



EUROPEAN ROMA RIGHTS CENTER

1386 Budapest 62, P.O. Box 906/93, Hungary

Phone: (36-1) 413-2200; Fax: (36-1) 413-2201

E-mail: office@errc.org

<http://errc.org>

8 February 2005

WRITTEN COMMENTS

OF THE EUROPEAN ROMA RIGHTS CENTER

CONCERNING FRANCE

FOR CONSIDERATION BY THE UNITED NATIONS COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION AT ITS 66TH SESSION, FEBRUARY 21-MARCH 11, 2005

1. EXECUTIVE SUMMARY

The European Roma Rights Center (ERRC) respectfully submits written comments concerning France's compliance with the International Convention on the Elimination of All Forms of Racial Discrimination ("the Convention") for consideration by the United Nations Committee on the Elimination of Racial Discrimination ("the Committee") at its 66th session, February 21-March 11, 2005. The ERRC is an international public interest law organisation engaging in a range of activities aimed at combating anti-Romani racism and human rights abuse of Roma, in particular strategic litigation, international advocacy, research and policy development, and training of Romani activists. Since its establishment in 1996, the ERRC has established a reputation as the leading international non-governmental organisation engaged in human rights defence of Roma in Europe. Since 2003, the ERRC has been engaged in intensive research on the situation of Gypsies, Travellers and Romani migrants in France.¹ ERRC documentation

¹ Identity issues among the many communities regarded as "Gypsies" in France are complex. For the purposes of this document, "Gypsies and Travellers" refers to individuals and groups born in France, descended from groups regarded as associated with France, in France for very long periods of time, and/or otherwise distinguished from "Romani migrants", a term applied generally to persons regarded as "Gypsies" who are of recent arrivals in France. The category "Gypsies and Travellers" includes persons of diverse culture, frequently self-identifying as "Sinti/Manouche", "Kale/Gitans", "Roma" "Yenisch", "Travellers" or other. Such persons share the stigma of the long-standing racist stereotypes associated with "Gypsies" and "Gens du Voyage" (Travellers) in France, and therefore being frequently subjected to

about France, as well as additional information about the organisation are available on the Internet at <http://www.errc.org>.

The situation of Gypsies, Travellers and Romani migrants in France has attained crisis proportions in recent years. Anti-Gypsy sentiment has never been addressed well in France, and bans on racial discrimination existing under French law are rarely if ever applied when Gypsies, Travellers or Romani migrants are subjected to the severe harms banned under the Convention, notwithstanding widespread contentions that "racism is not tolerated in France". 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 achieving -- the exclusion of Gypsies and Travellers from nearly all elements of French public life and services.

The application of the combined provisions of a number of laws, policies and practices has very frequently been to drive Gypsies and Travellers from municipality to municipality, imposing a state of continuous forced circulation, and it has meant that recent Romani migrants suffer continual harassment by French police, and find themselves subject to expulsion *en masse* from France. Many Gypsies and Travellers believe that 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. At the same time, for a number of reasons particular to French public discourse, 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 dramatically inflame racial hatred against Gypsies, Travellers and Romani migrants in France, while simultaneously to damage seriously possibilities for their integration with full dignity, in accordance with international human rights laws by which France is bound. A summary of issues arising in France as identified in the course of ERRC research, follows:

As to Article 2 of the Convention, 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 for violators of the principle of equal treatment 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. The civil and administrative law framework for combating racial discrimination has been significantly reinforced in recent years. It nevertheless still does not cover all of the fields of life required by France's international law commitments, including those under ICERD. It needs to be further extended 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 association.

hostility and regularly to racially discriminatory harms. Many of these persons (Sinti/Manouche, Kale/Gitans, Roma) actually share an Indic origin, being descended from persons who left India around one thousand years ago. However, some do not. The common element binding all persons subjected to the treatment described in this document is anti-Gypsy/anti-Traveller discourse in France.

As to Article 3 of the Convention, Gypsies and Travellers in France suffer practices amounting to racial segregation. In particular, the existing halting areas for caravans designated for Gypsies and Travellers are generally situated as far away as possible from residential areas and at very limit of municipalities – as close as possible to neighbouring municipalities. Some sites are isolated from their surroundings via high concrete walls, which for many Gypsies, recall World War II-era detention camps. Some sites are surrounded by mud embankments high enough to ensure that the caravans are not visible from outside of the halting area. In addition, Traveller and Gypsy children are frequently schooled in segregated schooling arrangements. This situation often results from a lack of flexibility and “bridge” programs in the mainstream school system and 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 schools.² The clear guidelines set out in Circular No. 2002-101 of 25 April 2002 on the “Schooling of Traveller Children and Non-Sedentary Families”(25 April 2002 Circular),³ which, if applied, might significantly improve the situation of Traveller and Gypsy children in the education system, have remained to date more of a symbolic step forward than an actual one. Innovative initiatives remain highly localised and centralised co-ordination is sorely lacking.

As to Article 4, 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 law⁴ -- to stop in their town, mayors and local councillors 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. A case that attracted a certain amount of media attention involved racist remarks made by the former Prefect of Vaucluse, Mr. Paul Girot de Langlade, in October 2002 at a public meeting with other elected officials in his Department.⁵

² SEGPA schools provide specialised education designed for children experiencing learning difficulties due to social, cultural or intellectual reasons (for example an I.Q. less than 80). SEGPA schools aim to prepare students for a professional qualification. Students normally spend four years in SEGPA, and the best students go on to professional high schools ("lycee"), where they can get a professional diploma. Those students who stop their schooling after the SEGPA receive no diploma.

³ The 25 April 2002 Circular sets out guidelines for increasing the participation of Gypsy and Traveller children in the French education system. It also provides for the use of positive measures, where necessary, in order to better adapt schooling to a travelling lifestyle.

⁴ 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.

⁵ Mr. Paul Girot de Langlade reportedly 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 it.... Don't worry, I know how to behave with respect to this subject. We already found people with eight 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."

The violent turn that the anti-Gypsy hate speech has taken is also well illustrated by a tract distributed by a group calling itself the "Front for the Liberation of Provence" that calls on the population to take up arms and "exterminate" Gypsies.⁶

As to Article 5(a) of the Convention, 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. There are widespread allegations that criminal sentencing results in disproportionately longer sentences for Gypsies than non-Gypsies. When Gypsies and Travellers are victims of a crime, this situation is reversed, with police often not treating their complaints seriously. In addition, Gypsies' and Travellers' right to a fair trial, including an adversarial procedure, is frequently infringed through the use of a so-called "request procedure" in instances of their eviction from sites on which they halt.

As to Article 5(b) of the Convention, Gypsies and Travellers in France suffered discriminatory and abusive conduct by Law Enforcement Officials, in violation of "the right to security of person and protection by the State against violence or bodily harm" protected under the Convention. 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, in violation of France's international law obligations,⁷ 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 includes 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.

As to Article 5(d)(i) of the Convention, the application of the regulations requiring circulation documents is problematic. In fact, 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 (in March 2002, a total of 156,282 persons held such documents). There are various categories of circulation documents, each implying different levels of police control. Those 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 (in March 2002, 70,484 persons). Persons caught without circulation documents or who fail to present them for validation may be subject to penal sanctions, including fines and imprisonment.

