

RACIAL DISCRIMINATION AGAINST GYPSIES AND TRAVELLERS IN FRANCE

Statement submitted by the French Union of Gypsy Associations (UFAT), National Association of Catholic Travellers (ANGVC) and Hollo Human Rights Consulting

**For consideration by the United Nations Commission on the Elimination of Racial Discrimination
at its 77th Session, on the occasion of its Periodic Review of France
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1. Introduction

UFAT, ANGVC and Hollo Human Rights Consulting respectfully submit this briefing note concerning France's compliance with the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) for consideration by the United Nations Committee on the Elimination of Racial Discrimination (CERD) at its 77th session. UFAT is a Federation created in 2008 that represents 30 Gypsy and Traveller associations from across France, including, Manouches, Sintis, Yenisch and French Roma. The organization defends the culture, way of life and fundamental rights and freedoms of Gypsies and Travellers. ANGVC is a national association representing Travellers from across the country. The organization promotes the access of Travellers to fundamental rights and freedoms. Hollo Human Rights Consulting is an independent consultancy specialized in issues of equality and non-discrimination. The terms "Gypsies and Travellers" in this briefing report include individuals of diverse culture, who are French citizens, and who self-identify as: Sinti, Manouche, Kale, Gitans, Roma, Yenisch, "Travellers" or other.

This situation of French Gypsies and Travellers has deteriorated since CERD's last consideration of racial discrimination in France in 2005. Hundreds of thousands of individuals continue to experience severe violations of a wide range of basic political, civil, economic, social and cultural rights. They experience discrimination in fields as diverse as political participation, access to personal identity documents, voting rights, political participation, access to justice, housing, education, employment, public places, services, and social insurance. A range of laws and policies also single out Travellers and Gypsies for negative treatment. The combined effect of these laws and policies, together with widespread discriminatory and racist practices lead to high levels of marginalization and exclusion. Despite numerous international, European and national reports drawing attention to this dramatic situation, the French government has failed to respect the many recommendations for immediate action. In fact, since 2005, the Government has failed to amend laws or policies that discriminate against Travellers and Gypsies, failed to put in place policies that effectively prevent and eliminate the widespread discrimination and continues to tolerate practices that on a daily basis violate key rights of Travellers and Gypsies.

In order to clearly illustrate the persistence of problems facing Travellers and Gypsies since CERD's 2005 examination of France and the lack of measures taken by the French Government to effectively address these problems, this briefing paper is structured as a follow-up assessment of developments based on the European Roma Rights Centre's (ERRC) 2005 submission to CERD.

2. Violations of the International Convention on the Elimination of Racial Discrimination

This section describes violations by France of the International Convention on the Elimination of Racial Discrimination (ICERD) by first indicating the ERRC's comments in 2005 and then providing an update and assessment of new developments.

As to Article 2 of ICERD, in 2005 the ERRC noted:

“... 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.”

To date there have been no new developments with respect to anti-discrimination legislation and its application in the case of Travellers and Gypsies. Legislation has not been extended to the fields listed above in which Travellers and Gypsies continue to experience discrimination. Furthermore, we are not aware of any cases in which a legal person was convicted for discrimination against a Traveller or Gypsy.

As to article 3 of ICERD, in 2005 the ERRC noted:

“...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.¹ 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),² 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."

Today, Gypsies and Travellers continue to suffer practices amounting to racial segregation. In practice, much of French territory is effectively off-limits to Gypsies and Travellers. They are frequently relegated to areas that are frequently hidden from view and at a distance from other municipal residents (either on official halting sites or in areas where they are able to stay for a certain period of time without being expelled).

Furthermore, in the education sector, Circular No. 2002-101 of 25 April 2002, to which the French government refers in its periodic report, continues to be poorly implemented, with innovative initiatives remaining highly localised. Problems with implementation of the Circular stem from the lack of national co-ordination, guidance, supervision, or monitoring of its implementation. In addition, budgetary resources are not specifically allocated for this purpose. As a consequence, each Academy (Departmental level representative of Ministry of Education) is left to implement the Circular in the way it sees fit. This means that implementation varies widely across the country from Department to Department. The situation as regards Departmental coordinators is illustrative. The Circular provides that a "Departmental Coordinator" responsible to organise and monitor the schooling of Traveller children. In fact, some Departments have not appointed a coordinator, some have appointed a coordinator, but added this function to his or her already full-time duties, and some have appointed a full-time co-ordinator. The political will to implement the Circular is clearly lacking at national level.

