

**SECOND REPORT
CONCERNING THE SITUATION OF TRAVELLERS IN BELGIUM
FOLLOWING POLICE OPERATION “STRIKE” ON 7 MAY 2019**

Brussels, 11 July 2019

As part of a large-scale police operation taking place since 7 May 2019, some sites where Travellers live have been searched and property seized, notably caravans which are their owners' only homes.

Unia received numerous reports and gathered testimony about the circumstances of this operation.

The large number of witnesses, the consequences of what witnesses have described for the people concerned, as well as the absence of any plausible explanations (even hypothetical ones) for much of what has been described, have led Unia to question and become concerned about the possible disproportionality of certain police and judicial actions mentioned in this report, certain aspects of which could be considered discriminatory and/or lead to inhumane and degrading treatment.

As many of these actions continue to occur or to produce effects, Unia asks that they be investigated urgently in order to put a stop to them or to implement appropriate measures to mitigate their harmful effects.

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1. SUMMARY

On 7 May 2019, Belgian police led a large-scale operation, specifically on sites where Travellers live, as part of an investigation into a case presented as organised crime; more specifically, they were looking into a case of fraud and embezzlement tied to the purchase and sale of used vehicles via the internet.

At a press conference on 8 May, the federal prosecutor's office explained that more than 1,200 police officers carried out some 200 searches at 19 halting sites, during which they arrested 52 people, 24 of whom were the subject of arrest warrants. 90 caravans, 91 vehicles, and 34 other pieces of property were seized, as well as large sums of cash. 18 searches were conducted in several banks to seize the content of safe-deposit boxes¹. This operation, called "Strike"² in the press, is described as one of the most significant police operations over the last twenty years.

The federal prosecutor's press release also mentions that "as a preventive measure, we called upon the youth and family sections of the different local police stations impacted by the case issues related to the housing of families and minors".³

On the same day, Travellers peacefully protested in front of the courthouse in Brussels: "They took caravans from people who have nothing to be blamed for. We are paying for the crimes of others, it's not fair", said one of the protesters.

According to the demonstrators, some children had not been fed since the night before, for lack of money. Others say their bank cards had been blocked.

"We are here with several families to react and get back at least their housing. Some have nothing and just want a place to sleep. No social assistance was offered, they are completely lost here. It's not because we are Travellers that we have to pay everyone's debts". One person criticised the treatment to which he was subjected, saying he too was a victim of this large-scale search. "The police arrived on our sites and started taking things without giving details. Vehicles, watches, jewelry, valuable objects were seized," he explained. "There are children, old people, sick people. They did not ask anything, they just saw they were Travellers and took everything, without making any distinction".⁴

¹ Press Release by the Federal Public Prosecutor's Office – D1/010/19, 8 May 2019, <https://www.ommp.be/fr/article/press-release-federal-public-prosecutor-s-office-d101019-0>, as well as: https://www.rtf.be/info/societe/detail_large-operation-pour-escroquerie-un-prejudice-de-6-5-millions-deuros-selon-le-parquet?id=10215415.

² In English, the word "strike" has multiple meanings, but in French or in Dutch it has only one, from bowling: that of knocking down all bowling pins with one ball, without leaving a single one standing.

³ Press Release by the Federal Public Prosecutor's Office – D1/010/19, 8 May 2019, <https://www.ommp.be/fr/article/press-release-federal-public-prosecutor-s-office-d101019-0>.

⁴ https://www.rtf.be/info/societe/detail_des-gens-du-voyage-denoncent-leurs-conditions-suite-aux-vastes-perquisitions-de-cette-semaine?id=10215352

Some Travellers organised a press conference on 9 May to condemn the confiscation of the caravans.⁵

Since 8 May, Unia, the Interfederal Centre for Equal Opportunity and the Fight against Racism and Discrimination, a body dedicated to promoting equality on behalf of European anti-discrimination directives and recognised as a category B National Human Rights Institution, has received reports of so-called “Operation Strike”, criticising the manner in which searches were carried out and goods seized as well as the consequences of those seizures.