As to Article 5(c), 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

⁶ This tract placed in mailboxes in the Southern French region of Provence Alpes-Côte d'Azur states: "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."

⁷ In particular Article 11 of the International Covenant on Economic, Social and Cultural Rights.

mobile shelters” allowing them to vote after a *six month* period of links with a given municipality as well. Additionally, French Travellers and Gypsies experience arbitrary limitations on participation in public life. The number of travelling persons "attached" to a municipality cannot exceed (except in certain non-standard situations) 3% of the town's population. As they are required to vote in their municipality of attachment, this means that the many Travellers and Gypsies who hold circulation documents may have considerable difficulties in 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 voice generally carries little weight.

As to Article 5(e)(iii) of the Convention, most 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. At issue are especially 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").

Under the Besson Law, municipalities with more than 5000 inhabitants are obliged to establish a "halting area" (*aire d'accueil*) for Travellers to temporarily reside. On the whole, municipalities have not created such halting areas. It is generally agreed that there has been no noticeable increase in halting areas since the Besson Law was adopted in July 2000. Current estimates put the number of existing halting areas at around 6000, of the 35,000 that are the minimum believed to be required. Of the 6000 existing places, less than half meet the legal requirements pertaining to infrastructure provision (that such sites include adequate electricity, water, toilets, showers and other basic amenities) and environmental adequacy (that sites be located in areas appropriate for human residence – in urban areas or nearby, and not near environmental health hazards or segregated from the rest of the population).

The Security Law, adopted by France in March of 2003, includes a provision -- at 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 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 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 3750 Euros and the suspension of a person's drivers license for a period up to three years.⁸ In addition, any

⁸ Article 53(1) and Article 53(2), Security Law.

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 completely off-limits for temporary halting areas for Gypsies and Travellers. 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.

Existing halting areas for the most part do not meet basic standards of decency. They generally are characterised by one or more of the following:

Segregation

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 very limit of municipalities – as close as possible to neighbouring municipalities. Some of the older sites are cut off from their surroundings via high concrete walls, which for many Gypsies, recall World War II-era detention camps. Some of the more recent sites are surrounded by mud embankments high enough to ensure that the caravans are not visible from outside of the halting area.

Unhealthy and Polluted Environments

Halting sites are frequently located in areas presenting significant environmental hazards posing serious risks to their health. They are systematically located near garbage dumps; waste treatment plants; high-risk or polluting factories; freeways or railroad tracks, with high tension wires frequently overhead.

Lack of Basic Infrastructure

Although 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, facilities are also extremely dirty and in a state of disrepair.

Surveillance and Control

Sites in which there is a turnover of residents are subject to intense surveillance. There is generally a metal bar blocking access to the site and in order to stay residents must check in with the manager and provide proof of their identity. On some older sites, the manager's building is like a tower overlooking the site, and in some halting areas there are even surveillance cameras. Many of the older stopping areas have adopted a style of management that closely resembles policing. For example, near Rennes and Nantes are a series of small sites that are managed by the municipal police – the police open and close the gate for residents.

Very few municipalities are currently putting forward proposals for developing new halting areas on their municipalities, despite their obligations under the Besson Law. The few proposals being submitted indicate an intention to perpetuate the inadequate conditions of existing halting areas.

Moreover, those Travellers and Gypsies who seek to buy property frequently 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, or impose arbitrary restrictions on land use. Furthermore, Gypsies and Travellers throughout the country who live on their 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 they have been "tolerated" by officials. Hidden from the rest of the population and totally lacking in basic infrastructure (such as water, electricity and sewage removal), these 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 going from the first world 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.

As to Article 5(e)(iv) of the Convention, hundreds of thousands of Gypsies and Travellers are excluded from a range of different types of social assistance available to French citizens in order to aid them in renting or acquiring housing, due to the non-recognition of caravans as a form of housing. Travellers and Gypsies are also sometimes obliged to turn to a network of parallel institutions catering only to them, in order to benefit from social assistance as State agencies are unable or unwilling to serve them. In addition, 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.

As to Article 5(e)(i), many Gypsies and Travellers earn their livelihood through forms of work connected with travel.⁹ 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 upon them 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.

As to Article 5(e)(v) of the Convention, 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 beyond 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.

⁹ Primarily work at markets, as door-to-door salespersons and in building and public works, such as electrical work, plumbing, gardening, roofing and other skilled manual labour.

Traveller and Gypsy children are also refused admission in schools by mayors or school directors, despite their legal right and obligation to attend school.

Significantly, as France does not recognise minorities, Gypsy and Traveller communities are denied the recognition of their identity and possibilities to promote and preserve their culture, traditions, way-of-life and other fundamental aspects of their identity.

Finally, Romani migrants have been subjected to inhuman and degrading treatment, as 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 so serious 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 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 of 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 present document does not aim to address all issues Gypsies and Travellers experience in France of relevance to the Convention. The purpose of this submission is to present the results of ERRC research in a few areas relevant to the Convention, as complementary to the information provided by the French Government in its report to the Committee. Following a general introduction, the present submission details concerns in the following areas:

- **Anti-Discrimination Legislation**
- **Racist Speech/Expression**
- **Interference with Freedom of Movement and Private and Family Life**
- **Issues Related to the Provision of Identity Documents**
- **Arbitrary Limitations on Participation in Public Life**
- **Discrimination in Access to Adequate Housing**
- **Discriminatory and Abusive Conduct by Law Enforcement Officials**
- **Discrimination against Gypsies and Travellers in the French Judicial System**
- **Discrimination in Access to Social Assistance**
- **Discrimination in Access to Public Services**
- **Violations of the Right to Work**
- **Violations of the Right to Education of Traveller and Gypsy Children**
- **Subjecting Romani Migrants to Inhuman and Degrading Treatment**

2. DETAILED DISCUSSION

2.1 General Remarks

The ERRC's research on the situation of Gypsies and Travellers in France reveals that 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 rights, political participation, access to personal identity documents, access to justice, housing, employment, education, public places, services, and social insurance. Furthermore, they 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 alarming degree of marginalisation and exclusion. In addition, 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.

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.¹⁰

Racist and discriminatory laws and policies cannot be too openly directed at an ethnic or cultural group in France as they would then manifestly contradict the French Constitution. Thus they are generally disguised – albeit thinly. Discrimination tends to be indirect, with laws and policies on their face appearing 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 the policy-maker, Gypsies and Travellers in practice often find themselves excluded or harmed by what are said to be "neutral" laws. In addition, discrimination and racism are concealed within a

¹⁰ This interpretation of the equality principle is not in accord with the well-established general principle of equality in international law, which includes both equality before the law and equal protection of the law. As stated in the Explanatory Report of Protocol 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms: "This is a fundamental and well-established general principle, and an essential element of the protection of human rights, which has been recognised in constitutions of members states and in international human rights law... While the equality principle does not appear explicitly in the text of either Article 14 of the Convention or Article 1 of this Protocol, it 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."

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* judgment 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.

cloud of hypocrisy. French policy-makers have been particularly creative in finding ways to single out Gypsies for negative treatment without doing so directly. Thus racist laws and policies are not aimed at an ethnic or cultural group, but instead at a “way of life”.