As to Article 4 of ICERD, in 2005 the ERRC noted:

"... there is currently an alarming climate of anti-Gypsy and Traveller discourse in which f r e e 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

¹ 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.

² 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.

population about the legitimate rights of Travellers and Gypsies -- secured under French law³ -- 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.⁴ 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.⁵

There continue to be frequent and open expressions of racial hatred by prominent political personalities, certain media, as well as ordinary citizens. At the time of writing this briefing note, the situation in France has become explosive due to a public statement issued by the President of the Republic, Nicolas Sarkozy, at a meeting of the French Council of Ministers on 21 July 2010. Criticizing "events of an extreme seriousness" that occurred over the previous days⁶ and noting the government's merciless fight against criminality, the President stated that:

"The events that took place in Loir-et-Cher⁷ highlight the problems posed by the behaviour of some amongst Travellers and Roma. I will hold a meeting on this

³ 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.

⁴ 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."

⁵ 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."

⁶ The President was referring in particular to two incidents. The first took place in the Department of Loir-et-Cher. After a Traveller was killed by a gendarme, reportedly for forcing a blockade set up on the street, a group of Travellers reportedly attacked the gendarmery station of Saint-Aignan with iron bars and axes, causing damage to trees and property surrounding the station (the station itself was protected by a large number of gendarmes). The incident is currently under judicial investigation. The second incident was sparked by the killing of a 27-year-old North African man in Grenoble, reportedly fleeing from the police after allegedly participating in a robbery of a casino. Following this incident, youth rioted in Grenoble, reportedly destroying property with iron bars and baseball bats and burning dozens of cars.

⁷ A French Department.

subject on the 28 of July. This meeting will assess the situation in all French Departments and decide about evictions of situations of irregular camping.”⁸

There have been strong reactions to this racist statement that draws a link between all Travellers and Roma and a particular incident in Loir-et-Cher and, threatens the eviction of Travellers across the country in a situation that results from widespread discrimination (the housing situation of Travellers and Gypsies will be dealt with later in this briefing paper).⁹ The holding of a meeting at the French presidential building (Elysée) on the “problems” posed by Gypsies is the first of its kind in France since France’s liberation at the end of World War II.¹⁰ Such statements have a disastrous impact on public opinion about Travellers and Gypsies and serve to fuel and justify widespread discrimination by state and non-state actors.

As to Article 5(a) of ICERD, in 2005 the ERRC noted:

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.

This area has also not evolved positively since the ERRC’s 2005 report. In fact, there is a negative evolution affecting Gypsies’ and Travellers right to a fair judicial procedure. A provision in a Law passed in March 2007¹¹ altered the procedure by which local authorities could forcibly evict Travellers and Gypsies for illegal halting. This law replaced the fast-track judicial referee procedure¹² with a non-adversarial and non-judicial one. This new legal provision empowers the Prefect to order the Gypsies and

⁸ *Unofficial translation from french. Original text:* "Les événements survenus dans le Loir-et-Cher soulignent les problèmes que posent les comportements de certains parmi les gens du voyage et les Roms. Je tiendrai une réunion à ce sujet le 28 juillet. Cette réunion fera le point de la situation de tous les départements et décidera les expulsions de tous les campements en situation irrégulière."

⁹ Attached in Annex a press release by about this statement by different Traveller and Gypsy Associations.

¹⁰ Attached in Annex a “statement of peace” by a collective of Gypsy associations in response to this meeting.

¹¹ Law relating to the simplification of Law.

¹² A fast-track procedure based on the urgency of the matter before the Court.

Travellers occupying land to leave within a specified time limit, as long as this delay is not less than 24 hours. After this time limit expires they may be forcibly expelled.¹³

As to Article 5(b) of ICERD, in 2005 the ERRC noted:

“...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,¹⁴ 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.”

Abusive and discriminatory conduct by police continues to be a serious and everyday problem affecting Gypsies and Travellers. We are unaware of any steps having been taken to address this problem. In fact, this issue is yet to be recognized as a problem by the Ministry of Interior.

As to Article 5(d) of ICERD, in 2005 the ERRC noted:

“...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.”