As time passes, witness statements reveal that searches and seizures of vehicles and cash are still happening, this time on the street.

Bank accounts have been frozen, despite their being essential to receiving family allowances, disability pensions, or other social benefits.

A large number of Travellers have also been informed that their vehicles, which had not been seized, have been deregistered, and that they must surrender their number plates (including Travellers who had not been searched on 7 May).

Some Travellers have also received notices from the Federal Prosecutor’s Office that they have been formally dispossessed of the items seized.

Living conditions are becoming extremely difficult for Travellers: they are completely dependent on the help they can find in their immediate vicinity, have no access to medication, and can hardly move around. At the time of this report, more than two months after the operation, their situation does not seem to be resolved. On the contrary, some are learning that their caravans have been resold by the Federal Prosecutor’s Office and that the authorities may have also taken over ownership of the halting sites themselves.

After hearing from witnesses and from two lawyers who are dealing with some of the cases of seized property, including appeals against decisions to dispossess the owners, the directors of Unia and the Children’s Commissioner of the Wallonia-Brussels Federation published an open letter on 15 May in the daily newspaper La Libre. They drew attention to the fact that what Travellers are experiencing is “a flagrant violation of human rights in general and of children’s rights in particular,” and called for the involvement of public authorities, municipalities, and welfare services “so that transitional and urgent solutions can be offered to these families, because this situation is also critical from a humanitarian point of view”.⁶

⁵ <https://bx1.be/news/ils-nous-ont-pris-nos-caravanes-et-nous-ont-laissez-sur-le-trottoir-la-communaute-rom-denonce-loperation-policiere/?fbclid=IwAR0Xq-CMND1GneRFFIpUzzgnC3zbp11oZWZDrVvKosFnyRNB82aVY0fB6A#.XNRjaeszKSc.facebook>

⁶ <https://www.lalibre.be/debats/opinions/saisie-des-caravanes-des-gens-du-voyage-une-situation-critique-pour-les-familles-5cdc038a9978e25347404cc0>

One of the lawyers lodged a complaint with the Office of the United Nations High Commissioner for Human Rights on 19 May, concerning the inhumane and degrading treatment suffered by his clients. To support this complaint, Unia drafted a first report based on the evidence and testimony gathered during field visits between the 8 and 24 May.

This second report, made necessary by the persistence and even worsening of the situation, takes the first report and adds to it new information gathered since 24 May.

2. OBJECTIVES OF THE REPORT

It is obvious that when offences are committed, the police and criminal justice system must do their work, that an investigation should take place, and prosecutions initiated. In terms of procedure, if presumptions are confirmed and facts established, then it is expected that a criminal case will follow. Unia is well aware that there are serious issues at stake that can potentially be tied to organised crime.

That being said, the conditions of the criminal justice operations on 7 May and during the weeks that followed have led us to examine them and prepare this report, which aims to:

- Objectify, with the available information, the situation of Travellers and the forceful conduct of police and the justice system, which potentially violate Travellers' rights.
- Gather at least some of the necessary elements to establish whether or not there was disproportionality in certain actions by the police and/or justice system.
- Gather at least some of the necessary elements to establish whether or not there was inhumane and degrading treatment.
- Establish whether there are directly or indirectly discriminatory aspects of the actions taken.

3. SOURCES VERIFYING THE REPORTED FACTS

3.1. The Federal Prosecutor

The first source is the information provided by the federal prosecutor himself:

- 200 searches carried out on 7 May on 19 sites.
- 52 people arrested, 24 of whom were subject to arrest warrants.
- 90 caravans, 91 vehicles, and 34 goods seized, as well as large sums of cash⁷.