2.2. Racist Speech/Expression

Open expressions of racial hatred against Gypsies, Travellers and Romani migrants are commonplace throughout France, by prominent political personalities (national and local), the media, as well as ordinary citizens. 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 5000 inhabitants under the “Law no. 2000-614 of 5 July 2000 concerning the welcome and living conditions (habitat) of Travellers” (the so-called “Besson Law”). Mayors and other 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.

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

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 stopping 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, and this doesn’t interest anyone!

This comment was met by applause from parties of the center and right.¹¹ This statement caused no significant response from other Senators or the French media. The Senator himself benefited from immunity from all forms of disciplinary action.

The ERRC is unaware of any cases in which the persons responsible for such speech met with sanctions – either legal through the application of existing criminal legislation or administrative. For instance, in one of the few cases that have come before the French Courts, on October 2002, Mr Paul Girot de Langlade, the Prefect of Vaucluse, made the following remarks about Travellers at a public meeting with other elected officials in his Department:

¹¹ Complete record of Senate Debates 31 July 2002, on Internet at: <http://www.senat.fr/seances/s200207/s20020731/st20020731000.html>.

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 evacuate 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 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.

The Prefect was not subject to any disciplinary sanctions. He was reportedly castigated for his statement by Mr Sarkozy, the then-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.

He was charged under article 32 of the Law of 29 July 1881 on the Freedom of the Press with "public defamation towards a group of persons on grounds of their origin or belonging or non-belonging to an ethnicity, nation or race". However, he was exonerated by the Correctional Tribunal of Paris due procedural reasons, as a result of the supposedly imprecise nature of the complaint. An appeal against this decision was also unsuccessful.

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" incites to violence. 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 aren't able to. Take up arms and exterminate this vermin up to the last of them – no pity – men, women, children and babies.¹²

2.3. Interference with Freedom of Movement and Private and Family Life

A large number of French Gypsies and Travellers experience systematic violations in the exercise of their freedom of movement and non-interference in private and family life. To a large extent these violations are consequences of the application of the "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". 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).

¹²The 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 had received no response. The complaint seems to have been filed without further action.

Those falling under the scope of this law are obliged to carry special circulation documents. There are various 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 station or gendarmerie for validation every three months. Those who are able to provide proof of regular revenue, but are not enrolled on the List of Trades or Registry of Commerce must present their circulation documents (circulation booklets) for validation every year. Those who are enrolled on the List 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. Of these, 70 484 had circulation cards, 9689 had circulation booklets, and 76,109 had special booklets.¹³

Failure to fulfil the obligations set out in the Law of 3 January 1969 falls within the domain of criminal law. Thus, persons who travel internally in France without the appropriate circulation document in their possession may find themselves subject to 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 1500 euros) and imprisoned for between 10 days and a month.¹⁴

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.

¹³ 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".

¹⁴ 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 gendarmerie 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.*" [emphasis added]. These requirements with respect to circulation documents also violate Article 2, paragraph 2 of Protocol 4 to the ECHR. Although they are provided by law, the serious interference they entail with the freedom of movement of many Gypsies and Travellers cannot 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 Article 8 right to private and family life placing them in violation of this article as well.

Physical characteristics 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.¹⁵

2.4. Issues Related to the Provision of Identity Documents

Obtaining a national identity card is legally a 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. 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; 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.¹⁶ However, those falling under the law of 3 January 1969 are formally precluded from benefiting from this procedure.¹⁷

2.5. Arbitrary Limitations on Participation in Public 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.

This discrimination arises from Law of 3 January 1969, which provides that those with circulation documents may only exercise their right to vote after a 3-year period of attachment to a given municipality.¹⁸ This is considerably longer than all other French citizens who are able to vote after 6 months of residence in a given municipality. Those 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.¹⁹ Once again, despite on its face

¹⁵ 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.

¹⁶ For details please see: <http://vosdroits.service-public.fr/particuliers/ARBO/FXPAP101.html?&n=Vacances.%20loisirs&l=NX19&n=Voyage%20%C3%A0%20l'%C3%A9tranger&l=NXVAL700&n=Papiers%20n%C3%A9cessaires&l=NXVAL701&n=Carte%20nationale%20d'identit%C3%A9&l=NXFAP101>

¹⁷ 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.

¹⁸ Article 10, law of January 1969.

¹⁹ 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

applying to all persons with “circulation documents”, this rule in fact has a disproportionate impact upon Gypsies and Travellers and as such results in racial discrimination.

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 who might represent the specific interests of their community. According to this Law, those with circulation documents may vote in the municipality that they select as their “municipality of attachment”.²⁰ However the number of persons who may be “attached” to a given municipality may not exceed 3% of the town’s population. If the town has already fulfilled its quota of persons with circulation documents attached to it, others can be refused (unless the Prefect makes an exception).²¹ Evidently, this means that those Gypsies and Travellers without a fixed domicile or residence can never elect a representative, as they will not constitute more than 3% of the vote in a given location, unless so permitted by the Prefect. No alternative arrangements exist in order to provide this population with the possibility of electing representatives. 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.

Gypsies and Travellers also find themselves cut off from other avenues of participation in public affairs. Numerous representatives of 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 “representative” 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.

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

Illustrative of this situation is the limited role of Gypsies and Travellers in the development and implementation of the Besson Law. They have been largely excluded from the procedures for developing the Departmental Plans that set out key decisions such as where “halting areas” for

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.

²⁰Their 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; obligation of national military service.

²¹ 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.

Travellers are needed, how many places are to be created in each, the infrastructure and type (duration of stay permitted). None of the Travellers whom the ERRC met on existing stopping areas or who stopped in unauthorised locations had been consulted in the Development of 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 have not carried out direct grassroots consultations with Travellers and Gypsies themselves.

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”.²² A Decree sets out a list of 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 not possible, amongst persons qualified as a result of their knowledge of Travellers”.²³

The result in practice is that in the majority of Commissions, at most two or three persons on the Commission actually come from Traveller or Gypsy Associations. Their minority voice tends not to carry much weight on the Commissions.

A National Consultative Commission for Gypsies and Travellers functioned from June 2000 to the end of 2002. It was composed of: elected officials (10); representatives of different Ministries (10); representatives of Travellers named by the Minister responsible for social affairs (10); qualified persons named by the Minister in charge of Social Affairs (10). A number of Travellers who had participated in this Commission told the ERRC that Travellers and Gypsies were but a minority on this Commission and they questioned the representativity of some of the persons nominated for the 10 places for representatives of their communities. A new decree was passed on 24 November 2003 re-establishing this Commission, however its members had not been selected as of the date of this submission.

²² “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.

²³ Décret no 2001-540 du 25 juin 2001 relatif à la composition et au fonctionnement de la commission départementale consultative des gens du voyage.

2.6. Discrimination in Access to Adequate Housing

2.6.1. Arbitrary Restrictions on Freedom of Movement/Inadequate Housing

Despite existing international obligations to facilitate the Gypsy and Traveller way of life, 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.

ERRC 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 stopping anywhere has become a near impossibility. When they stop, they generally find themselves breaking the law and living in precarious, unhealthy and segregated conditions. And they are constantly evicted from even 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. In addition, large portions of the territory have become legally or factually off-limits for Gypsies to stop or reside, with risks of severe criminal sanctions if they do so. This means that when Gypsies and Travellers wish to live a lifestyle that preserves their culture and identity, they may find themselves prosecuted or threatened with criminal acts.