In its periodic report to CERD the French government notes that at the initiative of the Ministry of Housing, reflection on this matter is taking place at inter-ministerial level.¹⁵ While it is important that reflection is taking place, it should be highlighted that there is to date no indication that this reflection will lead to the elimination of these documents that target Gypsies and Travellers for discriminatory treatment. Traveller, Gypsy as well as other organizations have been raising concerns over circulation documents for many

¹³ See article 9 Besson Law, Consolidated version 28 December 2007. Available at: http://www.legifrance.gouv.fr/affichTexteArticle.do;jsessionid=89B988EFE1BE65DCDB909D9AF2E4871B.tpdjo04v_3?cidTexte=JORFTEXT000000583573&idArticle=LEGIARTI000017853237&dateTexte=20090629&categorieLien=id.

¹⁴ In particular Article 11 of the International Covenant on Economic, Social and Cultural Rights.

¹⁵ At paragraph 98.

years. At various times, “reflection” has taken place. This has yet to lead to a concrete legislative proposal to eliminate these documents or the discriminatory system of validation that they require for certain categories of Travellers and Gypsies.

As to Article 5 (c) of ICERD, in 2005 the ERRC noted:

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

This discriminatory situation with respect to the right to vote persists despite its openly discriminatory nature. We are unaware of any political debate relating to amending the relevant laws. Furthermore, the exclusion of Travellers and Gypsies from other forms of political participation continues to be a serious problem.

In the periodic report to CERD submitted in 2009, the French government discusses the National Consultative Commission for Travellers that was re-established by decree on 24 November 2003 (the previous Commission had ceased to function). It is a composed of a total of 40 members consisting of: 10 public servants representing different Ministries; 10 elected officials; 10 “qualified persons nominated by the responsible government Ministry (in practice mostly members of non-governmental organisations that work with Travellers); and 10 Travellers nominated by the responsible government Ministry. These figures make clear the minority voice that Travellers and Gypsies hold within this Commission. The Commission had not met since April 2008, however has recently been re-established. In the previous Commission, the voices of Gypsy and Traveller representatives were not listened to sufficiently. The agenda was set by the Commission head, ignoring the requests of Travellers and Gypsies to move towards the implementation of changes rather than renewed analysis of problems. In addition, as head of this Commission, Senator Herisson promoted the legal amendment making it possible to expel Travellers by administrative decision rather than judicial procedure Law of March 2007, discussed above under Article 5a). The Departmental Consultative Commissions referred to in the Government’s 2009 periodic report¹⁶ to

¹⁶ At paragraph 107.

CERD involve a similar problem of representation. In practice Travellers and Gypsies hold 2 or 3 places at most, out of a total of 22 on these Commissions. Their minority voice tends not to carry much weight on the Commissions.

As to Article 5(e)(iii) of ICERD, in 2005 the ERRC noted:

“...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.¹⁷ In addition, any vehicles used to carry out the act of illegal stopping (as is generally the case for Gypsies who tow their mobile homes with vehicles) can be seized and confiscated, unless the vehicles themselves constitute the person’s home.

The Borloo Law makes a list of twenty-eight French cities with less than 20,000 inhabitants 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.

¹⁷ Article 53(1) and Article 53(2), Security Law.

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.”

By the end of 2008, 8 and half years from the time the Besson Law of July 2000 was adopted, approximately 42% of municipalities had met their obligations to establish halting areas. Prefects could legally begin to make use of their powers to seize municipal land to create such sites. We are unaware of any Prefect yet having used these powers. Furthermore, only a minority fully respect basic standards of decency as concerns location, amenities, the site environment and conditions. A majority continue to fall well short of these standards and do not provide conditions that can be classified as decent housing.

A particularly worrying aspect of the implementation of the Besson law is the restriction articulated in Article 9 for Travellers and Gypsies to halt outside of designated areas in municipalities that are considered to have met their obligations under the law.¹⁸ Together with the penal law sanctions established by the Security Law of 18 March 2003, these restrictions on halting outside of “designated areas” lead to severe violations of the right to housing and freedom of movement. Furthermore, these restrictions upon halting elsewhere are not conditioned upon the living conditions on the halting site. Thus even where the only halting site available provides indecent living conditions - for instance a parking lot with collective, broken down and blocked toilets, showers that only have cold water and blocked sewage, a polluting factory as a neighbour, electric wires above and a high speed train a few metres away - this is where Travellers and Gypsies are legally obliged to reside.¹⁹ The situation is worsened by the March 2007 legal provision permitting the expulsion of families for “illegal halting” based on a non-adversarial administrative procedure ordered by the Prefect with near immediate effect (a forcible expulsion may be executed after 24 hours).

