suspect. In addition, the prevailing racist stereotypes that Gypsies and Travellers are thieves and delinquents also translates into discriminatory treatment by judicial authorities.

Racism and discrimination also pervade the daily interactions of Gypsies and Travellers with French society. For instance, they are regularly denied entry into public places, such as bars, restaurants, nightclubs and stores. They are also frequently refused insurance of any sort. On the labour market, the key to success for Travellers and Gypsies depends on hiding their identity from clients and potential employers.

Surprisingly in a country that places considerable value on the notion of equality, the ongoing human rights violations that Gypsies and Travellers face in France are primarily rooted in the non-compliance of the French State with its international obligations to guarantee equality and non-discrimination.

These fundamental principles of international law are recognised and repeated in many international Conventions, Declarations and Recommendations. The principles of equality and non-discrimination are self-standing general rights that must be applied in all fields of life whether political, civil, social, economic or cultural.⁶⁷¹ Over the last decades, a widely accepted definition of the equality principle has been accepted in international law; it requires that equal situations are treated equally and non-comparable situations differently. Failure to do so amounts to discrimination unless an objective and reasonable justification exists.

What this means is that in order to in practice guarantee equality and non-discrimination, factors such as a minority's culture may need to be taken into account in a constructive manner in laws, policies and practice. On the other hand, to take a minority's culture into account in a way that is unfavourable to persons belonging to that minority amounts to racial discrimination.

In order to guarantee real equality to Travellers and Gypsies in France, it is imperative that the French State respect the principles of equality and non-discrimination as defined in international law. The first step lies in recognising the discrimination from which so many Travellers and Gypsies suffer in so many areas of life. It is urgent that instead of legitimising discriminatory laws, policies and practices through a restrictive interpretation of equality, the French State instead takes the specific Traveller and Gypsy cultures and ways of life into account where this is

⁶⁷¹ For instance, the "Universal Declaration of Human Rights" (which significantly already mentions in its 1st Article the equality of all persons) in Article 7 sets out the principles of equality and non-discrimination as fundamental rights in themselves as does Article 26 of the "International Covenant on Civil and Political Rights" (ICCPR). At the European level, with the recent adoption, of "Protocol 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms" (ECHR), a general self-standing right to non-discrimination is legally enforceable before the European Court of Human Rights. These principles are also included (as accessory rights) in a wide number of international instruments – as rights to be taken into account in the application of the rights dealt with in the respective instrument. For instance, this is the case with Article 14 of the European Convention on Human Rights, Article 2(2) of the ICESCR and Article 2(1) of the ICCPR.

necessary in order to bring about real equality. And, on the other hand, all existing laws, policies and practices that target Travellers and Gypsies for negative treatment should be recognised as discriminatory and appropriately altered.

In addition, strategies need to be developed to give Travellers and Gypsies the same access to basic rights and services as other citizens.⁶⁷² This needs to be done in a manner that respects the cultures of Travellers and Gypsies. Evidently this means that different segments within the different Traveller and Gypsies communities need to be directly involved in all stages of the development and implementation of all measures that directly affect them. These measures will need to be accompanied by concerted actions to combat the racism directed against Gypsies and Travellers that currently pervades French society.

Paradoxically, it is France's very attachment to a restrictive concept of equality that acts as a significant barrier to remedying the existing inequality of a segment of its population. If France is to live up to its Constitutional guarantee of equality in practice, the dramatic human rights situation of Travellers and Gypsies needs to be immediately recognised and remedied.

⁶⁷² It should be noted that according to international law positive measures are not discrimination. This is clearly stated in the definition of discrimination provided in ICERD. Article 1(4) provides that: "Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved." Directive 2000/43/EC also provides in its Article 5 that: "With a view to ensuring full equality in practice, the principle of equal treatment shall not prevent any Member State from maintaining or adopting specific measures to prevent or compensate for disadvantages linked to racial or ethnic origin."

14. RECOMMENDATIONS

Based on the findings of this report, the ERRC urges French authorities to act on the following recommendations:

1. Sign and ratify the Framework Convention for the Protection of National Minorities, expressly recognising Gypsies and Travellers as a national minority, and withdraw the reservation to Article 27 of the International Covenant on Civil and Political Rights.
2. Take immediate steps to end the current climate of impunity for racist speech relating to Gypsies, Travellers, and Romani migrants and to ensure that all expressions of anti-Gypsyism are promptly and effectively punished. Make clear to the French public that such expression will not be tolerated.
3. Publicly recognise and apologise for the internment of Gypsies and Travellers during WWII. Establish memorials on the sites of former internment camps and undertake measures to commemorate the Gypsy and Traveller victims of France's WWII policies. Support research aimed at bringing to light the WWII treatment of Travellers and Gypsies.
4. Ensure that the history of Gypsies and Travellers on French territory, including information about anthropometric booklets and their WWII internment, are included as a core component of the educational curricula.
5. Make available, in forms readily understandable to the lay public, data disaggregated by ethnicity, in order to make possible effective monitoring of the situation of Gypsies, Travellers and other minority groups in key areas of life, such as political participation, housing, education, social services, health care, justice, relations with police, etc. Such monitoring is essential in order to identify problems faced by minority groups and to develop appropriate solutions. The monitoring should be carried out in accordance with the principles of data protection and confidentiality, on the basis of a system of voluntary self-identification, clearly explaining the reasons why the information is collected.

6. Undertake specific research to assess the number and frequency of acts of racial discrimination occurring against Gypsies, Travellers and Romani migrants in sectoral fields such as education, employment, housing (including social housing), health care and the provision of social assistance and services. Such research should also provide information as to the number of persons sanctioned for acts of racial discrimination against Gypsies, Travellers and Romani migrants.
7. Immediately repeal all racially discriminatory aspects of “Law no. 69-3 of 3 January 1969 relating to the exercise of ambulant activities and the regime applicable to persons circulating in France without a fixed domicile or residence.”
8. Identify and repeal all discriminatory regulations and administrative obstacles that hinder Gypsies and Travellers in obtaining national identity cards.
9. Eliminate discriminatory conditions relating to the right of Gypsies and Travellers to vote, arising from the Law of 3 January 1969, including those aspects relating to the 3-year period of attachment and the 3% quota of persons with circulation documents allowed to vote in a given municipality. Take positive steps to ensure that the voices of Gypsies and Travellers are duly represented at all levels of French political life.
10. Take immediate steps to ensure that Gypsies and Travellers are able to exercise their right to participation in public affairs at local and national level, in conformity with Article 25 of the International Covenant on Civil and Political Rights and UN Committee on the Elimination of Racial Discrimination “General recommendation XXVII on discrimination against Roma”.
11. Take positive steps to create conditions that ensure that Travellers and Gypsies may pursue their way of life, whether sedentary or nomadic lifestyles, according to their free choice, in conformity with the principles of equality and non-discrimination. In this regard.
12. Ensure that Travellers and Gypsies who travel are able to fully exercise their right to freedom of movement and right to adequate housing, including protection against forced evictions.
 - Repeal, without delay, Articles 53 and 58 of the “Law of 18 March 2003 for Interior Security” as well as Article 15 of Law no. 2003-710 of 1 August 2003 on the “Orientation and Planning of Municipalities and Urban Renovation”.

- Ensure that halting areas are established in municipalities across the country as required by the “Law no. 2000-614 of 5 July 2000 concerning the Welcome and Housing of Travellers” (hereinafter “Besson Law”). Also ensure that these halting areas conform to norms of decency, notably requirements concerning the availability of services, facilities and infrastructure; location and habitability.
- Take positive steps to ensure that Gypsies and Travellers have a sufficient number of places to halt that conform to basic standards of decency.
- Ensure that Travellers and Gypsies are not relegated to parts of the territory in which they are exposed to severe health and environmental hazards as well as the severe harm of racial segregation.
- Cease all practices of forced evictions of Gypsy and Traveller families halted in municipalities carried out in violation of the right to adequate housing.
- Ensure that campsites that implement discriminatory regulations and policies with respect to the access of Travellers and Gypsies are duly sanctioned.
- Immediately undertake genuine and widespread grassroots consultations with Gypsies and Travellers so that appropriate responses might be developed to their housing needs, both on halting areas and through other necessary responses.
- Urgently develop alternative responses to short-term halting areas in order to meet Travellers and Gypsies housing needs, such as establishing family sites.

13. Ensure that the right to adequate housing, including protection against forced evictions is fully guaranteed to Travellers and Gypsies who buy land. In this regard:

- Ensure that the many laws and policies regulating land use, urban planning, and access to the public infrastructure make appropriate provision for the way of life and particular needs of Gypsies and Travellers, including living on their land in a caravan, and that they do not result in discrimination against members of these communities.
- Ensure that municipalities do not make illegal use of their powers of ‘pre-emption’ to prevent the sale of property to Travellers and Gypsies.
- Ensure that the security of tenure is guaranteed to Gypsies and Travellers and that in the application of urban regulations due consideration is given to fundamental human rights such as the right to adequate housing, the right to the schooling of children, the right to health and the right to non-interference in private and family life.

- Recognise caravans as a form of housing.
 - Order local authorities to provide without delay water, electricity, sewage and solid waste removal services and other basic facilities to the families who are being so denied on grounds of being in violation of urban regulations.
14. Take immediate steps to bring conditions in Traveller and Gypsy settlements up to basic standards of decency and to regularise the housing situation of those who have been long-term residents of unauthorised settlements. Or, provide alternate housing possibilities that respect standards of decency. All measures and their implementation should be developed and implemented with the consultation and participation of those Gypsy and Traveller families concerned.
 15. Ensure that Romani migrants are fully guaranteed all aspects of the right to housing, including basic facilities, a healthy environment and security of tenure. Develop coherent policies at Departmental, Regional or State level aimed at providing decent housing solutions for Romani migrants currently living in unauthorised camps or squats. Immediately cease practices of forced evictions that send Romani migrants from one municipality to the next.
 16. Undertake measures to put an end to practices of discrimination and segregation of Gypsies and Travellers in their access to HLM (social housing) and ensure the effective application of anti-discrimination legislation against those who perpetrate such discrimination.
 17. Carry out thorough and timely investigations into all alleged instances of abusive police behaviour towards Gypsies, Travellers, and Romani migrants, and promptly bring to justice perpetrators and provide due compensation to victims. Put an end to practices of collectively targeting groups of Gypsies, Travellers or Romani migrants during searches, checks or arrests as well as practices of racial profiling.
 18. Ensure that reports of police harassment of Romani migrants are fully investigated and that police officers who abuse their authority are appropriately punished.
 19. Take appropriate measures to ensure that persons who may have been victims of ill treatment by law enforcement officials are not intimidated or otherwise dis-

sueded from lodging a formal complaint, such as by practices of bringing retaliatory charges against those who complain.