Paradoxically, Gypsies and Travellers also encounter considerable difficulties in 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. 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 Travellers are not taken into consideration, these laws have a disproportionate negative impact upon them.²⁴ The result is that there is no place for Travellers and Gypsies to live in their caravans within municipalities. 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 facing the risk of eviction from their property. They also frequently continue to be denied water and electricity, even when individuals are critically ill.

²⁴ Such laws are a classical example of indirect racial discrimination. In its General Policy Recommendation No. 7, the European Commission against Racism and Intolerance defines indirect racial discrimination as follows: “cases where an apparently neutral factor such as a provision, criterion or practice cannot be as easily complied with by, or disadvantages, persons belonging to a group designated by a ground such as race, colour, language, religion, nationality or national or ethnic origin, unless this factor has an objective and reasonable justification. This latter would be the case if it pursues a legitimate aim and if there is a reasonable relationship of proportionality between the means employed and the aim sought to be realised.”

2.6.1.A. Territory Legally Off-Limits for Gypsies

The combined impact of 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 ("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").

The Besson Law obliges all municipalities of more than 5000 inhabitants to establish a "halting" (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 of such halting areas, and in which towns. These Plans were to have been completed within a period of 18 months from the official publication of the Law²⁵ (by 5 January 2002) and each town involved was then to have equipped and made available one or more stopping areas on its own or in co-operation with other municipalities within a period of two years (by 5 January 2004).²⁶ However, in a Circular dated 11 March 2003²⁷, each Department was given a further delay of one year to approve the Departmental Plan. And, recently, 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 fulfill their obligations (thus where both delays apply, the deadline for completion of welcome stopping areas is 5 January 2007).²⁸

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 welcome 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 caravans, either for camping (Article L 433-1 of the Urbanism Code) or as the permanent housing of their users (Article L 433 -3 of the Urbanism Code). This article reflects the restrictive spirit 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. Article 9 provides mayors with the possibility of limiting the stopping of caravans to a controlled area -- and banning it from elsewhere in their municipality.

The majority of Gypsies that the ERRC encountered in France view the Besson Law with an anxious eye. The restrictive aspects of this Law, reinforced by subsequent legislation, have transformed it from something which could ensure that Gypsies and Travellers are able to

²⁵ The Law was officially published on 6 July 2000.

²⁶ Article 1(3), Law of 5 July 2000.

²⁷ Circular issued by the Ministers of the Interior, Social Affairs and Equipment.

²⁸ See Article 126. 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.

continue to lead a travelling lifestyle into something perceived as a significant threat to this lifestyle.

The restrictive aspects of the Besson Law were considerably reinforced and extended by the “Law of 18 March 2003 for Interior Security” (Security Law). The prospect of the passing of this law brought thousands of French Gypsies and Travellers to 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 the wartime Vichy period, 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.

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 stopping areas. Article 53 of this Law 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 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. 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 parked on private land when this parking is deemed to threaten public health, security or peace. 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.

The penalties for the above crimes are severe: six months imprisonment, a fine of 3750 Euros and the suspension of a person’s driver’s license for a period up to three years.²⁹ 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.

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 official debates leading up to its adoption.

Another law adopted on 1 August 2003, makes a list of twenty-eight French cities with less than 20,000 inhabitants completely off-limits for Gypsies to stay.³⁰ These are cities in which at

²⁹ Article 53(1) and Article 53(2), Law of Interior Security.

³⁰ This figure was provided by Minister Jean-Louis Borloo, ‘Minister delegated to the City’ during the Senate debate on the Law 23 July 2003.

least half of the population lives in areas qualified as “sensitive urban zones” (ZUS).³¹ Article 15 of Law no. 2003-710 of 1 August 2003 on the “Orientation and Planning of Municipalities and Urban Renovation” (Borloo Law) frees these cities from their obligations under the Besson Law. 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, evidently, 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 “welcome” Travellers is thus justified as a means of keeping out a population that is deemed to exacerbate tensions in an already delicate situation. This law 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.

It is 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 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.

2.6.1.B. Territory Factually Off-Limits for Gypsies

In fact, the available spaces for Gypsies to stop their caravans for shorter or longer periods are considerably fewer even than 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.

On the whole, municipalities have not applied the provisions of the Besson Law that require them to create welcome stopping areas. It is generally agreed that there has been no noticeable increase in places since the Besson Law was adopted in July 2000. Current estimates put the number of existing places at around 6000, of the 35,000 that are the minimum believed to be required. According to Joseph Charpentier, President of the *Association Nationale et Européenne S.O.S. Gens du Voyage*, of these places 3000 are in inappropriate locations (such as near garbage dumps). He told the ERRC that he was not sure that there were even 2000 places that meet the norms.³²

The difficulties for families to find places to stop have been exacerbated by a new form of urban architecture that has been used across the country. Large boulders, cement posts, mounds of mud, trenches, and metal gates, block or surround fields or empty lots in order to stop

³¹ 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.

³² *ERRC interview* with Joseph Charpentier, October 9, 2004, Bobigny.

caravans from entering. The ERRC noticed such obstacles in every part of the country that it visited.

Gypsies and Travellers are also forbidden entry to the majority of the nearly 11,000 camping sites in France. Most sites no longer openly say that they are off-limits to Gypsies. Instead, their rules indicate that they do not permit “double axle” 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 conducted a number of interviews with campsite owners and managers as to the nature of these bans. In all cases, the owners and/or managers indicated that the bans were intended to keep away Gypsies and Travellers.

2.6.1.C. Systemic Forced Evictions

Families find themselves constantly evicted from places they stop, sometimes forced to drive for days before they are able to stay somewhere, and then these sites are often far from the place they need to be and in which conditions are far below standards of decency. And, even from these sites, they are soon evicted.

Travelling throughout France, the ERRC was alarmed at the number of Gypsies and Travellers living in a highly unstable situation – constantly evicted from place to place. The ERRC visited a number of large cities, including Paris, Bordeaux, Lyon, Toulouse and Marseille. In all of the cities, the situation was the same: hundreds of families “travel” around the outskirts of the city and nearby towns searching for some place to stop.

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 they are entitled to invest considerable efforts into preventing Gypsies and Travellers from staying in their municipalities, while not establishing any halting areas. Thus, despite their own non-compliance with their obligations to develop an area for Gypsies and Travellers to stop, they nonetheless forcibly evict Gypsies and Travellers temporarily residing 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 assist in keeping out Gypsies and Travellers through carrying out “preventive actions” such as blocking the path of caravans, thus making it impossible for them to enter a field or lot, or by escorting them to the limit of the municipality and effectively expelling them to the next town.

2.6.1.D. Unhealthy, Polluted and Segregated Areas

The only parts of French territory, outside of the very few designated stopping areas, where Gypsies 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. Caravans 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 furore amongst local officials and residents.

The example of the city of Toulouse is illustrative. When the ERRC visited in March 2004, there were only 60 designated spots available for short-term halts. These were largely insufficient to meet the needs of the estimated 500-600 mobile homes (between 2500 – 3000 persons) travelling around the city in need of places to stop. The only other place in the city that mobile homes were able to remain 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 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. Driving along one of the freeways that surround this disaffected site, one can 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. Frequent characteristics of halting areas include:

Segregation

They are consistently segregated from the rest of the local population. They are generally situated as far away as possible from residential areas and at very limit of municipalities – as close as possible to neighbouring municipalities. Some of the older sites are cut off from their surroundings via high concrete walls, which for many Gypsies, recalling detention camps. Some of the more recent sites have built mud hills high enough to ensure that the caravans are not visible from outside of the “welcome area”. For instance, in the Department of Haute-Garonne, such mud hills surround the halting areas of St. Jean l’Union, Castanet, St. Rhins and St. Torrens.

