



26 March 2008

**Submission of**

**CRITICAL ISSUES FOR ROMA / TRAVELLERS IN FRANCE**

**Distinguished Members of the United Nations Human Rights Committee,**

The European Roma Rights Centre (ERRC) is a public interest law organisation which works to combat anti-Romani racism and human rights abuse of Roma, Europe's largest and most discriminated against minority. The ERRC herewith submits brief information and questions on critical concerns related to the human rights situation of Travellers and Roma in France, for consideration by the Human Rights Committee in its review of France's fourth periodic report on its implementation of the International Covenant on Civil and Political Rights.

Based on extensive existing published materials and especially its November 2005 country report on the human rights situation of Gypsies, Travellers and Romani migrants in France entitled "*Always Somewhere Else: Anti-Gypsyism in France*" where it outlined in detail concerns on the following issues, amongst others, the ERRC would like to draw the Committee's attention to the following:

**Housing / Evictions**

The ERRC is concerned about the slow progress in establishing halting sites for Travellers in accordance with the provisions of the 2000 "Besson Law". According to a 2005 report by the Conseil Général des Ponts et Chaussées, there were 5,251 caravan places available in halting sites at the end of 2003.<sup>1</sup> By the end of 2004, according to the same official information, 6,076 caravan places were available in 262 halting sites, as well as 3,323 caravan places in 30 areas for large gatherings. Considering that the total number of caravan places in halting sites to be made available by public authorities amounted to 44,056 in all of France's 96 departments, the completion rate was 13.79%.<sup>2</sup> The figures for 2005 were somewhat better: there were 7,711 caravan emplacements in 362 halting sites and 7,339 caravan places in 63 areas for large gatherings, raising the rate to 17.5%.<sup>3</sup>

According to the latest comprehensive data available, as of the end of 2006, there were 10,553 caravan places available in 441 halting sites. Furthermore, there were 8,803 caravan places available in 63 areas for large gatherings. The target of caravan places in halting sites to be constructed rests at 41,865 (instead of 44,056 the previous year) and thus the completion rate was a 25,21%.<sup>4</sup>

As various French bodies have noted, these delays on the part of local authorities are not entirely due to financial reasons but mostly due to (explicit or implicit) hostility towards Traveller communities. Thus,

<sup>1</sup> Rapport du Conseil General des Ponts et Chaussées n. 2005-0032-01, *Le financement des aires d'accueil des gens du voyage*, June 2005, page 14. The report was commissioned by the Minister of Equipment, Transportation, Housing, Tourism and the Sea.

<sup>2</sup> Rapport du Conseil General des Ponts et Chaussées n. 2005-0032-01, *Le financement des aires d'accueil des gens du voyage*, June 2005, page 25.

<sup>3</sup> See *Table of existing Halting Sites, status as end of December 2005*, available at the Ligue des droits de l'Homme site at: [http://www.ldh-france.org/media/groupes/GDV\\_etat\\_avancement\\_existant\\_au\\_3112\\_05.pdf](http://www.ldh-france.org/media/groupes/GDV_etat_avancement_existant_au_3112_05.pdf).

<sup>4</sup> See *Table of existing Halting Sites, status as of end of December 2006*. Available at: [http://sieanat31.free.fr/IMG/pdf/aaL\\_existant\\_311206\\_vdef.pdf](http://sieanat31.free.fr/IMG/pdf/aaL_existant_311206_vdef.pdf).