20. Carry out detailed research into judicial treatment of Gypsies, Travellers and Romani migrants in order to identify discriminatory practices and develop appropriate measures to end such practices.
21. Ensure that Gypsies and Travellers have equal access to social assistance. Include caravans and mobile homes as forms of housing for purposes of housing assistance, so that persons living in them may qualify for all types of housing assistance available to individuals living in other forms of housing. As an alternative, develop special assistance to ensure that Gypsies and Travellers are able to receive the same level of housing assistance as other French citizens.
22. Develop special loan programs in order to assist Gypsies and Travellers, who may be otherwise unable to procure a loan, in buying property.
23. Carry out thorough-going measures to ensure that Gypsies and Travellers may have full and equal access to social services within public offices and are not, in fact, channeled into a segregated system of social services. Ensure that all officials in social service offices receive adequate training to meet the particular needs of Travellers and Gypsies and that these officials see it as their responsibility to provide any assistance and support that Travellers and Gypsies require in order to gain equal access to social services. Investigate allegations that the files of Travellers and Gypsies have been systematically transferred away from the state institutions in some Departments and take appropriate measures to remedy this problem.
24. Ensure that the right to health of Romani migrants is fully guaranteed, including their possibilities for accessing health care and living in a healthy environment.
25. Ensure that all allegations of discrimination against Travellers and Gypsies in their access to public services, including insurance and public service establishments, are fully investigated and are appropriately sanctioned and that victims compensated. Existing anti-discrimination legislation covering this area should be fully applied making clear to all public service providers that discrimination against Gypsies and Travellers will not be tolerated.

26. Take proactive steps to ensure that Travellers and Gypsies are able to benefit equally from the right to work. Ensure that Travellers and Gypsies are able to halt in municipalities across the country. Undertake measures to remedy the discriminatory impact that numerous regulations relating to a range of occupations have upon Travellers' and Gypsies' work possibilities, such as Law no. 96-603 "Relating to the Development and Promotion of Commerce and Trades". Ensure that all allegations of discrimination in access to salaried employment are fully investigated and all instances of discrimination are appropriately punished and that victims compensated. Existing anti-discrimination legislation covering this area should be fully applied, making clear to all employers that discrimination against Gypsies and Travellers will not be tolerated.
27. Ensure that Gypsy, Traveller and Romani migrant school children have equal access to education in a desegregated school environment. In this regard:
- Ensure that child's right and obligation to attend schools is duly considered in all forced evictions of Travellers, Gypsies and Romani migrants.
 - Undertake a range of positive actions across the country in a coordinated manner in order to ensure that when they travel, Traveller and Gypsy children's participation in school is facilitated and that the continuity of this schooling may be ensured.
 - Ensure that local officials systematically enrol Traveller, Gypsy and Romani migrant children in local schools regardless of the regularity of their residence on municipal territory and regardless of whether parents are immediately able to produce all necessary documents.
 - Thoroughly investigate all complaints of discrimination against Traveller, Gypsy and Romani migrant children within the school system and ensure that disciplinary measures and anti-discrimination legislation are fully applied in such instances.
 - Provide anti-discrimination training and information about relevant anti-discrimination legislation to teachers and school officials across the country.
 - Include materials on the history and situation of Gypsies and Travellers in France in the school curriculum as a central component of different subject matter. Involve Gypsies and Travellers themselves in the preparation of such materials and ensure that they are free from racist stereotypes.
 - Without delay, take steps to end different forms of segregated schooling and instead integrate school Traveller and Gypsy children within the mainstream

school system with other children. Where bridge programs and special support is necessary, ensure that schools have sufficient resources for such programs and that these do not themselves become forms of segregation.

- Provide the necessary resources to ensure that Traveller and Gypsy children who reach college age and are behind in their schooling may receive the needed support within mainstream schools, instead of simply being channelled into Segpa classes.

28. Without delay, implement Circular No. 2002-101 of 25 April 2002 on the “Schooling of Traveller Children and Non-sedentary Families” in a coordinated manner across the country.
29. Without delay, adopt further anti-discrimination legislation in conformity with current European and international standards, in particular, covering the following areas: the administration of justice, including protection of security of the person; political participation, including the right to vote, stand for election, take part in government and in the conduct of public affairs at any level, as well as to have equal access to public service; the right to freedom of movement and residence within the border of the State; the right to freedom of peaceful assembly and association.
30. Ensure that existing anti-discrimination legislation is effectively implemented. Raise the awareness of judges and prosecutors about problems of racial discrimination and difficulties of proof. Provide thorough information to magistrates and law enforcement officials across the country about new anti-discrimination provisions and the importance of their thorough application. Carry out an information campaign directed at the general public in order to raise awareness about France’s anti-discrimination legislation.
31. Ensure that the “High Authority for the fight against discrimination and for equality” will have adequate resources, independence and competency in order to fulfil its mandate.
32. Without delay, ratify Protocol No. 12 to the European Convention on Human Rights.
33. Cease discriminatory expulsions of Romani migrants and collective expulsions targeting Romani migrants.

34. Facilitate the return of persons illegally expelled from France and provide compensation for material and emotional or other damage caused by illegal forcible removal from France.
35. Cease discriminatory treatment of Romani migrant and asylum seekers.
36. Ensure the full applications of the standards of protection set out in the Geneva Convention relating to the Status of Refugees as concerns all Romani asylum seekers, keeping in mind that the Office of the United Nations High Commissioner for Refugees (UNHCR) has made clear that refugees are not only those persons fleeing torture or other serious harm on racial, ethnic or religious grounds, but that non-violent discriminatory measures may also rise to the level of persecution.
37. At the highest levels, speak out against racial discrimination against Gypsies, Travellers, Romani migrants and others and make clear that racism will not be tolerated.

15. BIBLIOGRAPHY

Alpil, Médecins du Monde and Secours Populaire. Sortir du bidonville... Enquête auprès des familles du bidonville de Surville. Report, January 15, 2004.

AREAT. Etat quantitatif concernant la population Marseillaise d'origine Tsigane. Marseille, March 27, 2001.

ASNIT. Les Gens du Voyage à l'Age de la Retraite. May 2001.

Association Rencontres Tsiganes. Dossier Presse. March 16, 2004.

Aubin, Emmanuel. La Commune et les Gens du Voyage. Berger-Levrault, 2003.

Aubin, Emmanuel. "L'évolution du droit français applicable aux Tsiganes. Les quatre logiques du législateur républicain". L'habitat saisi par le droit. Les virtualités de la loi Besson du 5 juillet 2000. Etudes tsiganes, Volume 15, Deuxième semestre 2001.

Aubry, Chantal. "Fragile statut pour les Tziganes français". Le Monde Diplomatique, May 2003.

Auzias, Claire. Samudaripen. Le génocide des Tsiganes. l'Esprit frappeur, 2000.

Bauman, Zygmunt. Le Cout human de la mondialisation, Hachette, coll. "Pluriel", 1999.

Bissuel, Bertrand. "Les municipalités confrontées à la réapparition des bidonvilles". Le Monde, November 27, 2002.

Cahn, Claude and Lanna Hollo. "Poursuivis par le spectre du racisme: les Rroms en Europe après 1989". Humanitaire, No. 11, Autumn 2004.

Cannizzo, Marie. Accueil et scolarisation des enfants du voyage dans le département du Rhône. Inspection Académique du Rhône, November 5, 2004.

Carrere, Violaine. "Des papiers pour stationner, des papiers pour circuler". *Plein Droit*, No. 35, September 1997.

Chanal, Martine and Marc Uhry. "Gens du Voyage: le nécessaire renouvellement de l'intervention publique." On the Internet at: <http://www.globenet.org/horizon-local/alpil/voyages.html>.

Charlemagne, Jacqueline. "Tsiganes et gens du voyage". *Regards sur l'actualité*, No. 255, November 1999.

Charlemagne, Jacqueline. "Le droit au logement des gens du voyage: Un droit en trompe l'œil ?" *L'habitat saisi par le droit. Les virtualités de la loi Besson du 5 juillet 2000. Etudes tsiganes*, Volume 15, Deuxième semestre 2001.

Le Collectif de soutien aux Roms de Montreuil. "Lundi le 21 avril 2003 Roms expulsés de Montreuil: 8^{ème} jour a la Maison ouverte, 17 rue Hoche (Métro Mairie de Montreuil)». On the Internet at: <http://montreuil.rom.org>.

Collectif national droits de l'homme Romeurope. "Compte rendu rencontre Monsieur Jean de L'Hermitte au Ministère de l'intérieur le 16 Juillet 2004." November 9, 2004, distributed by e-mail to weblist of Romeurope.

Collectif national droits de l'homme Romeurope. "Les Roms Migrants: La répression et la précarité continuent malgré les discours ministériels." September 6, 2004, distributed by e-mail to weblist of Romeurope.

Collectif national droits de l'homme romeurope. "Note de Synthèse sur l'Accueil des Roms Migrants en France." 9 November 2004, distributed by e-mail to weblist of Romeurope.

Commission Nationale Consultative des Droits de l'Homme. "La lutte contre le racisme et la xenophobie", Rapport 2003.

Commission nationale sur les rapports entre les citoyens et les forces de sécurité, sur le contrôle et le traitement de ces rapports par l'institution judiciaire. Rapport d'Activité de Juillet 2002 à Juin 2004.

Cornevin, Christophe. "Les gens du voyage dans le collimateur de Sarkozy". *Le Figaro*, April 18, 2003.

Council of Europe, European Commission against Racism and Intolerance (ECRI), Second Report on France, adopted on 10 December 1999, made public on June 27, 2000 CRI (2000)31.

Council of Europe, European Commission against Racism and Intolerance (ECRI), Third Report on France, adopted on 25 June 2004 and made public on 15 February 2005, CRI (2005)3.