Unhealthy and Polluted Environments

They are mostly located in areas presenting significant environmental hazards posing serious risks to their health. They are systematically located near garbage dumps; waste treatment plants; high-risk or polluting factories; freeways or railroad tracks, with high tension wires frequently overhead. The sites themselves generally look like parking lots, with any greenery sorely lacking.

Lack of Basic Infrastructure

Although 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 facilities are also extremely dirty and in a state of disrepair.

Intense Surveillance

Sites in which there is a turnover of residents are subjected to intense surveillance. There is generally a metal bar blocking access to the site and in order to stay residents have to check in with the manager and provide proof of their identity. On some older sites, the manager’s building is like a tower overlooking the site, and there are even surveillance cameras. Many of the older stopping areas adopted a style of management that closely resembled policing. For example, near Rennes and Nantes are a series of small sites that are managed by the municipal police – the police open and close the gate for ‘residents’.

Very few municipalities are currently putting forward proposals for developing new halting areas on their municipalities despite their obligations under the Besson Law. The few proposals being made indicate an intention to perpetuate the inadequate conditions of existing halting areas. 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 center, sometimes placed so that the residents will use the services of the neighbouring municipality rather than their own.

2.6.1.F. Fears Concerning Efforts to End the Culture of Travellers

Travellers fear that even if the Besson Law would be fully implemented by municipalities, this will still mean the end of their culture of travel. Besides being forced to reside in “designated areas” with indecent living conditions, Travellers also fear that there will be too few halting areas. These fears are based on the very real problem of underestimates in Departmental Plans as to the required number of places.

A lack of consultation with Gypsies and Travellers themselves as to their actual needs also means that most halting areas will not provide an appropriate response to families housing needs. Too often Gypsies and Travellers are seen through stereotypical categories of “nomad” and “sedentary” which do not reflect the reality in which families move through nomadic and sedentary periods connected with family, religious and economic factors. Families’ requirements also 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 time limits after which families are kicked out.

The design, rules and regulations of halting areas have also for the most part not taken into adequate account needs connected with lifestyle and work of families. This situation will for instance 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 with whom the ERRC spoke therefore 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.

2.6.2. Discrimination Against, Forced Eviction of, and Prevalent Substandard Living Conditions among Travellers and Gypsies who Buy Land

Travellers and Gypsies encounter considerable difficulties in buying land. Their attempted purchases are often “preempted” by municipalities. According to French law, in every sale of property, municipalities are entitled to preempt sales. Although they are only legally allowed to do so for reasons of “public utility”, in practice when municipal officials realise that a Gypsy or Traveller is the potential buyer, they systematically exercise their right of preemption. Most often this is illegal, but in order to challenge local officials families would have to go to Court, and most are not able or willing to do so. Travellers and Gypsies are further hindered in their ability to purchase property through the near impossibility for them to obtain loans. In order to receive loans individuals generally need a fixed residence and permanent salaried work, which is not the case for the vast majority of those Travellers looking to purchase property. When they do manage to purchase property, Travellers and Gypsies frequently still experience the threat of forced eviction as well as harassment by local officials.

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 stopping 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).³³ Furthermore, municipalities may also make use of their police powers relating to public order and health to forcibly evict persons living in caravans.³⁴

According to French law, violations of urban regulations constitute penal infractions that can be punished with fines of up to a sum 300,000 Euro and, in the case of repeated offences, imprisonment of up to six months.³⁵ 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 eviction 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.

Gypsies and Travellers who live on their own property also frequently continue to live in substandard conditions – often without water and electricity. 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.

In the cases the ERRC documented, families were generally refused access to the local water or electricity network by the mayor on the grounds that the land on which they reside is not zoned for “construction”. Zoning regulations tend to be given priority over human rights considerations. Access is denied even to families with children or individuals who are critically ill and require electricity and water for medical treatment.

This response ignores the fact that the many instances of Travellers and Gypsies who buy land not zoned for construction is itself 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 the very difficulty for Travellers and Gypsies to find any place to buy due to preemptions. It ignores the fact that it is virtually impossible for Travellers to benefit from loans, and 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

³³ See especially Article 443-4, 443-9, R443-3 and R443-10 of the Urbanism Code.

³⁴ See articles L.2213-1 and following, General Code of territorial collectivities.

³⁵ Article L480-4, Urbanism Code.

options, such as rental, between travelling and stopping on designated areas and buying private property.

2.6.3. Inadequate Living Conditions of Settled Gypsies and Travellers

Gypsies and Travellers experience serious violations of their right to adequate housing even when they live on a permanent basis in a given location. Many of the poorest and most marginalised Gypsies, those who could not afford to buy their own land, settled in areas in areas 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.

These areas are characterised by severe environmental hazards, such as garbage dumps, waste treatment plants, and high-risk polluting factories tend to be nearby. Rats roam freely about the sites presenting additional health risks. Residents lack basic infrastructure, such as running water, electricity, and toilets.

An illustrative example is an area known as *Clos de la Pioche* in Avignon, a site housing approximately 50 caravans (200-300 people). The site is located between two sewage treatment plants, a freeway and a railroad track. On the day of the ERRC's visit, there was an intense, noxious odour in the air that 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 that drains into the stream. Some of the families took the ERRC to their lots (close to the stream) where the odour, resembling toilets that haven't been cleaned for many years, was so strong as to be almost unbearable. Besides the smell of sewage, the families are also plagued by rats, especially at night. They live without hot water, washing with water from a basin. The electricity supply is also far below basic needs. The children are frequently ill.

2.6.4. 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 social housing meant for those with low income (so-called "HLM"), despite national legislation explicitly forbidding such discrimination. 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 figure amongst those living in particularly poor conditions (a factor which should according to existing regulations give them priority for social housing).

2.7. Discriminatory and Abusive Conduct by Law Enforcement Officials

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. Police abuse during these raids frequently includes insults (including racist remarks), degrading treatment and damage to property. It sometimes also includes the use weapons in a threatening manner and physical ill-treatment of individuals.

The most common form of abusive police raids occur during forced evictions. These raids follow a similar pattern across the country. Armed police officers generally arrive without warning in the early hours of the morning (typically around 5:00 or 6:00 AM). They wake up residents by banging on their caravans with their fists, sticks 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 out in their night clothes. They are ordered to immediately leave the site on which they are “illegally” residing. Treated as criminals, the Travellers and Gypsies are considered guilty of having stopped their caravans on a site not “designated” for them.

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 stop in their caravans, police raids also undoubtedly also serve to discourage the travelling lifestyle.

Abusive police raids also frequently occur when police carry out searches, checks or arrests involving a Gypsy or Traveller. Systematically, police do not simply search, check or arrest a given Gypsy or Traveller. Instead they collectively target all of the occupants of a given site. Large numbers of police arrive dressed in combat gear, and surround the site. They brandish their weapons in a threatening manner and order all residents out of their caravans. Once again racist insults are frequent, and there are instances of abusive use of weapons and physical ill-treatment. These raids, 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.