Families already experience the negative effects of these restrictions. Many Travellers fear that when municipalities across the country fulfill their obligations under the Besson Law, this will in fact mean the end of the travelling lifestyle - due to the poor conditions of residence on sites, difficulties finding open spaces on halting areas and restrictions on halting in other parts of French territory. Travellers also note that the planned

¹⁸ “...we should not forget that the Besson Law was primarily drafted in order to give to municipalities strengthened police means against the Gypsies. The primary fear expressed by Travellers concerning this Law is sure enough the end of travel: ‘Will they forbid us from going to all of the small towns?’ is one of their recurrent questions along with those about the qualitative control that will be carried out on future halting areas, or again the legal obligation for sites to have guards.” Monnin, Luc. “Enfin réaliser l’habiter? Quelles solutions pour loger les gens du voyage après les lois Besson et SRU de 2000?” *L’habitat saisi par le droit. Les virtualités de la loi Besson du 5 juillet 2000. Etudes tsiganes*, Volume 15, Deuxième semestre 2001, p. 135.

¹⁹Unless they are stopped on land which they own or are stopped on a piece of land for which special permission has been granted for the stay of mobile homes, either for camping (Article L433-1 of the Urbanism Code) or as the permanent housing of their users (Article L 433-3 of the Urbanism Code)

numbers of halting spaces are too low and will fall short of needs. In the territory of municipalities that have established halting areas, police are extremely active in evicting families that halt elsewhere in their caravans. Furthermore Travellers report fines for increasing amounts for 'illegal halting'. In many areas municipalities have grouped together into inter-communal cooperatives, as permitted by the Besson Law²⁰ in order to together establish a halting site. Municipalities may therefore fulfill their obligations under the Besson Law by contributing to the financing of a halting site on another municipality. In these cases families are forbidden from halting on the territory of all of the municipalities that have participated in the establishment of the halting area. These restrictions apply regardless of the needs of Traveller and Gypsy families, who may in fact need to halt in a particular area for various reasons: work, visit to family members, proximity to a hospital, schooling of children, religious ceremony, a marriage, funeral, etc. On many halting areas, families in fact stay for extended periods of time, as the halting area has de facto become the only place for families to reside in their caravans. This means that families of Travellers and Gypsies requiring places for short-term residence cannot find a legal place to halt in the area.

In some municipalities, mayors abuse the Law by creating the designated halting area at the location where a group of Travellers already resided. In others, they have told Travellers living on private land that they own to leave the municipality or go to the halting site. In the minds of many local officials - halting areas are the 'only' place Gypsies and Travellers are allowed to stay in the municipality.

The negative aspects of the Besson Law are very much related to the dominant position given to 'halting areas' in discourse and policy relating to the housing of Travellers and Gypsies as *the* response for Travellers and Gypsies. When the primary focus of national policy is on 'designated areas', this fails to address the fundamental issue of the place of Travellers and Gypsies in French society and French territory and, in fact, relegates Travellers to limited parts of French territory. It also fails to address the varied needs and lifestyles amongst Travellers and Gypsies. Equal treatment implies that, as other citizens, they should have a full place within mainstream housing policy and urban planning and be able to reside in different parts of French territory, in different ways.

In reality, Travellers and Gypsies have varied housing needs, depending on each family's lifestyle, needs, obligations and choices. French national policy targeting Travellers is lacking other responses that are badly needed in order to improve the housing situation of Travellers and Gypsies. An array of other options therefore need to complement the Besson Law in order for Travellers and Gypsies to be treated equally in the housing sector and in a manner that respects their culture and way of life. We are pleased to note that in its 2009 periodic report to CERD, the French government recognizes that halting areas do not constitute an appropriate response to Travellers and Gypsies' varied housing needs and that reflection is underway about different

²⁰ Amended version of Besson law as modified by Law No. 2007-1822 of 24 December 2007, article 138.

responses.²¹ We hope that this reflection will soon lead to concrete policies and measures.

