

6 August 2010

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Written Comments of the European Roma Rights Centre for Consideration by the United Nations Committee on the Elimination of Racial Discrimination at its 77th Session, on the Occasion of its Periodic Review of France, 11-12 August 2010

The European Roma Rights Centre, a public interest law organisation combating anti-Roma and Traveller racism and discrimination in Europe, hereby submits written comments summarising critical issues for Roma and Travellers in France with respect to France's compliance with the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD or the Convention).

The ERRC is aware of the statement submitted by the French Union of Gypsy Associations (UFAT), the National Association of Catholic Travellers (ANGVC) and Hollo Human Rights Consulting. The comments submitted here aim to complement that statement and provide an update on recent developments in France with respect to promotion and incitement to racial discrimination (Article 4(c)) and discrimination against Roma and Travellers in the exercise of freedom of movement (Article 5(d)(i)) and access to housing (Article 5(e)(iii)).

I. Incitement to Racial Discrimination against French Travellers and Migrant Roma by Public Officials: (Article 4(c))

On 28 and 29 July 2010, the French Government announced a series of repressive measures targeting Roma and Travellers in a press release from the Office of the President.¹ In the press release, the President uniformly characterised Roma as living in an “unacceptable situation of lawlessness” linked to illegal settlements, illicit trafficking and exploitation of children for begging, prostitution or crime. Statements from high ranking public officials such as this serve to reinforce negative stereotypes about Roma and experience in other States shows that such statements may promote or incite racial discrimination, hatred and violent acts, in violation of the Convention.²

II. French Travellers: Threatened Evictions and Continuing Lack of Halting Sites (Article 5(e)(iii))

In its 2005 review of France, the Committee on the Elimination of Racial Discrimination (CERD or the Committee) highlighted in its Concluding Comments that the Government should:

[...] step up its efforts to provide travellers with more parking areas equipped with the necessary facilities and infrastructures and located in clean environments, intensify its efforts in the field of education and combat the phenomena of exclusion of travellers more effectively, including in the fields of employment and access to health services.³

¹ See: <http://www.elysee.fr/president/les-actualites/communiqués-de-presse/2010/juillet/communique-faisant-suite-a-la-reunion.9381.html>.

² In May 2008 two days after Italy's Interior Minister made public statements calling for dismantling of Roma camps and the expulsion of Roma from Italy, mobs of angry Italians attacked Romani camps in the Naples with Molotov cocktails, razing the camps to the ground. See: Milella, Liana. “Maroni confirms the hard line against the landings and the Roma” (‘Maroni conferma la linea dura contro gli sbarchi e i rom’), *La Repubblica*, 11 May 2008, <http://www.repubblica.it/2007/12/sezioni/cronaca/sicurezza-politica-2/maroni-andremo-avanti/maroni-andremo-avanti.html>.

³ Committee on the Elimination of Racial Discrimination, *Concluding observations of the Committee on the Elimination of Racial Discrimination: France*, 18 April 2005, available at: <http://www2.ohchr.org/english/bodies/cerd/cerds66.htm>

With regard to French Travellers, the French President announced the Government's intention to carry out a plan of systematic "evacuation" of informal settlements and tax inspections of the occupants.⁴

As acknowledged in the President's press release, many local authorities have failed to provide halting sites to meet the needs of French Travellers, despite legal obligations to do so since 2000.⁵ As of 31 December 2007, less than one third of the places required by law had been established (only 32%).⁶ Other sources note that as of the end of 2008, only 42% of municipalities bound by this law had complied by providing adequate halting sites.⁷

Following a complaint filed by the ERRC in 2008 in response to violations of the housing rights of Roma and Travellers, the European Committee of Social Rights (ECSR) found France in violation of the European Social Charter in 2009 for failure to implement its own law. The ECSR found violations in connection with:

- Article 31.1: failure to provide a sufficient number of halting sites, poor living conditions and operational problems at the sites, and lack of access to housing for settled Travellers;
- Article 31.2: illegal procedure for eviction from sites and penalties imposed;
- Article E taken in conjunction with Article 31: racial discrimination towards Travellers in access to housing;
- Article 16 and Article E taken in conjunction with Article 16: lack of family housing for Travellers;
- Article 30: social exclusion of Travellers;
- Article E taken in conjunction with Article 30: discrimination of Travellers in access to voting rights and in terms of social exclusion; and
- Article 19.4(c): less favourable treatment of Romani migrants in access to housing.⁸

The Committee found that France discriminated against Travellers because the specific differences of Travellers are not sufficiently taken into account and that, as a result, they are discriminated against when it comes to implementing the right to housing. This was the second time in three years that the Committee found France in violation of the right to housing as concerns French Travellers and Roma.⁹

The failure of the French government to implement its own law has directly resulted in many Travellers occupying land informally, and, according to the Government, illegally. In the absence of an adequate number and quality of legal halting sites, clearing illegal sites will only serve to worsen housing conditions of French Travellers and increase tensions between law enforcement and the Traveller community.

The connection between tax compliance and adequate housing standards or the right to residence on a halting site is questionable, as is the Minister of Interior's unfounded inference concerning tax

⁴ See: <http://www.elysee.fr/president/les-actualites/communiqués-de-presse/2010/juillet/communique-faisant-suite-a-la-reunion.9381.html>.

⁵ Law 2000-614 of 5 July 2000 relating to the welcome and housing of Travellers (the Besson Law).