⁷ Press Release by the Federal Public Prosecutor's Office – d1/010/19, 8 May 2019, <https://www.om-mp.be/fr/article/press-release-federal-public-prosecutor-s-office-d101019-0>, as well as: https://www.rtf.be/info/societe/detail_large-operation-pour-escroquerie-un-prejudice-de-6-5-millions-d-euros-selon-le-parquet?id=10215415.

Other elements were not communicated by the Federal Prosecutor's Office, but are clearly in their possession and are thus verifiable, where appropriate in the context of the procedures provided by law and with respect for the conduct of the investigation:

- Receipts (or lack thereof) of countersigned inventories of seized goods given to their owners during the seizure.
- Receipts (or lack thereof) of countersigned witness statements.
- Statements of frozen bank accounts.
- Deregistration records for vehicles that have not been seized.
- Records of arrests, searches, seizure of goods and cash after 7 May (with or without receipts).
- Statement of decisions and means of serving notice dispossessing owners of their seized goods.
- Statement of seized goods of which owners have been dispossessed by the prosecution (whether or not they are the subject of an appeal).

In relation to these documents, it is not only quantitative information that is crucial, but also information about the people concerned. For example, the age of people whose caravans were seized or who were arrested and searched in the street is important (whether they are adults, elderly, minors) as well as the amount that was seized.

3.2. Reports and testimony

The compilation the facts set out below and their breadth relies essentially on the multiplicity and convergence of reports and evidence Unia has gathered.

This report relies on meetings, visits, and contacts as follows:

- Direct individual alerts or testimony from 19 different people.
- Visits of 5 different sites, where a Unia agent went multiple times to gather witness statements. Many testimonies were collected each time, but were listed above as a single statement, because there was always one main representative of the group.
- At least 6 front-line professionals have shared information about the situation: 2 site managers, 2 reference-address services (one of which also provides an intercultural mediation service), 1 social worker, 1 doctor.
- 2 lawyers dealing with multiple cases related to the seizure of goods have been in regular contact with Unia.

By converging all sources, the information gathered concerns 16 sites in all: 11 in Flanders (2 of which are close to Brussels), 3 in the Brussels-Capital Region, and 2 in Wallonia.

4. PROBLEMATIC FACTS

The facts reported here are supported by the convergence of multiple witness statements mentioned above. Their analysis needs to be supplemented by the examination of the information which the Federal Prosecutor's Office has not yet disclosed (see above).

These facts are "problematic" first and foremost because they make the living conditions of Travellers more precarious. It will then be necessary to establish whether they are justifiable from a legal point of view.

We present in this chapter a synthesis of the collected testimony. To make it easier to read and avoid a lengthy report, we generally did not use direct quotes from witnesses and have chosen the affirmative form, thus reflecting what we were told explicitly. If necessary, we can provide more precise information on the places where the alleged facts took place.

4.1. Police intervention during the searches of 7 May 2019

The police arrived on the sites at around 6:00am in a "muscular" manner: striking the caravans to wake the residents, and officers with weapons in their hands on many of the sites.

On at least three of the sites, those who had not been arrested - notably women, children and the elderly - were grouped together in the middle of the site, where they remained until the end of the operation (around 6:00pm). Nobody was allowed to return to the caravans, even under watch, to retrieve necessary items. No solutions (shelter, food, water) were put in place by the police for the elderly, women, or children.

Testimony about the attitude of policemen indicate that local police officers, who knew the people, behaved quite appropriately (some even seemed embarrassed: "you are paying for what others have done" one officer told a resident he knew), while others behaved in a much more inappropriate manner: laying down on beds in caravans, eating food they found in cupboards, yelling at people "your caravans no longer belong to you, now they belong to the judge", or "look at your loved ones, you might never see them again" (speaking of those who had been arrested).

Field visits following the incident, including by a doctor, established multiple cases of post-traumatic stress tied to this police operation (affecting women and children)⁸.

On one of the sites, municipal water (and the meter itself) was cut off from 7 May onwards.

Two different families have said that their children did not go back to school for a week after having experienced the raid.