Gypsies and Travellers continue to encounter considerable difficulties in buying land. “Pre-emptions” of the purchase by local officials, thereby blocking the purchase transaction are today quasi-systematic as soon as the officials realize that the buyers are Gypsies or Travellers. Once they do succeed in buying land, thousands of families continue to live with the threat of eviction due to the variety of French laws and regulations that severely limit the territory on which caravans may remain legally, even on private land, or impose arbitrary restrictions on land use. Such expulsions have become more frequent as compared to 2005, with no exchange possibility offered to those expelled.

In addition to the threat of eviction, tens of thousands of Travellers and Gypsies continue to be denied water and/or electricity while living on their own property. Once again, this is an area that has worsened since 2005, with near systematic refusals by mayors to authorize connections. We are unaware that any consideration has been given by the French government to remedy this widespread problem in accord with standards of equal treatment in the right to housing. In particular, zoning regulations at different levels continue to discriminate against Travellers and Gypsies by not making a place for families to live in caravans in a legal manner on their own private land. A recent occasion for improvement was denied, as residence of Travellers and Gypsies in caravans has recently been excluded from the scope of the “Law on opposable housing” (DALO). More generally, caravans are still not legally recognised as a form of housing, thus excluding Travellers and Gypsies from numerous types of social assistance.

Finally, thousands of families continue to live in slum-like conditions in areas they have been “tolerated” by officials. Patterns of discrimination and segregation in the social housing sector also persist.

As to Article 5(e)(iv) of ICERD, in 2005 the ERRC noted:

“...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.”

²¹ At paragraph 101.

Caravans are still not legally recognized as a form of housing thus excluding hundreds of thousands of Gypsies and Travellers from different types of social assistance available to other French citizens in order to aid them in renting or acquiring housing. As mentioned above (under article 5(e)(iii), the “Law on opposable housing” does not include caravans under the scope of ‘opposable housing’. Furthermore, Travellers and Gypsies needs continue to be inadequately met by State agencies providing social assistance. Discrimination also continues in access to public places. Discrimination in the insurance sector has, in fact, become worse, with near systematic refusals by insurance companies to insure Travellers and Gypsies. In addition, Gypsies and Travellers are refused entry to many of the approximately 11 000 camping sites in France. Site owners establish a rule that the sites do not accept “double axel” caravans - which are the larger caravans generally used by Travellers and Gypsies. We are unaware of cases in the last years of refusal of services to Travellers and Gypsies that have been legally sanctioned.

As to Article 5(e)(i) of ICERD, in 2005, the ERRC noted:

“...many Gypsies and Travellers earn their livelihood through forms of work connected with travel.²² 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.

Today, the above problems persist and the situation has worsened due to the economic crisis. Regulations concerning various occupations have not been amended since

²² 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.

2005²³ and the persistent difficulties for Travellers and Gypsies to halt, even temporarily, in many municipalities, continue to impact negatively on possibilities to work.

As to Article 5(e)(v), in 2005 the ERRC noted:

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

The problems described in the education sector persist. The French government has not to date put in place the range of measures needed to guarantee Traveller and Gypsies access to education in a non-discriminatory manner. A positive evolution is that there are less reports of refusals by mayors or school directors to admit Gypsy and

²³ Examples of such regulations include a law passed in 1996 (Law no. 96-603 “Relating to the Development and Promotion of Commerce and Trades”) created stricter regulations with respect to the professional qualifications required in order to exercise a range of trades, including several occupations that are popular amongst Travellers and Gypsies, such as the maintenance and repair of vehicles and machines, construction, the maintenance and reparation of buildings and chimney-sweeping. 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. Recognition of an adequate level of qualification to practice these professions can take the form of academic certification (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) or proof of three years of professional experience exercising that occupation. 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). See 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. See also Article 24 Law of 5 July 1996.

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 ill-adapted 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.

The National Human Rights Commission has drawn attention to different provisions that hinder the economic activities of Travellers: “the intense regulation of recycling, the requirement of a diploma to carry out artisanal trades, non recognition of intra familial transmission of skills, necessity to have a fixed address to gain employment, variations in the administrative practices from one Department to another with respect to the regularisation of economic activities...” National Human Rights Commission, “Etude et propositions sur la situation des Roms et des gens du voyage en France”, February 2008, at pg. 11. (unofficial translation).