Discriminatory profiling of Travellers and Gypsies seems to be widely practiced by the French police in carrying out controls on vehicles. Many Travellers and Gypsies reported that they are specifically targeted by police for checks on their car papers. Sometimes a group of Travellers can be stopped repeatedly during a single trip. Or police carry out the checks just outside of a place of residence of Gypsies and Travellers, or even at the site they are residing.

2.8. Discrimination against Gypsies and Travellers in the French Judicial System

The prevailing racist stereotypes that Gypsies and Travellers are thieves and delinquents, also translates into discriminatory treatment by judicial authorities. When they are accused of a crime, they are handed down disproportionately longer sentences. 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. When Gypsies and Travellers are victims of a crime, the situation seems to be reversed. The ERRC received numerous accounts of police not treating complaints by Gypsies and Travellers seriously.

Although no comprehensive study has been carried out on the treatment by the French judiciary of cases involving evictions of Travellers by municipal authorities in instances in which municipalities have not fulfilled legal obligations to provide halting sites, empirical data gathered by the ERRC indicates that French courts rule inconsistently in such cases. Many Courts uphold the rights of Gypsies and Travellers to reside temporarily 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, and even when the evictions are carried out in an abusive manner. Thus there is no certainty for Travellers and Gypsies that a costly and time-consuming judicial

procedure will be resolved in their favour, even when municipalities and the police seem to have been acting in clear violation of the law.

Gypsies and Travellers right to a fair trial, including an adversarial procedure is also frequently infringed through the use of a so-called “request procedure” in instances of their eviction from sites on which they halt. This is a non-adversarial procedure whereby a judge may issue a decision without hearing the other party, and may order all urgent measures necessary, when the circumstances require that the decision is not taken in an adversarial manner. When this procedure is used it means that before being evicted the Travellers 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.

2.9. Discrimination in Access to Social Assistance

French Gypsies and Travellers are victims of openly discriminatory treatment in the area of social assistance. Hundreds of thousands of Gypsies and Travellers are excluded from a range of different types of social assistance available to French citizens in order to aid them in renting or acquiring housing. These include special credit rates, “personalised housing assistance” (l'Aide Personnalisée au Logement -- "APL") and a monthly housing allocation that adds significantly to the available social welfare package (l'allocation logement -- "AL"). These forms of aid are not available to persons who live in a caravan as caravans do not qualify as housing as it is defined under these various forms of assistance.

There is a significant amount of financial assistance that is nonetheless targeted towards the “housing” of Travellers and Gypsies. It is, however, devoted to the creation and management of designated stopping areas and the “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 public or private entities involved in the creation and management of designated stopping areas. This has long been the approach of the French authorities to the social assistance needs of Gypsies and Travellers related to housing.

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. To the extent that these associations offer personalised support to Travellers and Gypsies complementary to the State and chosen by the individuals concerned, they fill an important role in facilitating Gypsies’ and Travellers’ access to different forms of social assistance. However, to the extent that these associations in fact *replace* the State and create a parallel social system for Travellers and Gypsies, they contribute to their social segregation.

In practice, it seems that 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. Travellers and Gypsies therefore need to turn to these specialised "Friends of Traveller Associations" in order to access social assistance.

ERRC field research indicates that 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 Association that provides assistance to Gypsies and Travellers. The ERRC believes that this has occurred in a number of other Departments as well.

2.10. Discrimination in Access to Public Services

The refusal to provide services to Travellers and Gypsies appears to be a common practice. Insurance companies across the country have recently been removing Gypsy and Traveller clients from lists of clients. They also refuse to take on new Traveller and Gypsy clients. In addition, the ERRC received reports from Travellers and Gypsies across the country of public places, such as nightclubs, bars, stores and restaurants, refusing to allow them to enter their establishment or to serve them.

Discrimination in the provision of a good or service is a crime covered by French penal legislation. When this refusal is committed on premises open to the public or with the intent to deny entry, then the penalties five years imprisonment and 75,000 Euros fine. Despite this legislation, the ERRC is unaware of cases where the establishments concerned were penalised for refusing service to Travellers and Gypsies.

2.11. Violations of the Right to Work

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 with whom the ERRC met who earn their living by offering the public goods and services almost universally believed that their economic success depends on their ability to hide their identity.

The laws, policies and actions of local officials that are making it increasingly difficult for Gypsies and Travellers to stop their caravans, even temporarily, in many municipalities in France, are also having a detrimental impact upon their ability to work. Many Gypsies and Travellers earn their livelihood through forms of work connected with travel. Whether selling on markets, offering various services, undertaking seasonal agricultural work or any other form of economic activity, the ability of many Travellers and Gypsies to earn a living depends upon their ability to find places to stop their caravans in locations in which they have economic possibilities.

French Gypsies and Travellers find their opportunities for self-employment restricted due to the discriminatory effects various measures have had upon them. Over the last decades, increasing regulation of various occupations commonly exercised by Gypsies and Travellers have made it increasingly difficult for Gypsies and Travellers to earn their living in the manner that they choose. Problems stem from the lack of consideration given to the specific way of life and situation of Gypsies and Travellers.

For instance, a law passed in 1996 created stricter regulations concerning professional qualifications required in order to exercise a range of businesses, 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.³⁶ Recognition of an adequate level of qualification to practice these professions can take the form of academic certification³⁷ or proof of three years of professional experience exercising that occupation.³⁸ Exercising one of these occupations without official recognition of the required qualifications may be sanctioned by a range of penalties including a fine of up to 7620 Euros).³⁹

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, although 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. 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.

Travellers and Gypsies also experience discrimination in obtaining salaried employment. In fact, the anti-Gypsy and Traveller climate has become so hostile in recent years that even for work that Gypsies and Travellers have traditionally carried out, they are now being refused. Gypsies and Travellers seem to constitute a particularly favoured workforce for jobs that present health hazards and companies that wish to avoid strict health and safety regulations. For instance, Jose Brun of the Gypsy Association Regards told the ERRC:

I have a cousin who worked in a nuclear power plant, we say the “Central Chinon La Loire”...They like Gypsies there. The work has health risks, so they get to do work that others don't want. A lot of Gypsy families live in the area – it was originally an agricultural region. They essentially provided the workforce... The nuclear power plant doesn't hire directly. It has recourse to an interim employment agency in order to hire Gypsies. My cousin transported radioactive nuclear waste and cleaned things in the zone within the security perimeter. When you aren't literate, there are things that you don't know. You don't economise on your health. There are cases with many Gypsies there, who have problems with their thyroid. My cousin, in a few months gained an enormous amount of weight. We have other friends who had to have thyroid operations – they also worked in the nuclear power plant... The managers identify that part of the public who won't come with banners; an easily manipulated population. For the nuclear power plant it's an ideal workforce.

³⁶ Article 16 of Law no. 96-603. A detailed list of these occupations is set out in the Annex to Decree no 98-246 of 2 April 1998 "List Concerning the Occupations Entering within the Scope of Activities" mentioned in 1 of Article 16 of the Law of 5 July 1996.

³⁷ This can be a certificate of professional aptitude, a diploma of professional studies or another diploma or title accepted to be of equal or superior level.

³⁸ 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.

³⁹ Article 24 Law of 5 July 1996.