Council of Europe, European Commission against Racism and Intolerance (ECRI), General Policy Recommendation No. 7 on National Legislation to Combat Racism and Racial Discrimination, adopted December 13, 2002, CRI (2003) 8.

Courthiade, Marcel. "Les Rroms dans le contexte des peuples européens sans territoire compact. INALCO – Université de Paris and IRU – Commissariat à la langue et aux droits linguistiques".

Damiens, Caroline. "Sarkozy, les médias et l'invention de la mafia roumaine". March 17, 2005, published in two parts on the Internet site "Les Mots sont importants" at http://lmsi.net/article.php3?id_article=356 and http://lmsi.net/article.php3?id_article=357.

Delamon, Arsène. "La situation des 'Gens du Voyage' et les mesures proposees pour l'ameliorer ". Rapport de Mission de Monsieur Arsène Delamon à Monsieur le Premier Ministre. 13 Juillet 1990

Delevoye, Jean-Pierre. Report 188 (1999-2000) on the draft law adopted by the National Assembly concerning the welcome and housing of Travellers, and on the legal proposition of Mr Nicolas About aimed at strengthening the prefect's and mayor's means of eviction in cases of illegal occupation by Travellers of industrial, commercial, or professional sites. Ordinary Session of the French Senate (1999-2000), on the Internet at: <http://www.senat.fr/rap/199-188/199-1881.html>.

Duchen, C. Nuisances Atmospheriques d'Un Centre De Compostage De Dechets Verts. Study by the Departmental Directorate of Sanitary and Social Affairs (D.D.A.S) "Interregional Epidemiology Intervention Cell" (CIREI), established within Regional Directorate of Sanitary and Social Affairs (DRASS), December 14, 1998.

Estrosi, Christian. Rapport fait au nom de la Commission des Lois Constitutionnelles, de la Législation et de l'Administration Générale de la République sur le projet de loi, adopté par le Sénat après déclaration d'urgence (No. 381), pour la sécurité intérieure. National Assembly, Document No. 508, distributed December 26, 2002.

Filhol, Emmanuel. "La mémoire et l'oubli: L'internement des tsiganes en France. 1940-1946". Paris: Conference presentation, 2 June 2004. On the Internet at: <http://aphgcaen.free.fr/cercle/tsiganes.htm#filhol>.

Filhol, Emmanuel. "La mémoire et l'oubli l'internement des Tsiganes en France, 1940-1946". Paris: Centre de recherches tsiganes, l'Harmattan, 2001.

Fourest, Alain. "Reconstruction Démolition DDE 13 Habitat-Marseille-Provence: Les Cèdres". September 29, 1998.

Fourest, Alain. "Reconstruction Démolition DDE 13 Habitat Marseille Provence: Saint Paul". September 29, 1998.

Fraser, Angus. *The Gypsies*, Oxford: Blackwell, 1995.

Hubert, Marie-Christine. "Les réglementations anti-tsiganes en France et en Allemagne, avant et pendant l'occupation". Histoire de La Shoah. Les Tsiganes Dans l'Europe Allemande, No. 167, Sept-Dec 1999, Centre de Documentation Juive Contemporaine.

Hubert, Marie-Christine. "1940-1946 'l'Internement des Tsiganes en France'". *Hommes et Migrations, Tsiganes et Voyageurs*, No. 1188-1189, Juin-Juillet, 1995.

"Information File: France." *Interface*, Number 39, Spring 2001.

Jaureguy, Tristan. "Les habitants du 'Terminus' lancent un appel à l'aide", *La Provence*, April 26, 2004.

Kis, Martine. "Qui sont réellement les 'gens du voyage'?" *Le Courrier des maires et des élus locaux*, No. 152, November 2002.

Libération "Sarkozy chasse les roms de Choisy-le-Roi". December 4, 2002.

- Liégeois, Jean-Pierre. *Gypsies and Travellers*. Strasbourg: Council of Europe, 1987.
- Liégeois, Jean-Pierre. *Tsiganes*. Paris : La Découverte/Maspero, 1983.
- Londeix, Hervé. “La Scolarisation des Enfants du Voyage en Gironde: Bilan de l’année scolaire 2002-2003”.
- Médecins du Monde. Mission Banlieue, Rapport d’activité. 2002.
- Médecins du Monde–Ligue des Droits de l’Homme. Les Roms Dossier Presse. May 2003.
- Monnin, Luc. “Enfin réaliser l’habiter? Quelles solutions pour loger les gens du voyage après les lois Besson et SRU de 2000?” L’habitat saisi par le droit. Les virtualités de la loi Besson du 5 juillet 2000. *Etudes tsiganes*, Volume 15, Deuxième semestre 2001.
- Morelli, Sébastien. “Gitans et indésirables aux yeux du maire”. *Le Parisien*, March 24, 2003.
- Morelli, Sébastien. “Les nomades propriétaires seront expulsés”. *Le Parisien*, March 26, 2004.
- Morelli, Sébastien. “Une famille de nomades squattent devant la mairie”. *Le Parisien*, September 17, 2004.
- Odiard, Patrick. “Bidonvilles a Lyon: un moment d’emotion est si vite passe!”, *Alpil*, June 29, 2004, on the Internet at: <http://www.gauches.net/article1288.html>.
- Péto-Manso, Dany. “Droit de réponse”. *Géo*, No. 313, March 2005.
- Petrova, Dimitrina. “The Roma: Between a Myth and the Future”. *Social Research*, Vol. 70, No. 1 Spring 2003.
- Pivois, Marc. “A Orléans, des CRS pour toute réponse”. *Libération*, February 11, 2003.

Préfecture des Bouches-du-Rhône and Conseil Général des Bouches-du-Rhône. Schéma Départemental d'Accueil des Gens du Voyage dans le Département des Bouches-du-Rhône. March 1, 2002.

Préfecture de la Gironde and Conseil Général de la Gironde. Schéma Départemental d'Accueil des Gens du Voyage. February 2003.

Préfecture du Rhône. Schéma Départemental d'Accueil des Gens du Voyage du Rhône. April 2003.

Préfecture du Rhône. Schéma Départemental d'Accueil des Gens du Voyage du Rhône Annexes. April 2003.

Reyniers, Alain. "Les populations tsiganes en France". *Passarelles*, no. 6 Printemps 1993.

Reyniers, Alain, and Patrick Williams. "Permanence tsigane et politique de sédentarisation dans la France de l'après-guerre". L'habitat saisi par le droit. Les virtualités de la loi Besson du 5 juillet 2000. *Etudes tsiganes*, Volume 15, Deuxième semestre 2001.

Rothéa, Xavier. "France pays des droits des Roms? Gitans, "Bohémien", "Gens du voyage", Tsiganes...face aux pouvoirs publics depuis le 19e siècle". Lyon: Carobella ex-natura, February 2003.

Saint-Julien, Sylvette, Rapporteur. Rapport annuel Commission nationale consultative des gens du voyage, June 2000-June 2001. Ministère de l'Emploi et de la Solidarité, Octobre 2001.

S.O.S. Racisme. Bilan et perspectives des politiques publiques de lutte contre les discriminations raciales et ethniques dans l'accès au logement. March 21, 2002, on the Internet at: http://www.millenaire3.com/contenus/rapports/sos_racisme.pdf.

Weisberger, Laura and Annabelle Quenet. "Objet: expulsion de Roms à Choisy le Roi". December 3, 2002, on the Internet at: <http://montreuil.rrom.org>.

Zentner, Franck. "Les communes et l'accueil des gens du voyage: la loi no 2000-614 du 5 juillet 2000". L'habitat saisi par le droit. Les virtualités de la loi Besson du 5 juillet 2000. *Etudes tsiganes*, Volume 15, Deuxième semestre 2001.

UNHCR Kosovo. Update on the Kosovo Roma, Ashkaelia, Egyptian, Serb, Bosniak, Gorani and Albanian communities in a minority situation. June 2004, available on the Internet at: http://www.unhcr.se/Protect_refugees/pdf/Kosovo_minorities_June.pdf.

United Nations Committee on Economic, Social and Cultural Rights. Concluding Observations of the Committee on Economic, Social and Cultural Rights: France, 30/11/2001. E/C.12/1/Add.72.

United Nations Committee on the Elimination of All Forms of Racial Discrimination (CERD). Concluding Observations of the Committee on the Elimination of Racial Discrimination: France, 10/3/2005. CERD/C/FRA/CO/16.

United Nations Committee on the Elimination of All Forms of Racial Discrimination (CERD). Reports submitted by States Parties under Article 9 of the Convention, Sixteenth periodic reports of States parties due in 2002, Addendum, France, (15 March 2004). CERD/C/430/Add.4, 13 May 2004.

United Nations Committee on the Elimination of All Forms of Racial Discrimination (CERD). Summary Record of the 1675th Meeting. CERD/C/SR.1675. Sixty-sixth session, 22 February 2005, at 3 p.m..

United Nations Committee on the Elimination of All Forms of Racial Discrimination (CERD). Summary Record of the 1676th Meeting. CERD/C/SR.1676. Sixty-sixth session, 23 February 2005, at 10 a.m.

Vanderlick, Benjamin. “Une mondialisation par le Ban: Etude auprès des Rroms en bidonvilles sur l’agglomération lyonnaise depuis 2001”. Institut Lyonnais d’Urbanisme – Université Lumière Lyon 2, June 2004.

French Laws Cited

Note: All translations are unofficial by ERRC.

Constitution of 4 October 1958

Criminal Code

Decree of 16 February 1913 on public regulation for the execution of the Law of 16 July 1912 on the exercise of ambulant professions and rules concerning the circulation of nomads, Official Bulletin of the Ministry of Interior, February 1913.

Decree no. 70-708 of 31 July 1970 on the implementation of title 1 and various provisions of title II of Law no.69-3 of 3 January 1969 relating to the exercise of ambulant activities and to the regime applicable to persons circulating in France without a fixed domicile or residence, Official Journal 7 August 1970.

Decree no 98-246 of 2 April 1998 relating to the professional qualifications required for the exercise of activities provided in Article 16 of Law No 96-603 of 5 July 1996 Relating to the Development and Promotion of Commerce and Trades, Official Journal 3 April 1998.