Traveller children. Parents nonetheless still need to be persistent to enroll their children, requiring multiple documents and insistence. As discussed above (under article 3) Circular No. 2002-101 of 25 April 2002, to which the French government refers in its periodic report, continues to be poorly implemented, lacking national co-ordination, guidance, supervision, or monitoring of its implementation as well as budgetary resources specifically allocated for this purpose.

3. Conclusions and Recommendations

The situation of Travellers and Gypsies in France has reached crisis proportions. It has significantly deteriorated since 2005, especially with respect to housing. Discrimination persists across most key fields of life, and the French state fails to put in place the legal, policy and practical measures required for the situation to improve. These problems are longstanding. It is not sufficient for them to be 'discussed' or 'considered' by officials. It is time that all discriminatory laws and policies, whether directly or indirectly discriminatory be immediately eliminated or amended (for instance the law of 3 January 1969 relating to circulation documents and the accompanying discriminatory provisions relating to elections and Article 9 of the Besson law). Discriminatory forced evictions of Travellers from areas they halt, as well as from their own private land, also need to be ended as a matter of urgency. Non-discrimination also implies that Gypsies and Travellers different needs arising from their particular cultures need to be fully taken into account in policy-making (for instance by accepting caravans as a form of housing, and amending zoning laws and regulations to make it possible to live legally in caravans on private land). Furthermore, there needs to be an immediate end and strong sanctions against the ongoing racist expression targeting Gypsies and Travellers, that is so commonplace and generally accepted that even the French President makes racist statements without fearing any negative consequences.

In its Concluding Observations the Committee should express its serious concern over the widespread discrimination faced by Travellers and Gypsies across a wide range of key fields of life and the lack of positive evolution in the situation since 2005. It should also describe each of the main manifestations of discrimination and highlight their illegal and discriminatory nature. It should call on France to move from reflection and consideration to action, and urgently:

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 and Travellers 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 and Travellers.

3. Take immediate steps to end the current climate of impunity for racist speech relating to Gypsies and Travellers, and to ensure that all expressions of anti-Gypsyism are promptly and effectively punished. At the highest levels, speak out against racial discrimination against Gypsies and Travellers, and make clear that racism will not be tolerated.
4. Immediately repeal all racially discriminatory aspects of “Law no. 69-3 of 3 January 1969 relating to the exercise of ambulant activities and the regime applicable to persons circulating in France without a fixed domicile or residence.”
5. Eliminate discriminatory conditions relating to the right of Gypsies and Travellers to vote, arising from the Law of 3 January 1969, including those aspects relating to the 3-year period of attachment and the 3% quota of persons with circulation documents allowed to vote in a given municipality.
6. Take positive steps to ensure that the voices of Gypsies and Travellers are duly represented at all levels of French political life and that their voices carry real weight on national and departmental consultative mechanisms.
7. Take positive steps to create conditions that ensure that Travellers and Gypsies may pursue their way of life, whether sedentary or nomadic lifestyles, according to their free choice, in conformity with the principles of equality and non-discrimination.
8. Ensure that Travellers and Gypsies who travel are able to fully exercise their right to freedom of movement and right to adequate housing, including protection against forced evictions. In this regard:
 - Repeal, without delay, Article 9 of the Besson law and Articles 53 of the “Law of 18 March 2003 for Interior Security”;
 - Ensure that halting areas established in accord with the Besson Law conform to norms of decency, notably requirements concerning the availability of services, facilities and infrastructure; location and habitability;
 - Take positive steps to ensure that Gypsies and Travellers have a sufficient number of places to halt that conform to basic standards of decency;
 - Ensure that Travellers and Gypsies are not relegated to parts of the territory in which they are exposed to severe health and environmental hazards as well as the severe harm of racial segregation;