According to Jose Brun, this is in no way an exceptional situation. Gypsies are often hired for high-risk jobs, especially on demolition sites. Companies also often subcontract to families in order to recuperate metals.

2.12. Violations of the Right to Education of Traveller and Gypsy Children

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 beyond 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.

Recent ERRC research indicates that despite the instructions of Circular No. 2002-101 of 25 April 2002 on the “Schooling of Traveller Children and Non-sedentary Families” (25 April 2002 Circular), when they travel, it is often extremely difficult for Gypsies and Travellers to overcome barriers to enrolling their children in schools.

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. Numerous mothers nonetheless informed the ERRC that mayors or school directors frequently refuse to accept their children. Many families are afraid to request the enrolment of their children in schools for fear that their children will not only be refused, but, as is often the case, that they will also be evicted from the municipality.

In addition, the sheer uncertainty (constant evictions) and inadequate conditions (environmental hazards and lack of infrastructure) of their existence turns the possibility of school attendance into a mere illusion for many. Furthermore, 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. These include segregated schools, segregated classes and mobile truck schools catering only to Traveller children.

A large number of Gypsy and Traveller children receive their schooling in mobile truck schools. This is particularly the case for those who travel frequently, whether by choice or as a result of repeated forced evictions. The very existence of these schools bears witness to the degree of exclusion of Gypsy and Traveller children from ordinary schools. They are an ad hoc solution provided primarily by non-governmental organisations 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 instability created by the actions of local officials and the police who continuously evict families.

The mobile truck schools in effect provide a minimal level of schooling for children who are otherwise excluded from the education system. They do not have the resources available nor the environmental conditions to provide full and equal education to the children benefiting from their services. 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. When their children are refused by local officials, 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, these mobile truck schools nonetheless remain segregated, minimal forms of schooling. 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.

Another form of segregated educational arrangement concerns so-called "SEGPA" secondary vocational schools. It is widely acknowledged that amongst the minority of Gypsy and Traveller children that continue their education after the age of 12, a disproportionate number attend schools for "Applied General and Vocational Education" ("SEGPA"). These schools provide specialised education designed for children experiencing serious learning difficulties due to social, cultural or intellectual reasons (an I.Q. less than 80). SEGPA schools aim at preparing students for a vocational qualification. Students normally spend four years in SEGPA and the best students go on to high schools ("lycee"), where they can achieve a diploma. Those students who stop their schooling after the SEGPA receive no diploma.

Students are oriented to these schools based on the decision of a Commission⁴⁰ 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.

The root of the problem apparently lies with the inadequate schooling of children at an early age. Various persons with whom the ERRC spoke about this issue also emphasised that the French Education system is designed in such a way that if a child does not fit the traditional mould, he or she is directed into various specialised paths that at best lead to vocational diplomas. There is a general lack of options for children who do not fit the norm. As a result, Gypsy and Traveller children are often channelled into SEGPA and most drop out before the end or stop after the four years. As a result, they receive no diploma.

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 co-ordination 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. 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 continuity in the schooling of children who travel. But there is no indication of a co-ordinated approach by the Ministry of Education to incorporate such methods into ordinary schools. Instead it seems that initiatives remain dependent on local will, which, to say the least, is not always present.

⁴⁰ Commissions de circonscription du second degré (CCSD).

2.13. Subjecting Romani Migrants to Inhuman and Degrading Treatment

Non-citizen Romani migrants currently in France for the most part began arriving in the early nineties following the fall of the Communist regimes in Eastern and Central Europe. They are estimated to be at most several thousand. A majority are from Romania, however there are also a fair number of persons from the countries of former Yugoslavia, and smaller numbers from other countries of Central and Eastern Europe.

The French State has adopted an incoherent and inhuman policy towards these Romani migrants. Its principle aim has been to encourage the Roma to leave the country without carrying out a collective deportation of all of them, which would evidently violate human rights standards in too blatant a manner. Thus the Roma experience extreme violations of their rights in almost all fields of life, with cumulative effects so serious as to arguably amount in many cases to inhuman and degrading treatment.

Roma migrants live in conditions more reminiscent of slums in a developing country than the neighbourhoods on the outskirts of French cities in which they are located. For most 'home' is an unauthorised camp, in which families live in rundown caravans or in ramshackle shacks 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 garbage disposal, is completely lacking.

At a national level, the French authorities have until now refused to find a coherent and humane national solution to the provision of Roma on French territory. Instead, each Prefect is left to handle what is perceived purely as a problem to be pushed away. Influenced by local authorities and inhabitants, the solution thus far pursued is evicting all persons occupying sites without authorisation as soon as possible. The overwhelming majority of municipalities seem to have adopted a short-sighted "not in my backyard" policy, deciding that the best response to the extreme conditions of Romani migrants living on their municipality is simply to evict them. The occasional municipality (such as Achères, Choisy le Roi, Fontenay Sous Bois, Lieusaint) has accepted to house and integrate a certain number of families on their territory. However, this is an exceptional situation benefiting very few families.

The ERRC received reports of particularly violent and abusive evictions conducted by police, resulting in destruction and loss of property and considerable trauma. An even more frequent practice is for police to indirectly encourage Roma to leave a site "of their own volition" through a policy of constant threats, searches, destruction of property, and harassment.

Romani migrants in France, regardless of their administrative status, do not have the right to work. The vast majority receive no State assistance and have to find a means of survival. Only those Romani migrants officially recognised as asylum seekers receive minimal state assistance for a limited period of time, however as there are periods where families receive nothing, or what they receive is insufficient, even asylum seekers sometimes have to find other sources of income. Very few Roma seem to find work on the black market. More try to make a living through selling flowers or newspapers, washing car windows or playing music. Many resort to begging. The French authorities, however, seem determined to make even minimal survival in France, short of turning to theft or prostitution, as difficult as possible by effectively waging a campaign of harassment against Roma who carry out these activities.

Every Romani migrant with whom the ERRC spoke, with the exception of one woman in her seventies, stated that they experienced regular harassment and abuse by police while begging.

The ERRC documented testimony indicating many different forms of abuse, including racist insults, stealing money, throwing away money, destruction of official documents, beating, abusive detention, and various forms of humiliation. In addition, arrests are frequently followed by deportation orders on the grounds that the persons do not have sufficient resources for their stay in France, even if they are legally residing on French territory.

Beggars may also be subject to severe penal sanctions, including deportation, according to new penal code provisions contained in the "Law of 18 March 2003 for Interior Security" (Security Law). These provisions in effect mean that when a child or teenager is with a parent begging, the parent can be charged with exploiting begging of a minor. Even if the parent is not present with the child, the fact that they cannot prove other means of earning a living may be sufficient for them to be charged with exploiting a minor for begging. Roma who beg can also be charged with "aggressive begging".

Until recently, persons resident on French territory without a residence permit who had limited financial resources were able to access a system of State Medical Aid (AME), providing them with free medical care. However, changes to this system in December 2003, requiring 3 months of uninterrupted presence on French territory in order to be eligible to benefit from AME, have meant that many Roma are now no longer able to access this medical coverage. Even those that are legally able to access AME encounter difficulties accessing it in practice due to establishing a "domicile" for this purpose.