⁶ Council of Europe: Commissioner for Human Rights, *Memorandum by Thomas Hammarberg, Council of Europe Commissioner for Human Rights, following his visit to France from 21 to 23 May 2008. Issues reviewed: human rights protection arrangements, prisons, juvenile justice, immigration and asylum, and Travellers and Roma*, 20 November 2008, CommDH(2008)34, available at: <http://www.unhcr.org/refworld/docid/492a6da72.html>, 24.

⁷ Data from DHUP - Bureau des politiques sociales du logement (Enquête auprès des DRE). According to the Halde "Almost twenty years after the adoption of the first "Besson" law, the number of halting areas established in practice is approximately 25% according to State services." (translation from French by author) Délibération n°2009-143 du 6 avril 2009.

⁸ Council of Europe, Committee of Social Rights, *European Roma Rights Centre (ERRC) v France, Complaint No. 51/2008*, 19 October 2009, available at:

http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC51Merits_en.pdf

⁹ Council of Europe, European Committee of Social Rights, No. 39/2006, *European Federation of National Organisations Working with the Homeless (FEANTSA) v. France*, available at: http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/Complaints_en.asp.

violations on the basis of the vehicles Travellers are using.¹⁰ Rather than focusing on tax issues, the Government should ensure that all residents on informal halting sites can access legal, adequate and secure housing and accommodation, in accordance with Article 5 (e)(iii) of the Convention and various other international obligations.¹¹

III. EU Roma citizens: Right to Housing (Article 5(e)(iii)) and Right to Freedom of Movement (Article 5(d)(i))

With regard to the measures targeting migrant Roma from other European Union Member States (as per President Sarkozy's reference to Roma from Romania and Bulgaria), the French Government proposes to proceed, within three months, with "evacuation" of some 200 "illegal" settlements, explicitly targeting migrant Roma, and reforming the law so as to make the process for this "more efficient." We are concerned that implementation of this plan may result in violations of national and international housing rights provisions, particularly if the process renders people homeless.

Indeed, on 6 August 2010, international media reported that French authorities commenced their eviction campaign, emptying a Romani camp in the city of Saint-Etienne that had been home to at least 100 Roma. There was no indication of any alternative accommodation having been provided.¹²

The Convention provides in Article 5(d)(i) for protection of the right to freedom of movement and residence within the borders of a State. It is important that the Committee considers this right within the wider context of the right to freedom of movement and residence as set out in European Community law, which applies to all citizens of EU Member States equally. European Union Directive 2004/38/EC on freedom of movement¹³ (EU Directive) establishes that EU citizens are entitled to move to and reside in other European Union Member States for up to three months and to stay beyond three months provided they are workers or self-employed persons or have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host Member State.¹⁴

On 28 July 2010, the French Government announced its intention to proceed with the deportation of migrant Roma from other EU countries - and not other groups of non-national EU citizens - residing in France and to reform immigration law to facilitate the removal of such persons for reasons of public order. The targeting of an entire group of people for deportation may be in violation of France's obligations under the EU Directive, and constitutes racial profiling and discrimination against Romani groups. Under EU and French law, citizens of other EU countries may be deported only if they have been found to have exceeded 3 months of residence and are unable to prove sufficient means to stay or pose a "genuine, present and sufficiently serious threat [...] for public policy or public security." This determination must be made on an individual basis, with appropriate notice to the individual and an opportunity to appeal and adverse decision.

Likewise, the intended action, if carried out, may violate Article 4 of Protocol 4 of the European Convention on Human Rights, which prohibits the collective expulsion of aliens.

Indeed, France has in the past engaged in the collective expulsion of Roma from the country, sending groups of Roma to Romania without due process and preventing them from returning for a fixed period of time.¹⁵

¹⁰ Thomas Sheldrick, "France launches crackdown on Roma and traveling communities", *Deutsche Welle*, 29 July 2010, available at: <http://www.dw-world.de/dw/article/0,,5848059,00.html>.

¹¹ International Covenant on Economic, Social and Cultural Rights, Article 11.1; General Comment n°4: The right to adequate housing (art.11 (1)); and General Comment n°7: The right to adequate housing: forced evictions (art.11 (1)) of the Committee on Economic, Social and Cultural Rights

¹² "France starts removing Roma camps", *BBC News*, 6 August 2010, available at: <http://www.bbc.co.uk/news/world-europe-10892669>

¹³ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the European Union and their family members to move and reside freely within the territory of the EU.

¹⁴ Articles 6 and 7.

¹⁵ RomEurope, *Report 2007-2008*, available at: <http://www.romeurope.org/proto/IMG/romeurope-report-2007-20081.pdf>.

IV. Recommendations

The ERRC respectfully requests the Committee to urge the French government to rectify any ongoing violations of the Convention in connection to the prohibition of incitement to discrimination, the right to housing and the right to freedom of movement. Furthermore, in light of the forthcoming measures announced by the French government, we ask the Committee to remind the French government of its obligations under Article 2 (1)(c) and (d):

(c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

(d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;

Specifically, the Committee is requested to urge the French government to undertake the following measures to promote respect for the rights of Roma and Travellers present in France:

- Refrain from making statements which collectively characterise Roma and Travellers in a negative light and inflame public opinion against them;
- Refrain from evictions of Roma and Traveller settlements in the absence of legally adequate alternative housing and other protections required by international law; and
- Refrain from collectively expelling Roma from France, ensuring individual consideration and due process according to the legal standards in place.