Decree no. 2001-540 of 25 June 2001 relating to the composition and functioning of the Departmental Consultative Commission of Travellers, Official Journal No. 146 of 26 June 2001.

Minister of Interior, Circular No. NOR INT/D/02/00062/C, 14 March 2002.

Minister of the Interior, Internal Security and Local Freedoms, Minister of Social Affairs, Work and Solidarity, and Minister of Equipment, Transportation, Housing, Tourism and the Sea, Circular letter relating to departmental measures for the hosting of Travellers, March 11, 2003.

Minister of National Education, Circular No. 2002-101 of 25 April 2002 on the “Schooling of Traveller Children and Non-sedentary Families”.

Minister of National Education, Circular on: “Adapted Teaching - Application of the Reform of Adapted General and Professional Teaching in the Second Degree”, 19 June 1998.

Minister of National Education, Circular on “Adapted Teaching - Pedagogical Orientations for Adapted General and Professional Teachers in the Second Degree”, 19 June 1998.

Law of 16 July 1912 on the exercise of ambulant professions and rules concerning the circulation of nomads.

Law no. 69-3 of 3 January 1969 relating to the exercise of ambulant activities and to the regime applicable to persons circulating in France without a fixed domicile or residence, Official Journal 5 January 1969.

Law no. 90-449 of 31 May 1990 aimed at implementing the right to housing, Official Journal 2 June 1990.

Law no. 96-603 relating to the Development and Promotion of Commerce and Trades, Official Journal 6 July 1996.

Law no. 2000-614 of 5 July 2000 relating to the Welcome and Housing of Travellers (“Besson Law”), Official Journal 6 July 2000.

Law no. 2001-1066 of 16 November 2001 relating to the Fight against Discrimination, Official Journal 17 November 2001.

Law no. 2002-73 of 17 January 2002 on Social Modernisation, Official Journal 18 January 2002.

Law no. 2003-239 of 18 March 2003 for Interior Security, Official Journal 19 March 2003.

Law no. 2003-710 of 1 August 2003 on the Orientation and Planning of Municipalities and Urban Renovation, Official Journal 2 August 2003.

Law no. 2004-809 of 13 August 2004 relating to Local Freedoms and Responsibilities”, Official Journal 17 August 2004.

Law no. 2004-1486 of 30 December 2004 Creating a High Authority for the Fight against Discrimination and for Equality”, Official Journal 31 December 2004.

Urbanism Code

16. SUMMARY IN ROMANI

1. Ander

Khatar 2003, o Evropako Centro Pala Romane Xakaja/Ćaćimata phandlas pe te kerel zuralo monitoring pala Ciganongi, Phirutnengi taj Rromane migrantongi situacia ande Franca. Kado rodipe sikavela, ke e Ciganongi, Phirutnengi taj e Rromane migrantongi situacia areslas pe kriza ande palutne berša. Džikaj e Franca na pindžarel e minoriteten/ciknimatan, na pindžarela pe e Ciganikane taj Phirutne jekhetanimatangi identiteta taj šajimata, kaj te šaj grizin taj te inkeren pengi kultura, tradicia, trajosko/životosko drom taj e aver anglune kotora penge identitetako. But šel milă Ciganura taj Phirutne, kajso e francikane themutnenge aba but šele beršende dela pe, kadalenge na dela pe e egalone grizimasko fundamentalo ćaćipe taj butivar astarena lendar palpale taj hatărena/halovena hamisaripe maškar penge civilone, politikalone, socialone, ekonomikane taj kulturikane ćaćimata. Aba dolmut/ćirila si von tel-e zòr e thamănge, politikonge taj praktikenge so resena pe lengo kontrolo, represia, ekskluzia taj bilaripe/assimilacia, taj kado efektuila sako aspekto ande lengo sako-divesutno trajo. Akanutnes but thamă/zakonura sa ćhinde e droma e ciganonge taj phirutnenge te šaj astaren penge identitetake klidune kotora, taj von jekhvareste si o legalo ćaćikanipe e rasistone thanutne funkcionaronge te vazden represivo taj drakonikani mezúra, so aresena – taj vi tradena maj dur – pe ciganengo taj phirutnengo phandavipe sadekh khatar sa e kotora e francikane publikane trajoske taj sevimatange/servizonge.

Bute romen taj phirutnen našavena khatar jekh fòrosko raipe dži k-o aver, taj kodoleske naštik te ačhaven nići pe cikni perioda, soske pe sila pe zòr ćhudena len khatar e thana kajso bešena. Maj but francikani territòria ćaćimaste si phandle angla ciganura taj phirutne, nadikh e nasvalimaske, melale taj phandade thana so si garade mišto angla avere beštunenge jakha. Kadi situacia adēs si but dramatiko, kodolestar baro gin e ciganengo thaj phirutnengo patăla, ke e raimasko sa o aparato si mamuj lende, kaj te šaj mujalden a maj bare kotora lenge kulturako, vaj maj feder šaj kodolestar, ke kamena te phanden len zòratar khatar sa o francikano dostipe/societeta.

Sa kadă, e uní milă rromane migrantura pe francikani phuv aresena bi-manušikane taj kafka-ikane politikura, so maj anglal rodela te našavel sa e romen khatar e Franca. Von

bešena ande ćorrivane slum krujalimata taj maj butivar ćhudena len khatar e trašorne la-gera taj khera kajso e rroma bešena bi-permisiako, našavena len dži kaj aver forosko raipe khatarso pale našavdona. Avral kadala butivar astarena sila zór, azbavipe taj neglekcia taj kodolestar šaj te dikhel pe, ke lenge ćaćimata pharravena pe zurales sadekh ande sa e trajoske umala.

Pe avere vasteste naj seriozo publiko diskusia so džala pala ciganura, phirutne taj rromane migrantura. O efekto kadale zordimatango astarde kadale averikane administraciendar sas, ke o rasikano pustisaripe mamuj e ciganura, phirutne taj romane migrantura ande Franca bares zurajlas, pe aver rig jekhvareste sa khoslas lenge patívale integraciake seriozna šajimata, so sas te džan pala maškarthemutne manušíkane xakajenge thamã kajso vi e Franca si phandadi. Nivar na dine palpale mišto e anti-ciganistikane rasizmoske ande Franca, taj lesko publiko sikavipe kerdilas sako divesutno taj siklo ačhar so skepisajvela pe e sankciake sa e formendar. Akana arakhela pe e mamuj-ciganizmoske taj phirutnenge diskusiaki darutni klima kajso dela pe phuterdo than e anglikrisimatange/stereotiponge sar lengo šajutno bezexaripe, rodona illegalone droma te arakhen pokin/poćin, von si strene manuś, naj len higienia taj naj len pativ karing o dostipe. E politikake aktora dena dumo kasave rasistikane vakerimaske pe sako nivelu, taj kodo butivar arakhela pe pe thanutno/lokalu nivelu ande diskusie te keren pe ačhavimaske/tordārimaske thana e phirutnenge. E šerutne na informuin e populacia pala phirutnenge taj ciganonge legitim ćaćimata – so si sigurardo ande Francikani thami¹ – te ačhaven ande lengo foro, von feder šaj arakhen politikalo profito kana phenena e populaciake, ke e phirutnenge taj ciganenge invazie arešena ande lengo fòro, taj mothona pala sekuritetako, publikane trābako taj sastimasko riziko.

E problemongo kidipe so arakhlas o ERRC ande Franca ande pesqo rodipe šaj te ginaven/drabaren telal:

1.1 Dujto Klasake Themutne: E phirutne taj e ciganura na barrabarr astarena penge Bazikane, Civilone taj Politikane Ćaćimata/xakaja

E Franca si pre-pindžardi sar e vuna taj o lurdo e moderne demokraciako taj individualone xakajenge taj slobodiako, dži kaj but šel milã francikane themutnenge

¹ Specifiko Thami gin 2000-614 khatar 5 Žulaj 2000 pala Phirutnengo Xulajaripe taj Bešutnipe (“Thami Besson”), so sas paruvdo ando nevo thamāripe.

fundamentalno civilone taj politikane xakaja bares azbavena pe, taj kado niči agordel či ande varesavo protesto, taj na te liparas o publikano vazdipe kajso provokuisajle e Francikane Republikake anglune fundacie. Baro kotor kodole manušengo ande kala azbavimata si e ciganura taj phirutne, so sikavela, ke von si rasistikane azbavimata ande pengo xaraktero. E džene kas naj fiks khera vaj bešimaske thana, taj kajso bešena ande vurdona, trejlera vaj aver miškimaski vatra (maj but lendar si ciganura taj phirutne) musaj te arakhel pe lende special phirimaske dokumentura. Maškar e phirimaske dokumentura arakhena pe aver kategorije, taj sako sikavela aver nivelo pe policiako kontrolo. Džene ko naštik te den evidenca pala penge profesionalone aktivimata vaj regularo potin, musaj te nevären penge phirimaske lila (phirimaske karta) kaj e policiako ačhavdin vaj k-e gendarmery sako trinto čhon/masek. Džene ko naštik te sikaven penge phirimaske/cirkulaciake lila vaj ko naštik te den len angle pe nevāripe šaj te astaren krisarimaske sankcie, šaj lovenge no vi šaj te phanden len.

E manuša kas si kodola phirimaske lila numaj šaj te astaren pengo alosarimasko /votosarimasko čačipe, kana si pherde e trine beršengi perioda e “pašaldinimaski” k- o alome foro. Aver francikane themutne šaj te len kotor ande alosaripe kana pheren e šove čhonengi bešutnimaski perioda kaj varesavo lokalo raipe. Specialo programura kerena pe e manušenge bikhereske ko na bešena ande “vurdona, trejlera vaj aver miškimaski vatra” ko pale šaj te alon pheren e šove čhonengi perioda, kajso si phandle kaj varesavo foro vaj gav.