⁸ See annex: Report of the NGO Médecins du Monde.

4.2. The 7 May seizures

Everything was searched, all cash and objects of value found were seized.

One woman reported that a police officer, searching the trouser pockets of her husband, who was still in pyjamas, found some money and immediately put it in his own pocket (no receipt was given following this, see also below). Women's jewellery, even of little value, was aggressively removed. One lawyer reports that one of his clients, who was arrested and then released, confirms having seen two police officers at the station with a Rolex watch on their wrist. The lawyer has asked the Federal Prosecutor to check the police station's cameras.

Cash was even seized from a Traveller family of French national origin, who the police had nonetheless realized were not at all affected by the investigation.

On one site, vehicles that did not belong to residents but rather to clients of a resident who ran a commercial (VAT-registered) cleaning service were also seized. His company nameplates were also taken.

On another site, the police took the number plates vehicles that had not been seized.

In addition, bank vaults were opened and their contents seized, in the absence of their owners.

It is the seizure of 90 caravans that, at first, was most debilitating for the families who lived in them. Families with children and elderly couples became homeless overnight.

Two cases were reported where the police repeatedly contacted the judge because, in the first case, the family whose caravan had to be seized included a severely-disabled child and, in the second case, because a pregnant woman lived in it. In both cases, the judge allowed the caravans to be left for the families.

This stands in contrast to other cases, where the fact that children, sometimes very young children, were living in caravans was not enough to ensure that the family could keep those caravans.

When caravans were seized, families were able, on certain sites, to retrieve some personal items (which they could only pile on the floor, urgently), while on other sites, all access to the caravans was prohibited - even to retrieve medication, food, clothes, or nappies.

With one exception - a site where the police had asked a social worker to come and see which families would need alternative accommodation (according to testimony from the social worker and from a witness residing on the terrain) - other testimony does not confirm that the police or other public services sought or offered alternative accommodation for families whose caravans were seized, even on the first night following the seizure. One witness was told by the police that he should just go stay with his family. Some families spent the night in their car, others out

in the open. At the time of this report, most of the families are staying with relatives, in overcrowded spaces, while there are reports of others living in tents, in their cars, and totally street homeless.

As for the social worker, a second witness confirms that she offered a sort of collective housing solution (dormitories for the homeless). According this witness, going to stay in such a dormitory, possibly separated from his wife and children, was unthinkable.

The only explanation the families have receives as to why their caravans have been is the general suspicion of money laundering; this is what has been communicated to the lawyers and in the notices of dispossession.

With two exceptions, no documents warning of the seizure were given to the owners, nor was an inventory of seized property, despite this being ordinary practice⁹.

4.3. The 7 May arrests

According to the press release from the Federal Prosecutor's Office, 52 people were arrested, 24 of whom were subject to an arrest warrant.

Statements by people arrested, then released, on 7 May reached Unia:

- People were detained for up to 40 hours, then released without questioning.
- Others were questioned before being released, but were not given a report of their interrogation.

4.4. Searches and seizures after 7 May

Between 7 May and today, several people have reported the fact that arrests of people in the street (including women, the elderly, and children), body searches (going as far as searching women's hair), and seizures of cash and cars are continuing to occur. Notably:

- A family was using a car borrowed from an acquaintance (their car having been seized). The car was stopped by the police and all its occupants searched. All the cash and the car were seized, despite the family explaining that the car does not belong to them. The police explained that they have been ordered to continue to search and seize property: "you will no longer have the right to drive vehicles, we will requisition everything". The family did not receive a receipt for the goods and money seized.
- A man whose number plate was deregistered borrowed another car to run errands. He took the number plate with him, in the boot of the car, because he wanted to inquire about the reasons for deregistering his car. He was stopped on his way; the car was searched. The police officers found the number plate and accused him of having stolen it. The police violently cuffed the man (his arm was bleeding) and put him in jail.