according to the report by the Conseil Général des Ponts et Chaussées, funding was a major factor to be taken into account when reviewing the reasons behind the delays in the establishment of halting sites. In the majority of departmental plans and due to a number of reasons (most notably increased land values), the financial contribution in real terms of the state towards the establishment of halting sites was in average within the 35 – 50% range, as opposed to the prescribed 70%.<sup>5</sup> The report nevertheless makes it clear that the financial parameter, while undoubtedly significant, does not appear to have been the main reason behind the inadequate implementation of the 2000 Besson Law: as mentioned in the cover page of the report, addressed to the Minister of Transportation, Amenities, Tourism and Sea, “*Although the financial aspects do not appear as the main factor explaining the reticence of local authorities to establish halting sites, it is proposed to reaffirm the strong mobilisation of the state on this subject by bringing its real degree of contribution to a level closer to that laid down by law.*”<sup>6</sup> A glance at the appended table to the report allows one to see why: in the case of at least 31 departmental plans out of the total 96, the main obstacles in the implementation of the plans related exclusively or partially to the “reactions of neighbours” (reaction des riverains), the “*hostility of neighbours*” (hostilité des riverains), the “*wait-and-see attitude of certain elected officials*” (attentisme de certains élus), “*strong reticence on the part of local elected officials*” (fortes réticences des élus), “*absence of real political will*” (absence de réelle volonté politique).<sup>7</sup>

The lack of adequate halting sites for Travellers causes severe hardship to the everyday life of French Travellers. What is even more disquieting however is the failure of the French government to act to render it clear to local authorities that they should conform with the provisions of the Besson Law, and to afford adequate protection to Travellers pending their provision with halting sites on the other. The ERRC notes that the “Besson Law” rested essentially on a tacit compromise. Thus, local authorities that provided Travellers with halting sites where they could live in adequate living conditions would be able to make use of speedier eviction procedures for those Travellers who parked their caravans outside the designated halting sites. Successive French governments however have upset this balance; as a result, although local authorities have failed to provide Travellers with adequate halting sites, a very repressive legal arsenal has been put at their disposal. Following the 2003 “Law on Interior Security” and the 2007 law “Relating to the Prevention of Delinquency”, Travellers who are forced to park their caravans “illegally” due to the non-existence or inadequacy of halting sites are liable to disproportionate fines (up to 3,750 EUR) and sanctions (up to 6-months imprisonment, suspension of one’s driver’s license for up to 3 years, and confiscation of vehicles used to carry out the illegal act). Of even more concern to the ERRC is the express eviction procedure laid down in the 2007 law. Under this procedure, the eviction of Travellers is decided upon by the Prefect and not a judge, and may be implemented within a period of only 24 hours. The Travellers can challenge the Prefect’s decision before an administrative tribunal but only within the timeframe set out by the Prefect for their eviction which as noted can be as low as 24 hours. The tribunal is mandated to render its decision within 72 hours; an appeal against this decision has no suspensive effect. The above, together with other features of the procedure (such as the seeming lack of individual notification of the eviction order to each Traveller) is in violation of the Travellers’ right to a fair trial. By way of comparison, the ERRC notes that the French state is instituting extensive housing programmes for other socially vulnerable groups of the French population while one aspect of these programmes / initiatives is the non-eviction of tenants.<sup>8</sup>

On the basis of the foregoing, we urge the Committee to request further information from the State Party on the following matters:

1. What measures it has taken or intends to take in order to ensure that local authorities conform to their obligations under the 2000 Besson Law and provide Travellers’ families with an adequate number of halting sites meeting the necessary standards for decent living conditions?

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<sup>5</sup> Rapport du Conseil Général des Ponts et Chaussées n. 2005-0032-01, *Le financement des aires d’accueil des gens du voyage*, June 2005, at page 12.

<sup>6</sup> ERRC unofficial translation. The original is as follows: “*Bien que les aspects financiers n’apparaissent pas comme le principal facteur de réticence locale à la réalisation des aires de nomades, il est proposé de réaffirmer la forte mobilisation de l’Etat sur ce sujet en portant son taux réel de participation à des valeurs plus proches de celles prévues par la loi.*” Ibid, cover letter to the report, dated June 21, 2005

<sup>7</sup> Ibid, pages 28-43.