E manušengo gin kas si phirimaske lila “pašaldine” k-e varesavo foro vaj gav naštik te pherel (nadikh varesave non-standardone situacie) 3% e saste popula-ciako ando gav vaj foro. Soske von musaj te votosaren ande pengo foro vaj gav pašaldinimasko, kodolestar but ciganura taj phirutne kas si kodola phirimaske lila naštik te alon penge phiravnes ko brakhelas/ferisarelas/arakhelas lenge intereson, ke von naštik te keren maj but sar 3% e alosarne dženengo. Dured-ereste, e ciganura taj e phirutne si phandle khatar e politikane kotorlinimaske/participaciake aver forme. E funkcionara butivar na vakerena lenca vorta/direkt, vi kana e problemura si maj anglal ande publikosko gindo pala phirutne taj ciganura vorta. Generalo feder boldena pe karing “maškarne”, ko pala lengo gindo džanena taj hatārena/halovena paša “ciganura”. Vi kana kerena pe e konzultativone institucie kaj te keren pe kadala habisti/na čače konzultacie (sar e Departamentoske Konzultativone Komisie pala Phirutne so kerela pe ando sako Francikano Departamento), e phirutne taj e ciganura ando sako vaj sadekh ando

sako suro/kejzo/situacia numaj cerra/xari džene šaj te bešen pe komisie vaj lengo baš/glaso/hango numaj cerra pharipe inkerel.

1.2 Atako mamuj Trajosko Drom: Thamă, Politika taj Praktike pala phirutnengo taj ciganengo phirutnipe, ačhavipe taj pala lenge trajoske krujalimata

E ciganura taj e phirutne naštisaren te bešen pe maj baro kotor e Francikane phuvako. E zakonura ande but thamă so sas adaptuime akana efektivo phenena ke e ciganura naštik te bešen pe Francake phuvako maj baro kotor. Kadala si special: Artiklo 9 po Thami numero 2000-614 khatar 5 Žulaj 2000 pala Phirutnengo Xulajaripe taj Beštunipe (“Thami Besson”); i Thami khatar 18 Tirdaraj (3to čhon/masek) 2003 pala Andralutni Sekuriteta (“Sekuritetaki Thami); taj Thami numero 2003-210 khatar 1 Avgusto 2003 pala Foronge Raimaski Orientacia taj Planuipe taj pala Forongo Nevāripe (“Thami Borloo”).

Artiklo 9 ande Thami Besson vazdela pharo kikedipe, kajso e ciganura taj e phirutne naštik te ačhaven avral e indikuime thana, numaj ande nesave but specifikone situacie. Sa kade, but foroske raimata na dikhen pengo godorvalipe/obligacia pala Thami pe foronge raimata kas si buteder desar 5000 bešne te keren jekh “ačhavimasko than” e phirutnenge te šaj bešen pe varesavi vrama okhote, e raimata na vazdine kasave thana. Akanutne estimacie čhuvana o numero e ekzistuime ačhavimaske thanengo karing 6000, dži kaj patăna ke maj cerra 35 000 sas te aven. Andral e 6000 so arakhena pe, maj cerra desar lengi dopaš arešen e legalone ažukarimatan so si pala infrastrukturaki taj krujalimaski adekvacia.

E Sekuritetaki Thami so sas adoptuime ande Franca ande Tirdaraj 2003 inkerel jekh kotor – k-o Artiklo 53 – so krisarel e ciganon taj e phirutnen ko zumavena penge kulturako fundamentalo aspekto: phirutnipe. Kado artiklo phenela, ke kodo si kriminalo akcia, kana jekh grupa kamel te parkuil/ačhavel vi pe skurto vrama pe varesavo than, kaj kamen bešen:

- Pe jekh phuv so si e foroske raimasko so pasuil kaj peske phandlimata karing e Departamentalno Plano džamavdo pala Besson Thami;
- Pe jekh phuv so si varesave thanutne raimasko taj so naj ande Departamentalno Plano (kade e maj but forura kajso si maj cerra sar 5000 beštunne vaj si vi forura maj but sar 5000 dženenca taj von naj inkerde ando Plano);

- Vaj pe varesavo aver phuv (privato, themesko, regionalo, departamentalno), kajso naštik te sikavel pe evidenca pe permisia te bešen pe phuv, vaj o manuś kon las o ćaćepe te labārel i phuv naštik te sikaven i permisia.

Krisa pe oprune legalone phagerimata si pre-phare: śov ćhon phandlipe, vaj 3750 Euro sar lovengi kris taj vi śaj te len a manuśestar o tradimasko lil śaj dži pe trin berś.² Avral kadala, sako vurdon lino te kerel pe e illegalone aćhavimaski akcia (taj kodo si butivar e ciganonca ko cirdavena penge mobilna khera kadale vurdonenca) śaj te lel pe taj konfiskuil pe e rajendar, nadikh kana o vurdon si e manuśesko kher.

I Thami Borloo kerdas jekh lista biś-taj-efta francikane foronca kajso maj cerra sar 20,000 džene bešena, kajso e ciganura taj phirutne śaj te aćhaven pe varesavi vra-ma. But kadale bare francikane forondar si thana kajso e ciganonge taj phirutnenge but generacie bešenat taj kajso si len śaj familiake, socialone vaj profesionalone/butāke phandlimata.

Ćaćimaste e thana kaj so śaj te aćhaven e ciganura penge miśkimaske khera pe maj skurtone vaj pe maj lungone periodura si butenca maj cerra desar kadala legalone limitacie sikavena. Ćaćipnasa na numaj jekhe thaneske varesave kotora si phandle angla ciganura, no sadekh o sasto than, nadikh thana kajso sig śaj te nasvajven vaj na dićona. Butivar naśavena e familien khatar e thana kajso aćhaven, univar si te traden dēsenca/divesenca anglalso śaj te aćhon varekaj, taj kadala thana si pre dur khatar e thana kajso trubunas te aven.

E phirutnengo taj ciganengo palpaldipe pala illegalone evikcie ćorrardola khatar e francikane kriselinako bilaćho registro te davavel pativ e phirutnenge taj ciganonge fundamentalone ćaćimatange. O ERRC kidas jekhetane empiriake dimasberśa/adatura/podatke ande pesko rodipe so kerdas karing kado Themesko Raporto, taj kodo sikavela ke e francikane kriselina banges krisaren taj na resena penge legalone godorvalimata te śaj den than e phirutnenge taj ciganonge te aćhaven. Duredereste, e phirutnengo taj ciganengo angluno ćaćepe sar o vortome aśunipe taj e opoziciaki procedura si butivar phaglo khatar e pindźardi “mangipe procedura” so phutrela drom e krisitoreske te del avri jekh decizia bizo te śunel e dženem pe aver rig.

² Artiklo 53(1) taj Artiklo 53(2), Sarbarrimaski Thami.

E phirutne taj ciganura ko kamena te kinen penge simadi maladona bare pharimatenca specifiko misto “pre-empcia” kerdi lokalone funkcionarondar opral lengo kinipe – kodo si akcia so blokkuil e tranzakcia. Von bešena maj dur e dârasa, ke našaven len khatar o than kajso ačhon misto e but francikane thamã taj regulacie so bâres limitisaren e territoria pe soste e karavanura šaj ačhon legal, vi pe privatone phuva, taj kodo butivar čhivela pre phare krujalimata pe e uně linimaske šajimata.

1.3 Adekvatone Bešutnimasko Palpale Inkeripe e Phirutnendar taj Ciganondar

E ciganura taj e phirutne hatãrena pharo azbavipe ande pengo ćaciipe te avel len adekvato bešutnipe naj vastno lengo trajosko drom – kado kerela pe vi kana nomadiko vaj bešlo si; naj vastno nići von te bešen pe oficialone ačhavimaske thana vaj pe pengi phuv; naj importante von te si barvale taj len penge šukara khera vaj te si pre-ćorre taj te rodena socialo žutipe francikane kancelariendar. O fakto, ke von avena khatar jekh specifiko etniciteta, ačhol butivar korkorro e vorba e kancelarienge, kaj ći dena e phirutnen taj ciganon adekvato bešutnipe.

E uně thana kajso e familie šaj te ačhon generalo si but telal e standardura vaj pativipe. E ačhavimaske thana si vorta ulavde/segreguime khatar e lokalone populaciake aver džene. Von generalo bešena so dur so šaj khatar e normal bešimaske thana taj pe foronge raimaski maj durutni granica. Pe varesave thana e phirutnengo taj e ciganengo fizikalo segregacia kerel pe ćikale plajenca so krujal lela o ačhavimasko than, taj kade fizikalo čhinen len khatar e krujalimata. E ačhavimaske thana sistematikalo si čhivde/šute paša gunujenge plaja, than kajso grižin pala gunuja, fabrika so nasvalarel vaj pol-lucia kerel, pe motorenge vaj cirdenge/vozonge/trenonge drom, butivar tela sirma bare rundžetosa/ kurrentosa/strujasa/armosa. Maj butivar kadala ačhavimaske thana seravena pe phandlimaske thana desar pe bešimaske. Kado efekto lela pe e manušeske khatar kadale thanengo fizikalo vazdipe taj khatar o bešutnengo regularo kontrolo.

Vadže/inke/mek opral, e ciganura taj phirutne ando them, ko bešena pe phuv so si lengi, butivar inkerena lender palpale o paji, rundžeto/elektrika taj gunujesko ingeripe, vi kana si pre-nasvale džene vaj čhavorre ko bešena po than.

Nesave maj ćorre taj maj marginalizuime ciganura taj phirutne bešenas ande slum-ikane krujalimata bute deše beršenca pe thana kaj e funkcionara toleruisarde len. Garadindos khatar e populaciake aver džene taj total xasarindos e bazikane in-

frastrukturatar (sar o paji, rundž taj gunujesko ingeripe), kadala manuša butivar si avri čhivde/čhute e krujalimaske darake, soske paše arakhena pes e gunujenge plaja, thana kajso grižin e gunuja taj e fabrike so melaren o nem/lufto/ajero. Te džana pe kadal mahala/kvartela, šaj lel pe i impresia ke o manuš džala khatar o jekhto sundal/luma/sveto ando trinto sundal ande uni minutura.

E ciganonge taj phirutnenge diskriminaciake taj segregaciake forme si buhlarde kana dikhela pes pe e socialone kherango užul-linipe/vundžile-linipe so si e dženenge cerra lovenca (bušola pes “HLM”), džikaj e themesko zakono prohibitisarel eksplicito kasavi diskriminacia.

1.4 Diskriminativo taj Azbavimasko phiravipe e thamārarne/zakonoske šingalendar taj kriselinake funkcionarondar

Atakura khatar e šingale si regularo xaraktero ando trajo e francikane phirutnengo taj ciganengo.