⁹ http://www.justice-en-ligne.be/article721.html?utm_source=moteur_jel&utm_medium=thematique&utm_campaign=recherche

- At the end of May, a man went to fetch a rental caravan in Germany to house his family. Upon his return to Belgium, 500 metres away from the site where he lives, his path was blocked by a police car. The officers got out; one of them had a weapon in his hand and pointed it at the man, whose 11 year-old son was also in the car. A tow truck arrived and took the caravan. The man explained that the caravan was a rental and showed the rental contract, to no effect. The police explained that they were just following the orders they had received.

4.5. Freezing of bank accounts

Bank accounts have been blocked in large numbers, with no explanation.

One person who was not questioned or searched by police discovered that his credit card no longer works, then inquired at the bank and learned that all his accounts, professional and personal, have been blocked. The bank is not able to explain why thinking, at first, that there was a simple technical problem. He went to the local police station twice, where nobody could give him an explanation. His lawyer doubled down but was unable to obtain more information regarding the reasons for freezing his accounts.

People who tried opening a new bank account were met with a refusal at their bank branch. One person reported that the post office bank had agreed to start opening a bank account, but that the procedure was blocked once the person's ID card was placed in the electronic reader.

Dozens of families are in an unbearable situation: with no cash or bank card, in fear of moving around in the street even with small sums, it has become impossible for them to make even the smallest necessary purchases. Family allowances, disability pensions or other social allowances are now inaccessible. Sick people are no longer receiving treatment. The self-employed can no longer pay their bills or social security contributions. Reimbursements of mortgage loans taken out by some families to buy land - solutions they had found to compensate for the structural lack of Traveller sites in Belgium - can no longer be made. Families who can no longer keep up with their loan reimbursement plans are ordered to repay the balance due at once. Some are threatened with eviction from sites where they are renting space.

One witness reports that he was unable to send his children to school on some days, because he did not have the money to give him food or snacks for the day.

Another witness reports that some accounts have been unfrozen, but completely emptied of their balance. No explanation was given to the owners.

4.6. Deregistration of vehicles that were not seized

Some Travellers have learned by registered mail that their cars, which had not been seized during the raids, were deregistered and the number plates have to be returned.

Some people who had not been searched on 7 May have received the same letter, also dated 7 May, and still with no explanation.

87 notices of deregistration arrived in two days at a single address used for Travellers to receive mail. An insurance broker called the department for motor vehicles (the "D.I.V.") for his client. The response: "they are all stolen cars".

4.7. Dispossession of goods by the prosecutor

Notices dated 7 May, or the day of seizure, dispossessing owners of their cars or caravans, have been arriving by registered mail. According to the lawyers, the prosecution can sell seized property when it is difficult to keep it in good condition and/or when it risks losing value during the time it is seized. The proceeds of the sale are kept and eventually given to the owner if he or she wins the case. According to the lawyers, the use of this procedure is not very common.

It is clear that when the caravans were seized, no one took into account that for families who live in them, caravans are not luxury items (for tourism), but in fact their actual house. This was also taken into account when making the decisions to keep or dispossess people of the caravans that had been seized. The families who will eventually recover the proceeds of what will have been a cut-price sale will not be able to acquire a caravan equivalent to the original, and have already lost the home that was familiar to them, as well as what was inside - objects with little commercial value but that they used on a daily basis (clothes, utensils and dishes, photos, souvenirs, toys...).

The lawyers lodged cases against for their clients challenging the dispossession orders. Many Travellers, however, do not have lawyers - especially because they cannot pay for them and because they do not know how to prove their indigence (all of their assets are blocked, but no documents attest to this, and there is no acknowledgment of their indigence, for example, by a recognised social services institution).

According to the service address for large numbers of people, the summonses to attend hearings about the dispossession orders arrive late: the summons for a hearing to take place on a given morning arrives that afternoon, for example. The service contacts the federal police who respond that this is not relevant, because the lawyers have been warned ahead of time. As a result, many people do not show up to the hearing, and it is still not clear whether their absence will affect the decision to dispossess them of their property. Unia does not know of any cases of caravans that have been returned other than in cases handled by lawyers.