- Cease all practices of forced evictions of Gypsy and Traveller families halted in municipalities carried out in violation of the right to adequate housing and that any evictions respect standards of fair judicial procedures;
 - Ensure that campsites that implement discriminatory regulations and policies with respect to the access of Travellers and Gypsies are duly sanctioned;
 - Immediately undertake genuine and widespread grassroots consultations with Gypsies and Travellers so that appropriate responses might be developed to their housing needs, both on halting areas and through other necessary responses;
 - Urgently develop alternative responses to short-term halting areas in order to meet Travellers and Gypsies housing needs, such as establishing family sites.
9. Ensure that the right to adequate housing, including protection against forced evictions is fully guaranteed to Travellers and Gypsies who buy land. In this regard:
- Ensure that the many laws and policies regulating land use, urban planning, and access to the public infrastructure make appropriate provision for the way of life and particular needs of Gypsies and Travellers, including living on their land in a caravan, and that they do not result in discrimination against members of these communities;
 - Ensure that municipalities do not make illegal use of their powers of 'pre-emption' to prevent the sale of property to Travellers and Gypsies;
 - Ensure that the security of tenure is guaranteed to Gypsies and Travellers and that in the application of urban regulations due consideration is given to their fundamental human rights such as the right to adequate housing, the right to the schooling of children, the right to health and the right to non-interference in private and family life;
 - Order local authorities to provide without delay water and electricity to the families who are being so denied on grounds of being in violation of urban regulations.
10. Recognize caravans as a form of housing;
11. Develop special loan programs in order to assist Gypsies and Travellers, who may be otherwise unable to procure a loan, in buying property.
12. Take immediate steps to bring conditions in Traveller and Gypsy settlements up to basic standards of decency and to regularize the housing situation of those who have been long-term residents of unauthorized settlements. Or, provide alternate housing possibilities that respect standards of decency. All measures

and their implementation should be developed and implemented with the consultation and participation of those Gypsy and Traveller families concerned.

13. Undertake measures to put an end to practices of discrimination and segregation of Gypsies and Travellers in their access to HLM (social housing) and ensure the effective application of anti-discrimination legislation against those who perpetrate such discrimination.
14. Carry out thorough and timely investigations into all alleged instances of abusive police behaviour towards Gypsies and Travellers, and promptly bring to justice perpetrators and provide due compensation to victims. Put an end to practices of collectively targeting groups of Gypsies and Travellers during searches, checks or arrests as well as other practices of racial profiling.
15. Take appropriate measures to ensure that persons who may have been victims of ill treatment by law enforcement officials are not intimidated or otherwise dissuaded from lodging a formal complaint, such as by practices of bringing retaliatory charges against those who complain.
16. Carry out detailed research into judicial treatment of Gypsies and Travellers in order to identify discriminatory practices and develop appropriate measures to end such practices.
17. Ensure that Gypsies and Travellers have equal access to social assistance. Include caravans and mobile homes as forms of housing for purposes of housing assistance, so that persons living in them may qualify for all types of housing assistance available to individuals living in other forms of housing.
18. Ensure that all allegations of discrimination against Travellers and Gypsies in their access to public services, including insurance and public service establishments, are fully investigated and are appropriately sanctioned and that victims compensated. Existing anti-discrimination legislation covering this area should be fully applied making clear to all public service providers that discrimination against Gypsies and Travellers will not be tolerated.
19. Take proactive steps to ensure that Travellers and Gypsies are able to benefit equally from the right to work. Ensure that Travellers and Gypsies are able to halt in municipalities across the country. Undertake measures to remedy the discriminatory impact that numerous regulations relating to a range of occupations have upon Travellers' and Gypsies' work possibilities, such as Law no. 96-603 "Relating to the Development and Promotion of Commerce and Trades". Ensure that all allegations of discrimination in access to salaried employment are fully investigated and all instances of discrimination are appropriately punished and that victims compensated.

20. Ensure that Gypsy and Traveller children have equal access to education in a desegregated school environment. In this regard:

- Without delay, implement Circular No. 2002-101 of 25 April 2002 on the “Schooling of Traveller Children and Non-sedentary Families” in a coordinated manner across the country;
- Ensure that local officials systematically enroll Traveller and Gypsy children in local schools regardless of the regularity of their residence on municipal territory and regardless of whether parents are immediately able to produce all necessary documents;
- Without delay, take steps to end different forms of segregated schooling and instead integrate school Traveller and Gypsy children within the mainstream school system with other children. Where bridge programs and special support is necessary, ensure that schools have sufficient resources for such programs and that these do not themselves become forms of segregation;
- Provide the necessary resources to ensure that Traveller and Gypsy children who reach college age and are behind in their schooling may receive the needed support within mainstream schools, instead of simply being channelled into Segpa classes.