E šingale maj butivar avena but džene, si lende marimaski rovli taj na murdarimaske puške. E našavimata pe sila, so si kerde sistematiko taj regularo, lena e forma e marimatango. Pašal, kana e šingale rodена varekas, kontroluil vaj arrestuil varekas maškar kaste si jekh cigano vaj phirutno, atunči/posle/atoska von džana pe sa e bešutne e thaneske sistematiko taj na numaj e individualone bidasles atakuin. Ande kala atakura policiako azbavipe butivar inkerel džungali vorba (maškar lende rasistikane), degradimaski griža taj rumusarena vi lenge butā so kinde lovendar e ciganura taj phirutne. Univar labārena vi puške ando trašorno drom taj vi marena dženen fizikalo.

E phirutne taj ciganura xana diskriminaciaki dukh vi khatar e kriselinake cancellarie. Maj butivar inkerena len ando phandlipe anglal so inkerel pes i kris ande rodimaski faza taj tel-i kris, taj dićola ke maj butivar inkeren len ando phandlipe angla krisa sar e gadžen (na-romen). But džene vakerena ke e krisa so phagena opral e ciganura si bi-vortimasko maj lungone sar e krisa so phagrena pe opral e gadže.

1.5 Diskriminacia pe Socialone taj Publikone Sevimatango Pàšeresipe

Šel milā ciganura taj phirutne si phandle avri e socialone ažitimaske but averikane formendar so šaj te aresen e francikane themutne te šaj den len zor te len kher

užule vaj te arakhen penge bešimasko than, soske e karavanura naj pindžarde sar bešutnimaski forma.

E phirutne taj e ciganura univar musaj te bolden pe karing parallel instituciengi drakhin so si numaj vaš lenge, kaj te šaj te len varesavo socialo ažutipe soske e themeske agenture naštik vaj či kamena te seven/servizuin len.

E phirutne taj e ciganura butivar naštik te den ande publikane thana, sar ande najtklubura, barura, magazinura/bolci/balame vaj restauracie. Či e sekurarimaske firme na sevena len butivar. Dži kaj si zakono so krisarel e diskriminacia pala simadāngo taj sevimatango dinipe, o ERRC či džanela nisavo suro, kajso dine sankcia, kana varesave phirutnes vaj ciganos na sevde.

1.6 Diskriminacia pe aresipe k-e butā

But ciganura taj phirutne kerena love andar butāke forme so phandena pen e phirutnipnasa. E thamā, politika taj e lokalone funkcionareng e akcie zurales phararen e ciganonge taj e phirutnenge te šaj ačhaven penge karavanura, vi pe skurto vrama ande majbut foronge raimata ande Franca, taj kodo dela pre-pagubaslo/bilačo efekto pe lengo šajipe te keren buti. Avral kodo, ande palutne dekada, e regulaciengo efekto sas, ke diskriminuisarde vi e butā so von jekhetane zumavenas te keren, taj kodoles-tar e ciganura taj e phirutne naštik te keren love ando kodo drom, so von alosarde. E phirutne taj e ciganura aresen pe diskriminaciasa, kana si vorba pala butā pokinasa, kajso dela pe lenge buti kajso si baro riziko pala lengo sastipe.

1.7 Phageripe e čačimasko k-e siklaripe maškar e phirutne taj ciganikane čavorra

E kotorlinimaske nivelura pala phirutne taj ciganikane čavorra si but telal, but čavorra na phiren k-i škola taj but džene lendar ternes pravdona latar. Si bare brigako, ke cikno gin e ciganikane taj phirutne čavorrengo opral e dešuduj berša phirena ande škola taj sa maj cikno gin si kaj šaj te pherel e maškaruni škola. Maj dureste, vi kana phiren ande škola, e ciganura taj e phirutne numaj but telutne standardosko siklaripe šaj te len, butivar na siklaren len te ginaven/drabaren taj te lekhaven/ramon. Misto regularone našavimata khatar pengo bešthan si pre phareste e phirutnenge taj e ciganonge te bičhaven penge čavorren ande škola. Foronge šerutne van školake

direktora butivar na dena drom e čhavorenge te phiren ande škola, dži kaj si len legalo ćaćipe taj obligacia te phiren. E segreguime siklarimaske averikane forme si e realiteta bute phirutne taj ciganikane čhavorenge, kasave si e segreguime škole, šegreguime klasura, mobilo školake kotora. Kadi situacia butivar agordola, soske naj nisavo fleksibilizmo taj “phurt” programura ande gadžikane školange sistemura taj naj adekvato adaptacia k-e phirutnenge specialone trebalimata (sar te kerel pe jekh efektivo sistema te rekorduil pe taj te molarel pe e čhavorenge školaripe ko phirena kaj te šaj džan maj dur penge školara pe jekh vatra pe kaver). Prebute phirutne taj ciganikane čhavoren bičhavena ande “Aplikuime Generalo taj Profesionalo Siklaripe” (“SEGPA”) maškarune škole so dena specifiko siklaripe e čhavorenge ko našti te siklon mišto misto socialo, kulturikane vaj intelektualone kauze/ača.

E dušle principlura ramome ando Cirkular No. 2002-101 pe 25 Grastornaj 2002 pe “Phirutne čhavorenge taj na-bešle famieliengo školaripe” arešen te vazden e ciganikane taj phirutne čhavorenge kotorliniipe ande francikani siklāripnaski sistema. Kadala principlura ačhile simbolikane patuma/pasura/krokura taj naj ćaćikane. Inovativoen iniciativure ačhon maj butivar pe lokalo nivelu taj e centralizuime koordinacia naštik te arakhel pe.

1.8 Thami Mamuj Diskriminacia

Ande palutne berša, kaj te del pe palpale pe Evropake progresura, line pe patuma te anaven jekh nevi thami mamuj e diskriminacia taj te lačhardol e ekzistuime thamāngo labāripe. Numaj cerra krisarimata šaj arakhen pe te dikhela pe o buhlipse e diskriminaciake problemako. O ERRC ċi džanel pe nisavo suro kajso varesavo legalo dženo sas krisardo pala diskriminacia mamuj phirutno vaj cigano perdal kala zakonura.

Dureder, e rama e civilone taj administrativone zakonengi te maren pe mamuj rasikani diskriminacia zurajli ande palutne berša. No ċi atunċi na inkerela sa e umala e trajoske sarso kamlola pe pala Francake phandlimata k-e internacionalone zakonura sar o ICERD.

Kado trubul te buhlardol maj dur te šaj inkerel aver ćaćimata: e justiciaki administracia, so inkerel e dženenge sekurarimaski protekcia, politikaki participacia, so inkerel o ćaćipe pe alosaripe, te alosardon, te len kotor ande guverno taj ande buti ande orsavu kotor e themesko, taj te avel barrabarr resipe k-e publikane sevimata;

te avel len o ćácipe te miškin pe taj te bešen maškar e themeski granica; o ćácipe te kiden pe ande pačasle bešimata taj organizacie.

1.9 Bimanušikano taj xasarimasko grížipe pala rromane migrantura

E Franca adoptuisardas drakonikani politika, so legalo šaj pućhel pe, karing e but milă rromane migrantura ko si pe laki phuv. Lengo maj angluno res sas te phutren drom e rromane migrantonge te mukhen o them. Kade e rromane migrantura hatărena, ke lenge ćácimata phagerdona sadekh ande trajoske sa e umala, so lela kumulativo taj seriozo efekto pala peste taj butivar bimanušikano taj xasarimasko grížipe. E strene rrom maj bute dromende bešena maškar ćorrivane krujalimata ande sigo vazdime lagera taj butivar pe sila našaven len vi khotar šaj e policiake atakosa so butivar zoratar džala taj vi but drom daraven pe rromende, roden len, mujalden taj phagren lenge simadă taj vi aversar azbavena len. Kana von zumavena te keren buti te šaj trajin/dživen peske (misalage bikinen luludă vaj žurnala, thoven e vurdonenge felăstri/džama, bašavena gila vaj mangena love), e policia sako drom azbavel len. Kodola so mangena love, šaj astaren bari krisarimaski sankcia, šaj vi pe sila našaven le e themestar. Bute ćhavorreng e ći dena o šajipe te resen k-o šiklăripe. De o milaj 2002 drastikano vazdipe šaj te dikhel pe ande rromengo našavipe e Francatar, vi legalone rromane migrantongo khatar francikani phuv.

Kerde pe kolektivone našavimata, so phagerdas maj bute kotora e thamăke, sar o Artiklo 4 ando Protokol 4 ande Evropaki Konvencia pe Manušikane Ćácimata.

Dikhindos maj dur, e rrom so mangena azilo xana diskriminacia te dikhena pe lenge šajimata pala bešutnipe taj socialo ažitipe, kajso but lendar musaj te bešen ande mahala taj khera bililengo.

O raporto khatar o ERRC agordola rekomendacienca so džana e francikane raimaske te akharen e cancellarien te pativaren penge phandlimata paš-e themeske taj sarethemenge manušikane xakajengi thami (ćácimatango zakono) taj te del pe efektivno reparacia e viktimonge. Pala kadale raportoske arakhimata, o ERRC mangel e francikane cancellarien te reaguin pe e avinde propozicie:

1. Te semnatin taj te ratifikuin e Ramaki Konvencia pe Selikane/Nacionalone Minorenge Brakhipe/Ferisaripe/Protekcia, taj te pindžaren e ciganon taj e phirut-

nen sar selikani minoriteta taj te khosen pengo cirdipe khatar artiklo 27 ando Maškarthemutno Pakto pe Civilone taj Politikane Xakaja.