Soon, Travellers recognise photos of their cars and caravans being sold on websites for second-hand vehicles by sellers who have just acquired them. These sellers, known to Travellers who have also engaged in trading used vehicles, confirm the origin of the caravans. The people concerned were never officially informed that they had been dispossessed of these

caravans nor, obviously, were they invited to retrieve what was inside them. Rumours circulate: the contents of the caravans were thrown in containers, piled on the ground of a dumping site...

On 28 June, a lawyer reported that, to his knowledge, 21 of the 91 seized caravans have already been resold by the public prosecutor, as well as all the cars. In the cases that he is handling, 7 caravans were recovered by their owners; about the same number we recovered in cases that his colleague is dealing with.

4.8. Purpose of the investigation

While the initial investigation seems to have been justified by the allegations of embezzlement and other significant offences, the scale of the operation seems to have reached a significant number of people and families who, in the end, could not have any real connection to the original case. The seizure of caravans and their dispossession, the deregistration of vehicles, and the freezing of bank accounts nonetheless have had significant impacts on these persons' lives.

When people whose lawyers had lodged appeals against the decision to dispossess them of their caravans were questioned, they were asked to prove that the purchase of these vehicles had been done in properly (to show receipts), as well as to prove the origin of the money with which the vehicle had been purchased. While it may seem reasonable to conduct this type of verification in the context of a scam investigation, it should be done with caution, or there is a risk of acting disproportionately. Three critical points should be made about this:

- Firstly, this verification, based on the production of receipts and the analysis of financial flows, did not necessarily require the seizure of the caravans concerned. On the contrary, it might have been thought that such a verification should occur prior to seizure, so that only those caravans which were reasonably under suspicion of having been stolen or where the purchase was funded by ill-gotten money, would be seized.
- Second, the difficulty of producing receipts "in good and due form" must not be underestimated for people with only elementary writing skills and little familiarity with modern administrative procedures... especially for caravans sometimes acquired a long time ago, possibly used, or handed down from relatives. The fact that the original receipt has not been kept is not sufficient, in itself, to prove that the caravan was purchased with stolen money.
- Third, evidence of source of income can, for certain families, be difficult to come up with in that their income may come, in whole or in part, from the informal economy. Even if, for example, they were involved in undeclared work or small businesses and this was illegal, that does not constitute an offence as serious as embezzlement.

In a country where there is a multitude of administrative inspection and control services, tax regularisation procedures and tax arrears clearance schemes, which are still applied on an individual basis, one may wonder why it was necessary to resort to criminal proceedings of such magnitude, directed by the Federal Prosecutor's Office and concerning essentially a group of Travellers who – as the investigation will confirm – may only be guilty of undeclared income or

taxes or of unpaid fines.

The procedure the authorities have followed allows the court to take provisional possession of all of the assets of the targeted persons, by blocking their bank accounts then emptying them, by reselling their seized cars and caravans, apparently with no concern for figuring out how these people will survive until the end of the investigation.

Regarding the informal economy, we note that for those who live in precarious conditions, this economy takes the form of odd jobs and small businesses - which rarely lead to personal enrichment, but rather only to modest profits. The increasing bureaucratic complexity of traditional professionals (regulation of access to freelance status, access to so-called “protected” jobs, social regulations, etc.) does not facilitate entry into the “formal” economy¹⁰.

The socio-economic conditions of many Travellers are modest, and most often tend towards instability and precariousness rather than security and material comfort. This is due in part to the history of discrimination and stigmatisation of their group, which has confined them to the margins of society, but also to specific institutional problems that could be improved: the increasing administrative demands relating to employment have already been mentioned, but there is also a structural lack of halting sites in Belgium where Travellers can stay with some legal certainty, including the possibility of putting children in school under good conditions and engaging in stable employment or other economic activity. In 2012, the European Committee for Social Rights condemned the Belgian State for its lack of efforts regarding housing solutions for Travellers¹¹, and it cannot be said that much progress has been made since then. On the contrary, the situation has tended to worsen¹².