The ERRC encountered very few children of Romani migrants able to attend school. In the camps and squats ERRC researchers visited, the children were generally denied this right, despite their and their parents' desire to attend school. Non-schooling seems to be due to various reasons, including refusals by mayors or an unwillingness on the part of the Department of Education to provide the necessary means. Reasons for refusals are not always clear, with authorities placing the blame on each other. The living conditions of families also make it difficult for parents to send their children to school. Constant evictions mean that children can be effectively pulled out of school when they do manage to attend.

Since conclusion on 30 August 2002, by France and Romania, of an agreement providing for the return to Romania of all Romanian citizens in an irregular situation in France, there has been a dramatic increase in Prefectoral deportation orders (APRF) without an adequate examination of each individual situation.

It is not only Romanian Roma on French territory illegally, but also those legally on French territory who are deported. 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 Roma who are well within this time-limit are nonetheless expelled by French authorities on the grounds that they do not have sufficient resources for their stay. Once expelled, Romanians risk penal sanctions under Romanian legislation that can result in a prison term them being unable to leave Romanian territory for up to five years.

Collective deportations have also 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. For example, a collective expulsion took place on 28

September 2004.⁴¹ 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 ERRC encountered dozens of asylum seekers from former Yugoslavia living in makeshift shacks without any basic facilities, and without State assistance of any sort. Once a person's asylum request is accepted, they should in principle be housed in Centres for Asylum Seekers (CADA).⁴² 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,⁴³ where they are also provided with food and some social assistance. Others are provided a temporary housing allocation or housed in hotels. Some are simply not provided with accommodation and have to find their own shelter. A disproportionate number of Romani asylum seekers find themselves in this situation. For instance, in the Lyon area, ALPIL⁴⁴ organisation estimates that there are approximately 500-600 Romani asylum seekers and 90% of them are living in slums and squats.

2.14. Anti-Discrimination Legislation

In recent years, in response to European developments, dramatic steps have been taken to introduce new anti-discrimination legislation and improve the application of existing legislation.

French criminal law 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.⁴⁵ In addition, persons "disposing of public authority or carrying out a public service mission" are criminally responsible for discrimination consisting in refusing a benefit accorded by law.⁴⁶

These provisions have long been criticised as more symbolic than effective in providing remedies to victims of discrimination, in part because so few persons are ever sentenced under them. In recent years, there have, however, been improvements in the application of these provisions. Nonetheless convictions remain few as compared to the scope of the problem of racial discrimination.

For instance, official data indicates that in 2001, there were a total of 7 convictions for discrimination in the offer or provision of a good or service on grounds of origin, ethnicity, nationality or race, and in 2002 a total of 24. With respect to employment (offers, hiring, and

⁴¹ In a press release the Ministry of 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.

⁴² Centre d'Accueil pour Demandeurs d'Asile.

⁴³ Centre d'Accueil pour Demandeurs d'Asile.

⁴⁴ Action pour l'insertion sociale par le logement

⁴⁵ See articles 225-1 through 225-4 of French Penal Code.

⁴⁶ See Article 432-7 French Penal Code.

firing) in 2001 there were a total of 6 convictions and in 2002 a total of 2 convictions for discrimination on grounds of origin, nationality, ethnicity or race.⁴⁷

Although ERRC 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 they will not lead to results. However, those who did were clearly discouraged by the police from pursuing their complaints and were informed by judicial authorities that their case had been filed without any explanation given as to the reasons.

In response to Directive 2000/43/EC France has recently introduced new anti-discrimination legislation into its civil and administrative law in certain fields. The Law of 16 November 2001 "relating to the fight against discrimination" prohibits both direct and indirect discrimination at different stages of the labour process, from training to dismissal. 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, and also provided for a sharing of the burden of proof.

Furthermore a law adopted on 21 December 2004, significantly improves France's legal framework for fighting against discrimination. This Law introduces a specialised body mandated to fight against discrimination and promote equality. This same law 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 sharing of the burden of proof.

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. The ban on racial and other forms of discrimination still needs to be extended to cover various other rights such as:

- 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;

⁴⁷ See "La lutte contre le racisme et la xenophobie, 2003". *Rapport de la Commission Nationale Consultative des Droits de l'Homme*, p. 559.

3. RECOMMENDATIONS

In view of the above, the ERRC urges the Committee on the Elimination of Racial Discrimination to recommend that the French Government undertakes the following:

1. Undertake legislative measures to ensure that all areas covered by the ban on racial discrimination included under ICERD Article 5 are covered by domestic law provisions. In addition, undertake any necessary policy and legislative measures to ensure that all persons have access in practice to effective procedures for the evaluation of allegations of racial discrimination in these areas.
2. 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.
3. Ensure, by means of appropriate policy and legislative measures that all persons without a fixed domicile or residence, in particular Gypsies, Travellers and Romani migrants facing administrative hurdles are facilitated provision of identity documents and eased access to fundamental civil and political rights, most significantly the right to vote.
4. Provide anti-discrimination training to state officials involved in regular interaction with Gypsies, Travellers and Romani migrants, in particular to police officials, to tackle their abuses and misconduct occurring during raids on Gypsy, Traveller and/or Roma sites. Promptly investigate and sanction all such cases of police officers abusing their authority.
5. Undertake studies to investigate the treatment of Gypsies, Travellers and Romani migrants by judicial authorities, as well as surveys in order to determine levels and extent of disparate treatment against Gypsies, Travellers and Romani migrants in orders for pre-trial custody and/or sentencing.
6. Ensure that all policies and practices engaged with respect to Romani migrants comply in full with France's international law obligations, including the ban on the collective expulsion of aliens binding on France as a result of Article 4 of Protocol 4 to the European Convention on Human Rights.
7. Ensure that any forced evictions occurring against Gypsies, Travellers and Romani migrants are undertaken in full conformity with international law, and conduct a study to look whether such practices may disproportionately affect Gypsies, Travellers and Romani migrants.
8. Ensure that the halting areas meeting the requirements of the Besson Law are provided in a sufficient number.

9. Provide training to municipal officials (elected officials, civil servants and police) on the provisions of the Besson Law and the Security Law, particularly the need for the municipality to have fulfilled its obligations under the Besson Law.
10. Instruct prefects to undertake legal action with respect to municipalities not putting forward any or adequate proposals for the establishment of halting areas under Departmental Plans, despite their obligations to do so.
11. Undertake measures to ensure that Gypsies and Travellers are adequately consulted in the development of proposals for halting areas.
12. Undertake appropriate measures to ensure that urban regulations (including urban plans and zoning regulations) make adequate provision for decent sites where individuals may live in caravans, outside of designated halting areas.
13. Address as a matter of priority the issue of many families living without water and electricity due to the fact that their property is not in a zone designated as proper for construction, to ensure that they have full access in practice to all aspects of the right to adequate housing.
14. Include mobile homes as a form of housing for purposes of social assistance. 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.
15. Develop special loan programs in order to assist Gypsies and Travellers, who may be otherwise unable to procure a loan, in buying property.
16. Undertake adequate measures to document and combat racial segregation of Gypsy, Traveller children in the school system. Ensure that appropriate measures are taken in order that the children of Romani migrants are able to realise the right to education. Develop specific programmes to combat low participation and high levels of school abandonment among Gypsy, Traveller and Romani children.
17. Without delay, ratify Protocol No. 12 to the European Convention on Human Rights.
18. 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.