2. Te len sigo patuma/pasura te pharraven e akanutni bikrisangi klima pe rasistikane vakerimata pala ciganura, phirutne taj e rromane migrantura taj te keren sar barr ke a mamuj-ciganikane vakerimata sigo taj zurales si sankcionime. Te dušlaren e francikane publikoske, ke kasave vakerimata na toleruin pe.
3. Publiko te pindžaren taj te jertisaren pala ciganongo taj phirutnengo phandlipe ande Iito Sundalesko Maripe (IISM). Te keren pe seravimaske barra pe e phurane phandlimaske lagerenge thana taj te bianen programura so serena pala ciganikane taj phirutne viktimura ande Francaki IISM politika. Den dumo e rodimaske so adudarel e phirutnengo taj ciganengo grizipe ando IISM.
4. Te keren sar barr, ke e ciganongi taj phirutnengi historia pe francikani phuv, informacia pala antropometrikane pustikelina taj lengo IISM phandlipe, si inkerde sar sumbor kotor ande siklārimaski kurrikula.
5. Te kiden statistika, phagerdi pala etniciteta, kaj te šaj kerel pe zuralo monitoring pala ciganongi taj phirutnengi taj avere minoritetikane grupangi situacia ande trajoske/životoske/vācake klidune umala sar: kotorlinipe ande politika, bešutnipe, siklāripe, dostimaske sevimata, sastimasko grizipe, vortimasko se-vipe, relacia e policiasa tmd... Kodo monitoring kamlola pe kaj te šaj arakhen pe e minoritetikane grupange problemura taj te džamaven pe adekvatone bilarimata. O monitoring trubula te kerel pe pala dimasberš brakhimaske taj vortome garadimaske principlura, so vazdela pes pe sistema, kaj sako pestar šaj phenel peski sel, taj sakoneske dušlo si te mothon soske kidel pe i informacia.
6. Te kerel pe specifiko rodipe kaj te dikhel pe e rasikane diskriminacienge gin taj frekvenca, so džana mamuj e ciganura, phirutne taj rromane migrantura ande sektoralone umala sar ando siklāripe, butāripe, bešutnipe (so inkerel o socialo bešutnipe), ande sastimaski griza taj ande socialone ažutimaske taj sevimatange programura. Kodo rodipe trubulas te del informacia pala manušengo numero ko sas krisarde misto rasi-kani diskriminacia kerdi mamuj ciganura, phirutne taj rromane migrantura.
7. Imediat te del pe palpale pe sa e rasatar diskriminativone taj azbavimaske aspektura ande “Thami gin 69-3 khatar 3 januari 1969 pala ambulantone aktivima-

tango zumavipe taj o režim so si pala manuša ko krujaren ande Franca bi jekhe kheresko vaj rezidencako phandle thaneste”.

8. Te arakhen pe taj te khosen pe e diskriminativone regulacie taj administrativone pharimata so cirdena palpale e ciganon taj e phirutnen te šaj len penge nacionalone identitetake karta.
9. Te eliminuin pe e diskriminativone krujalimata pala ciganongo taj phirutnengo alosarimasko ćačipe so vazdela pe khatar e Thami biandi pe 3 januari 1969, kodo inkerela e askeptura pala 3-e beršengi perioda e pašaldinimaski taj e 3% kvota e manušengi kas si kodola phirimaske lila taj šaj votosaren ande varesavo forosko raibe. Te keren pe pozitivone patuma te keren sar barr, ke e ciganonge taj e phirutnenge baša si mišto phiravde pe e francikane politikake trajoske sa e nivelura.
10. Te len pe patuma sigo te keren sar barr, ke e ciganura taj e phirutne šaj te zumaven pengo ćačipe te len kotor ande publikoski sama pe thanutno taj pe themesko niveli, so pasuil paš-o Artiklo 25 ando Internacionalo Pakto pe Civilone taj Politikane Ćaćimata taj paš-o UN Komisia pe e Rasikane Diskriminaciako Mujaldipe “Generalo propozicia XXVII pe diskriminacia mamuj rroma”. Te agorden vorta akana e ačhara, kajso lena godi pala lenge trebalimata taj interesura khatar maškarne gadže taj na korko e phirutnendar taj e ciganondar, te keren sar barr ke varesavo konzultativo trupo phutrel o drom e phirutnenge taj ciganonge pala lengo ćačo taj zuralo kotorlinipe.
11. Te len pe pozitivone patuma te keren pe krujalimata, so dena sar barr, ke e phirutne taj ciganura šaj bešen penge sar kamena, te bešena ande kherande vaj te bešena phirindos, mukj alon von sar kamen, taj kodo pasuila paša barrabarrimasko/egalitetako taj non-diskriminaciako principio.
12. Te sarbarraren (te sekuraren) ke e phirutne taj ciganura ko phirena, šaj te zumaven sa pengo ćačipe te miškin pe sar kamen taj o ćačipe te avel len lačo kher taj vi te brakhen len khatar našavipe pe sila pe zor.
 - Te khosen, akana taj na maj palal, Artiklo 53 taj 58 ande “Thami khatar 18 Tirdaraj 2003 pala Andralutno Sarbarripe” taj khosen vi Artiklo 15 ande Thami no. 2003-710 khatar 1 Avgusto 2003 pe “Forange raimatangi orientacia taj planuipe taj forongo nevāripe”.

- Te sarbarraren, ke kerena pe ačhavimaske thana ande foronge raimata ande sa o them, sar mangel pes ande “Thami no. 2000-614 khatar 5 Žulaj 2000 pala Phirutnengo Xulajaripe taj Bešutnipe” (dureder “Thami Besson”). Te keren sar barr, ke kadala ačhavimaske thana pasuin paš-e moraliteta, specifikiko paš kadala: sevimatango linipe, krujalimata taj infrastruktura; kaj si o than val šaj te bešel pe khote vaj van.
 - Te len pe pozitivone patuma te sarbarraren ke e ciganura taj e phirutne arenen pe bas/ dosta thana kaj šaj te ačhaven taj khote arakhena e moralitetake bazikane standardure.
 - Te kerel pe sar barr, ke e phirutnen taj e ciganon na bešarena pe territoria kajso arena len bilači sastimaski taj krujalimaski dar taj na rodel len e rasikane segregaciaki traš.
 - Te ačhaven e našavimatange ačhara so kerena pe sila mamuj ciganikane taj phirutne familie so ačhaven ande foronge raimata, kajso phagren e adekvatone bešutnimasko čačiipe.
 - Te keren sar barr, ke e thana kajso keren pe diskriminativone regulacie taj politika, kajso na mukhen e phirutnenge taj ciganonge te bešen, khote arakhel pe pherdi sankcia.
 - Akana pe kado vaxt te keren pe čačikane taj buharde konzultacie maj telal e ciganonca taj phirutnenca kaj te keren pe adekvatone bilarimata/solucie pe lenge bešutnimaske trebalimata, vi pe ačhavimaske thana taj vi pe lenge aver problemura so si len.
 - Sigo te keren pe alternativone bilarimata pe skurtone vramake ačhavimaske thana, kaj te del pe palpale pe phirutnenge taj ciganonge bešutnimaske trebalimata, sar te šaj vazden penge familiake thana.
13. Te keren sar barr, ke o čačiipe pe adekvato bešutnipe, so inkerela brakhipe mamuj našavipe zoratar, si pherdo garantuime e phirutnenge taj e ciganonge te ko kinena penge phuv.
- Te len sama, ke ande but thamă taj ande politika, so grizisaren pala phuva, forongo planuipe, taj pala resipe k-e publikani infrastruktura, te aven vi dosta zurale kotora pala ciganongo taj phirutnengo trajosko drom taj specifikone trebalimata, sar te šaj train pe pengi phuv ande karavano, taj kodo na agordel pe ande diskriminacia mamuj e jekhetanimaske džene.
 - Len sama ke e foronge raimata na parujen penge ‘pre-empciake’ zòra ando ilegalno drom, kaj te preventuin e phirutnengo taj ciganengo simadăko bikinipe.

- Te keren sar barr, ke del pe bešimasko than e ciganonge taj e phirutnenge, taj ande foronge regulaciengo labāripe dikhen pe mišto e fundamentalone manušikane čaćimata sar e adekvatone bešutnimasko čaćipe, e čhavorrengo siklāripe, e čaćipe k-e sastimaste taj o čaćipe kaj te na azbavel pe ando privato taj familiako trajo/dživipe.
 - Te prindžaren pe e karavanura sar bešutnimaski forma.
 - Te direktuin e lokalone kancellarien, kaj te del pe bi-adžukarimasko paji, rundžeto, kanalizacia taj aver bazikane krujalimata e familienge kaske kadala na den pe, phagerindos e foronge regulacie.
14. Te len pe pasura vorta akana, kaj te vazden pe e krujalimata ande phirutnenge taj ciganonge bešimaske thana pe etikake fundamentalone norme, taj te šerarel pe e dženengi bešutnimaski situacia, ko bešena but vaxt/vrama/ciros pe thana bidino svatosko e rajendar. Vaj te den pe aver bešimaske šajimata so pativaren e etikake norme. Sa e programura taj lengo čaćvaripe/implentacia trubul kondžardo/getosardo taj čaćvardo ande jekhetano godāripe e dine ciganikane taj phirutne familiange kotorlinimasa.
15. Te del pe sar barr, ke e rromane phirutne xutrena pherdi garancia pala bešutnimaske čaćimaske sa e aspektura, so inkerela peste e anglune trebalimata, sasto krujalipe taj bešutnimasko sarbarraripe/sekuraripe. Te kondžarel pe/getol pe politika godāsa po nivelo e departamentosko, regiako taj themesko so resela te del šukar bešutnimaske bilārimata e rromane phirutnenge, kon akana bešena ande lagera taj khera so von astarena bi e rajengo mukhipe. De akanara te ačhaven pe e sila-zorake našavimatangi praktika, kajso bičhavena e romane phirutnen khatar jekh foro dži k-o aver.
16. Te keren pe programura, so agorden e diskriminaciake taj segregaciake praktike, kajso e ciganura taj e phirutne naštik te aresen k-o HLM (socialo bešutnipe) taj te sekuraren e mamuj-diskriminaciake thamārimasko labāripe mamuj e džene, kon kerena kodi diskriminacia.
17. Te keren pe xurdikane taj lungone vramake rodimata pala sa e misala, kajso e policia phiravdas pe mamuj e ciganura, phirutne taj rromane phirutne ando bilačo drom, taj e bezexaslen te ingren k-o krisipe imediat taj te del pe kompenzacia e viktimonge. Te agordel pe e praktika, kajsp kolektivo džana pala grupa e ciganongi, phirutnengi taj e rromane migrantongi ande rodimata, kontrola taj arrestura taj vi e rasikane profilongi praktika.