If the goal of the Belgian justice system was for Travellers to regularise their tax and administrative situation, it could not have gone about this any worse. It is exactly those whose affairs are already in order or who were in the process of regularising things who will be ruined first. Two of the witnesses who spoke to Unia are entrepreneurs with a VAT number. As their professional accounts are blocked and their VAT numbers have been deregistered, they cannot pay their bills nor meet their payment deadlines for social security contributions, and are inexorably moving towards default and, eventually, bankruptcy.

A tax regularisation effort undertaken by several families, an interesting precedent in that it took into account the real life situation of Travellers, is also likely to fail. The effort consists of a debt

¹⁰ See, for example, the website of the Federal Public Service for Social Integration Program (SPP IS): https://www.mis.be/sites/default/files/documents/les_discriminations_a_lemploi_dont_souffrent_les_roms_et_les_gens_du_voyage.pdf.

¹¹ European Committee for Social Rights, decision on the merits dated 21 March 2012, International Federation for Human Rights (FIDH) v. Belgium, Complaint no 62/2010. Available at http://www.luttepauvrete.be/publications/jurisprudence/dec_comeds_20120321.pdf.

¹² See for example: <https://www.unia.be/fr/articles/expulsion-des-gens-du-voyage-une-urgence-humanitaire>.

clearance plan, negotiated between the people concerned and the tax office, thanks to help from a mediation service. The people will not be able to keep up with these plans.

4.9. Conclusion: “an open-air prison”

The description of the situation resulting from the convergence of the facts described above could not be better summarised than by the expression spontaneously adopted by a witness: “We live in an open-air prison.” Meeting primary needs - housing, food, clothes - mobility, access to care, children’s schooling, honouring financial engagements, working... everything has become extremely difficult, if not outright impossible. Even access to rights is impacted, because how can one have access to a lawyer, when there is no way to pay for one, nor even to prove one’s indigence? In the meantime, no procedure has yet been completed, and no judgment has been delivered.

5. JUSTIFIED MEANS?

5.1. Proportionality, (non-)discrimination, (in)human treatment

The deprivation of liberty, searches of private homes, body searches, the seizure or holding of goods are clearly intrusive means for achieving justice, but can still be used under the condition that their use is *justified*, meaning they must be mobilised as *necessary* means to reach a *legitimate* goal. This is a fundamental principle of the rule of law. It goes without saying that if the pursued goal is not motivated by the need for investigation, it is not legitimate. If the means are not necessary, meaning it would be possible to reach the same goal by using other less intrusive means, we speak of “*disproportionality*”.

Disproportionality of use of force and other coercive and intrusive means can, in some cases, constitute *inhuman and degrading treatment*, within the meaning of the laws that protect fundamental rights.

Discrimination, in the legal sense of the term, is identified by an unfair and unjustified treatment of a person or group of persons, in relation to other persons or groups, in a similar situation. To apply this definition in the context of European and Belgian anti-discrimination legislation, the difference between persons or groups compared relies on one or multiple so-called “protected” criteria.

If Travellers are victim of an unfavourable treatment due to their belonging to this group, we speak of *direct discrimination*. Ethnic origin and descent are indeed protected criteria. It should be noted that this discrimination does not necessarily have to be pursued as intentional goal by those responsible in order for it to be prohibited. It is the effect of the action, the result, that must be considered.

If *treating people in similar situations differently* can lead to discrimination, *treating people in different situations similarly* can also be discriminatory. We speak now of a form of *indirect discrimination*. For example: the situation of Travellers is fundamentally different compared to other citizens, in that their lifestyle implies that they live out of caravans. If we take away a caravan from a family of Travellers, this family is instantly homeless - one of the most noxious forms of material precariousness and social marginalisation that exists in our European societies, and more violent still when it impacts women and children, the elderly, and sick people.