<sup>8</sup> See for example Circulaire UHC-FB4/DH2 n° 2005-44 UHC/DH2 du 13 juillet 2005 « relative à l’application des dispositions de prévention des expulsions de la loi de programmation pour la cohésion sociale »

2. Whether the French state has or intends to exercise its powers of “substitution” in order to proceed itself to the establishment of halting sites in cases where local authorities either procastrate or refuse outright to construct these sites? The ERRC notes that the states can shield themselves from criticism by holding lower ranking authorities responsible for failing to meet their obligations. Especially in the filed of Roma housing, the ERRC notes that the European Committee of Social Rights has consistently held that “*even if under domestic law local or regional authorities, trade unions or professional organisations are responsible for exercising a particular function, states parties to the Charter are still responsible, under their international obligations to ensure that such responsibilities are properly exercised*” (ERRC v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, §29).
3. Does the French government intend to strike down the judicial safeguard-devoid expedited eviction process, applicable only to Travellers, as it is in violation of, *inter alia*, the provisions of Articles 14, 17, 26 and 27 of the ICCPR?

### **Freedom of Movement / Electoral Rights**

In accordance with the provisions of Law n° 69-3 of 3 January 1969 “Relating to the exercise of ambulant activities and to the regime applicable to persons circulating in France without a fixed domicile or residence” which is still in force, Travellers should always carry with them their circulation documents which moreover should be stamped at regular intervals while they should declare the municipality to which they want to be “administratively attached”, under condition however the total number of holders of circulation documents attached at any given time to any municipality should not exceed the threshold of 3% of the local population.<sup>9</sup> Furthermore, under Article 10 of the same law, Travellers are to be registered to local elector rolls (and hence acquire the right to vote / be elected) only following a three year period following their “uninterrupted attachment” to the municipality to which they are administratively “attached”. It should be noted that all other French citizens, including the homeless, are eligible to vote following a period of six months.

Prestigious and authoritative French bodies such as the National Advisory Commission on Human Rights,<sup>10</sup> and HALDE (Independent High Commission For Equality and Against Discrimination)<sup>11</sup> have joined the Council of Europe’s Commissioner for Human Rights<sup>12</sup> in criticising the French state for imposing the requirement on Travellers only to maintain such documents, noting *inter alia* that this requirement violates their right to freedom of movement and establishment with their state as well as their electoral rights.

On the basis of the foregoing, we urge the Committee to request further information from the State Party on the following matters:

1. Which purposes does the maintaining of such a framework, effectively applicable to only Travellers, serve?
2. Does the French state have any concrete plans and a timeline for abolishing these discriminatory provisions, which may violate Articles 12, 25, 26 and 27 of the ICCPR?

Sincerely,

Theodoros Alexandridis, ERRC Staff Attorney, ([theodoros.alexandridis@errc.org](mailto:theodoros.alexandridis@errc.org) , 36 1 413 2250)  
Tara Bedard, ERRC Programmes Coordinator ([tara.bedard@errc.org](mailto:tara.bedard@errc.org), 36 1 41 32 200)

<sup>9</sup> Under certain conditions (e.g. family reasons), this threshold can be increased to 5%.

<sup>10</sup> See Commission nationale consultative des droits de l’homme, *Etude et propositions sur la situation des Roms et des gens du voyage en France*, adopted on February 7, 2008 and available at [http://www.cncdh.fr/IMG/pdf/Etude\\_et\\_propositions\\_sur\\_la\\_situation\\_des\\_Roms\\_et\\_des\\_gens\\_du\\_voyage\\_en\\_France.pdf](http://www.cncdh.fr/IMG/pdf/Etude_et_propositions_sur_la_situation_des_Roms_et_des_gens_du_voyage_en_France.pdf)

<sup>11</sup> Délibération n° 2007-372 of December 17, 2007 Available at [http://www.halde.fr/IMG/pdf/Deliberation\\_de\\_la\\_HALDE.pdf](http://www.halde.fr/IMG/pdf/Deliberation_de_la_HALDE.pdf)

<sup>12</sup> See Report by Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on the effective respect for human rights in France following his visit from 5 to 21 September 2005, for the attention of the Committee of Ministers and the Parliamentary Assembly, Strasbourg, 15 February 2006, Comm DH(2006)2, available at <https://wcd.coe.int/ViewDoc.jsp?id=965765&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679>