18. Te keren sar barr, ke pherdo rodene pe e raportura pala rromane migrantongo azbavipe khatar i policia, taj kaj e policikiake funkcionara kon kerena bilačipe khatar pengi zor, kodo mišto krisarel pe.
19. Te lel pe adekvato programo, so sekuraren, ke na daraven pe manuša, kon šaj sas viktimura e thamäke funkcionaronge bilače grizimaske, vaj averčhendes te na ačhaven len te čhon vorba pe kris kana dukhaven len, sar kana e šingale keren te pokinen bezexenge love e džene, ko kamen te den vorba e rajenge pala pengi dukh.
20. Te kerel pe xurdikano rodipe pala ciganengo, phirutnengo taj rromane migrantongo krisarimasko grizipe, kaj te arakhen pe e diskriminativone praktike, taj te geton pe zurale programura so ačhaven kasave praktikon.
21. Te kerel pe sar barr, ke ciganura taj e phirutne barrabarr/egal aresen o socialo ažutipe. Te hatären e karavanon taj e miškimaske kheran sar bešutnimaske forme kana del pe bešutnimasko ažutipe, kajso e manuša ko bešen ande lende šaj astaren e bešutnimaske ažutimaske sa e forme so šaj len džene ko bešen ande bešutnimaske aver forme. Sar alternativa, kondžaren specifiko žutipe, kaj te keren sarbarr, ke e ciganura taj e phirutne šaj te le sa kodo nivelosko ažutipe pala bešutnipe so vi e aver francikane themutne.
22. Te geton pe specifiko užulimaske programura kaj te den zòr e ciganon taj e phirutnen, ko aver drom naštisaren te len užule, te kinen penge simadi.
23. Te keren pe buhlarde programura, so sarbarraren, ke e ciganura taj e phirutne šaj aresen pherdo taj barrabarr e socialone sevimata ande publikane viramlina/kancellarie, taj naj inkerde ande uladi sistema e socialone sevimatango. Te keren sar barr, ke sa e funkcionarra ande socialone sevimaske viramlina xutrena adekvato treningo te šaj aresen e ciganonge taj e phirutnenge specialone trebali-mata, taj kadala funkcionara te dikhen kodo sar kana si godorvale/responsibilone te ažutin e phirutnen taj e ciganon, kaj te xutilen barrabarr aresipe k-e socialone sevimata. Te roden pe e mothovimata, kaj e phirutnenge taj e ciganonge fajlura ingerde sistematiko khatar e themeske institucie ande varesave departamentura, taj te len pe adekvato patuma te sastären kadi problema.
24. Te sekuraren, ke e rromane migrantongo ćačipe k-o sastipe si pherdo garantuime, sar e šajimata te aresen a sastärimasko grizipe taj te bešen ando sasto krujalipe.

25. Te sarbarraren, ke sa pala diskriminaciake mothovimata mamuj phirutne taj e ciganura kaj te arešen e publikane sevimata, sar o sarbarraripe taj sar e publikane sevimaske vazdimata, sa rodēna pe taj adekvato krisaren pe taj sastāren e viktimongi dukh. O akanutno mamuj-diskrimināciako thamāripe pala kadi umal, pherdo trubulsas te lel pe vastende, taj te dušlarel pe sa e dženenge, ko dena publikano sevice, ke i diskriminacia mamuj ciganura taj phirutne na dikhel pe bikhančesko.
26. Te len pe pozitivona patuma, so sarbarraren, ke e phirutne taj ciganura šaj profituin barrabarr khatar pengo čačipe k-e buti. Te lel pe sama, ke e phirutne taj e ciganura šaj te ačhaven ande foronge raimata ando sa o them. Te vazden pe programura so sastāren o diskriminativo efekto e bute regulaciengo so si pala but butā opral phirutnenge taj ciganonge butāke šajimata, sar i Thami no. 96-603 “Pala šeftongo taj paruvimatango džāmavipe taj buhlaripe”. Te sekuraren, ke sa e diskriminaciake mothovimata - pala resipe k-e butā pokinimaske – pherdo roden pe taj sa e diskriminaciake misala adekvato krisardon taj e viktimura si kompenzuime. O akanutno mamuj-diskriminaciako thamāripe kamlol pe te le pe sa e vastende, dži kaj dušlarel pe sa e butārnenge, ke i diskriminacia mamuj ciganura taj phirutne či toleruin pe.
27. Te lel pe sama, ke e ciganonge, phirutnenge taj rromane migrantonge čavorra školake beršenca arešen k-o siklāripe ando na-ulavdo školako krujalipe.
- Te keren sar barr, ke mišto dikhel pe e čavorrenge čačipe taj obligacia te phiren ande škole kana keren pe e phirutnenge, ciganonge taj rromane migrantonge sila našavimata.
 - Te len pe pe phikende pozitivone akcie ando sa o them ando šerardo drom, kaj te lel pe sàma, ke šaj te len kotor e phirutnenge taj ciganikane čavorra ande škole vi kana phiren, taj te sarbarrarel pe/te sekurarel pe vi e siklārimasko durutnipe.
 - Te lel pe sàma, ke e lokalone funkcionarra sistematiko registruin e phirutnenge, ciganonge taj rromane migrantonge čavorren and lokalone škole, taj na te dikhen so vrama bešena von pe foroske raimaski phuv, taj kana e dada taj deja barem šaj den e trebalutne dokumentura imediat.
 - Xurdikanes te dikhen pe sa e dukhake mothovimata pala diskriminacia e phirutnenge, ciganonge taj rromane migrantonge čavorrendar ande školaki sistema, taj te sekurarel pe, ke ande kasave misala lena pe sa e vastende e krisarimaske patuma taj o mamuj-diskriminaciako thamāripe.

- Te del pe treningo pala mamuj-diskriminacia taj informacia pala relevanto mamuj-diskriminaciako thamãripe e siklãrenge taj školake funkcionarronge ando sa o them.
- Te inkren pe materiala pe ciganongi taj phirutnengi historia ande Franca ande školaki kurrikula sar mařkaruno kotor ande verver/diferentone siklimaske umala. Te inkeren e ciganon taj e phirutnen ande kasave materialongo get-osaripe taj te len sãma na te inkeren rasistikane anglikrisimata/stereotipura.
- Biadzũkarimasko te len pe patuma te agorden pe e ulavde siklãrimaske forme taj te siklãren e phirutne taj ciganikane ćhavorren ande savorrengi školaki sistema e avere raklorrenca. Kaj trubuna phurtake/podoske programura taj specifiko aũutipe, te keren sarbarr, ke e školande si sa so trubun pař-e programura, taj te lel pe sãma, ke kadala programura na paruvana pe p-i forma e ulavimaski/segregaciaki.
- Te den pe sa so trubun, te sekuraren, ke e phirutne taj ciganikane ćhavorra kon aresen a kollegiake berřa taj aćhile palal penge siklimasa te řaj xutren o trebalutno aũutipe ande škole savorrnge, taj numaj te bićhaven len ande Segpa škole.

28. Biadzũkarimasko te ćacvaren i Thami gin 2002-101 khatar 25 Grastornaj 2002 pala “Phirutne ćhavorrngo taj na-beřle familiengo siklãripe” ando řerardo drom ando sa o them.

29. Biadzũkarimasko te adoptuin nevo mamuj-diskriminaciako thamãripe so pasuil pařa akanutne Evroputne taj aver mařkathemutne kućimata, taj pasuin pe pařa řerala ande Evropaki Konvencia pala Manuřikane Xakajengo taj Mestimasko Brakhipe taj e Mařkathemutni Konvencia pala e Rasikane Diskriminaciake Sa e Formengo Peravipe. Specifiko řaravingos e avinde umala: e krisarimaski administracia, sar e dženenge sekuritetako brakhipe/feripe/protekcia; politikako kotorlinipe, sar o ćacĩpe te alon, te alosardon, te len kotor ando raibe taj ande publikani sãma pe sa e nivelura, taj te avel vi barrabarr resipe karing e publikane sevimata/servizura; o ćacĩpe te miřkin pe mesto/slobodo taj te beřen kajso kamen mařkar e themeske grãnicura; o ćacĩpe te kiden pe pãcasa kana taj sarso kamen taj te jekhajven.

30. Te sarbarraren ke o akanutno mamuj-diskriminaciako thamãripe si zurales ćacvardo. Te vazden e krisitorrenge taj prokuratorenge jakha pe rasikane diskriminaciake problemura taj e probaciake pharimata (te sikavel pe evidenca). Te

del pe xurdãrdi informacia e magistratonge taj e thamãrimaske funcionarronge ando sa o them pala neve mamuj-diskriminaciake regule taj pala lengo vastnipe/važnipe te le pe k-e vastende zurales. Te kerel pe jekh informaciaki kampanã so kamel te aresele e generalone publikos, kaj te vazdel e jakha pala Franckao mamuj-diskriminaciako thamãripe.

31. Te kerel pe sar barr, ke i “Bari Kancellaria vaš o màripe mamuj diskriminacia taj vaš barrabaripe” lela sas so trubul la, biumblavdipe taj kompetenca te šaj pherel pesko mandato.
32. Biadzukarimasko te ratifikuin Protokol gin 12 ande Evropaki Konvencia pe Manušikane Čaćimàta.
33. Te ačhaven pe e rromane migrantonge diskriminativone našavimata taj e kolektivone našavimata so aresele e rromane migranton.
34. Te šaj bolden pe e džene ko sas našade e Francatar illegàlo, taj te del pe kompensacia materiake, emociake vaj avere dukhake so kerdas o illegalo našavipe khatar i Franca pe sila.
35. Te ačhavel pe o diskriminativo grizipe e rromane migrantongo, so mangel azilo.
36. Te sarbarraren o pherdo labãripe e brakhimaske/ferisarimaske/protekciake kućimatange so si inkerde ande Geneva konvencia pala našadengo status, sar pala rromengo ko rodona azilo, na bisterindos ke e Unisarde Nacienge Komisarreski Kancellaria pala Našade (UNHCR) dušlãrdas, ke e našade si na numaj e manuša kon našen khatar e tortùra vaj khatar aver seriozo dukh vazde pe rasikani, etnikani taj patãimaski bãza, no ke e diskriminativone programura so kerena pe bi-silako šaj aresele pe našavimasko nivelo.
37. Pe maj ùce nivelura te del pe duma pala rasikani diskriminacia so kerel pe mamuj e ciganura, phirutne, rromãne migrantura taj avera, taj te dušlãrel pe ke o rasizmo na toleruil pe.