5.2. Presumptions

Unia certainly does not have all the necessary elements to reach a definite conclusion regarding the disproportionality or the discriminatory and degrading or inhuman character of the facts reported above. As explained in the previous paragraph, it will be necessary to consider the potential justifications provided by the authorities.

The large number of witnesses, the consequences of the facts described by witnesses for those who were subject to them, as well as the absence of plausible explanations (even hypothetical ones) for many of these facts, has led Unia to question and become concerned about the possible disproportionality of certain police and judicial actions mentioned in this report, certain aspects of which could be considered discriminatory and/or lead to inhumane and degrading treatment.

As many of these actions continue to occur or to produce effects, Unia asks that they be investigated urgently in order to bring them to an end or implement appropriate measures to mitigate their harmful effects.

It should also be noted that the inability to ascertain the potential motivations behind certain actions has led to a strong feeling of prejudice, even persecution, for many witnesses, including professionals and police officers (who admitted to witnesses: “you are paying for what others have done”). This common-sense understanding of the situation matches the structure of antidiscrimination law: it is in fact because of the absence of a valid justification that the question emerges: “if they had not been Travellers, would they have been treated in the same manner?”

We enumerate below the facts for which the presumption of discrimination seems clear and which at the very least require examination as to whether they are justified:

1. During the searches on 7 May, on at least two different sites, people who were not directly suspected in the case of embezzlement were kept together all day, with no water, food, or shelter. Women, children, sick people, elderly, and disabled were involved.
2. People were arrested then released without explanation, and without receiving an interrogation report.
3. Seizure of valuables, money and vehicles and caravans, with no receipts.

4. Inappropriate conduct of certain police officers (derogatory remarks, disrespect of living space, but also in certain cases illegitimate appropriation of objects and cash).
5. Seizure and confiscation of caravans inhabited by families. It should at least be examined whether this measure was truly *necessary* for the 91 caravans taken away, and what housing solutions were *truly* offered to the families, on 7 May and afterwards.
6. Seizure of caravans, under the same conditions, of persons who were not suspected in the context of the embezzlement case that was behind the searches. (Hypothesis to be verified.)
7. On certain sites, during the confiscation of caravans, prohibition against families to go back and retrieve necessary items (clothes, food, medications).
8. Seizure of vehicles belonging to third parties, always without receipts.
9. After the searches, arrests on the street of people (including minors), body searches, including in women's hair, confiscation of objects of value and sums of money, even small - which can only be presumed to be intended for the purchase of necessary items. No receipts.
10. Freezing of bank accounts in large numbers, with no warning or explanation, including of people not involved in the embezzlement case (never searched, nor questioned).
11. Seizure of the balance of bank accounts, before blockage, with no explanation.
12. Deregistration of a large number of vehicles, with no explanation. These vehicles had not been seized during the 7 May operation and, as with the bank accounts, a large number of the deregistered vehicles belong to people residing somewhere other than the raided sites and who do not seem to be implicated with the ongoing criminal investigation.
13. Decisions by the prosecution to dispossess owners of seized cars and caravans, dated on the same day they were seized. The mere fact that these caravans constitute a living space for many of these families should have led to the contrary decision *not* to dispossess them since the beginning of the procedure.
14. No notice within a reasonable delay of these decisions nor of summons to related hearings. For this simple reason, certain persons could not show up to the hearing - an absence that likely led them to lose their right to recover their property.
15. Effective dispossession of some of the caravans (at least 21 when this report was written), with no warning to their owners and without allowing owners the opportunity to retrieve personal effects before the sale.
16. Non-restitution of personal effects after the sale.

6. CONTACT

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7. ANNEX: REPORT BY THE NGO MÉDECINS DU MONDE/DOKTERS VAN DE WERELD