

France  
RAXEN National Focal Point

Thematic Study

Housing Conditions of Roma and  
Travellers

March 2009

DISCLAIMER: This study has been commissioned as background material for a comparative report on housing conditions of Roma and Travellers in EU Member States by the European Union Agency for Fundamental Rights. The views expressed here do not necessarily reflect the views or the official position of the FRA. The study is made publicly available for information purposes only and does not constitute legal advice or legal opinion.

## Foreword

It is necessary in France to make a clear distinction between persons known as ‘Travellers’, who are French and who have for several generations identified themselves historically or through family as Gypsies, Roma, Manouche, Sinti, Kalé or Yéniche, and migrant Roma, who originate from central and eastern Europe and who have for the most part moved to France to escape the misery and discrimination which they experienced in their country of origin.

It is also interesting to highlight the French specificity of designating the ‘Traveller’ community by its mode of living and not by a cultural identity; this is largely due to the non-recognition in France of the notion of a cultural minority, by virtue of the principles of unity and indivisibility of the Republic:

France does not recognise the existence on her territory of minorities as holders of collective rights that are enforceable under its legal system. France considers that the application of human rights to all citizens of a State, on an equal basis and without discrimination, normally provides them, irrespective of their situation, with the full protection which they may claim. This conception of human rights thus sets a particularly high standard.<sup>1</sup>

Differences in modes of living (migrant Roma in France are notably sedentary in their country of origin), of status, and the applicable laws depending on whether French ‘Travellers’ or migrant Roma are being considered, necessitate making a distinction, in the following, between these two groups. This being the case, these two groups will be discussed separately in each section.

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<sup>1</sup> Replies by the government of France to the list of issues (E/C.12/FRA/Q/3) to be taken up in connection with the third periodic report of France concerning the rights referred to in articles 1-15 of the International Covenant on Economic, Social and Cultural Rights (E/C.12/FRA/3). Available at: <http://daccessdds.un.org/doc/UNDOC/GEN/G08/411/34/PDF/G0841134.pdf?OpenElement>

# Contents

<b>FOREWORD</b> .....	<b>2</b>
<b>CONTENTS</b> .....	<b>3</b>
<b>EXECUTIVE SUMMARY</b> .....	<b>5</b>
<b>1. Desk research</b> .....	<b>8</b>
1.1. Legal and policy framework.....	8
1.1.1. Travellers.....	8
1.1.2. Roma.....	14
1.2. Quantitative data on the housing situation of Roma and Travellers.....	17
1.2.1. Travellers.....	17
1.2.2. Roma.....	20
1.3. Qualitative information on the housing situation of Roma and Travellers.....	21
1.3.1. Travellers.....	21
1.3.2. Roma.....	24
1.4. Case law and complaints relating to housing of Roma and Travellers.....	28
1.5. Identifying good practices.....	30
1.5.1. Travellers.....	30
1.5.2. Roma.....	31
1.6. Major national projects targeting the housing situation of Roma and Travellers.....	33
1.6.1. Reception policy for itinerant Travellers.....	33
1.6.2. National action on providing fixed tenure.....	38
1.6.3. An example of consultation: The National Consultative Commission for Travellers.....	38
<b>2. Field research: interviews of key actors</b> .....	<b>40</b>
2.1. Methodology.....	40
2.2. Interview with the Human Rights League.....	41
2.2.1. Itinerant Roma.....	41
2.2.2. Travellers.....	42
2.3. Interview with the National Association of Catholic Travellers.....	43
2.3.1. Problems in temporary reception areas for Travellers.....	43
2.3.2. Problems for Travellers on family sites.....	44
2.4. Interview with the National Federation of Associations of Solidarity with Gypsies and Travellers (FNASAT).....	46
2.5. An interview with the French Union of Gypsy Associations (UFAT).....	48
2.6. An interview with the France Liberty Travel Association.....	49
2.6.1. Living conditions on halting sites.....	49
2.6.2. The slow implementation of the Besson Law by towns; halting difficulties.....	50

2.6.3.	Towards a responsabilisation of Travellers .....	50
2.6.4.	Schooling .....	50
2.7.	An interview with the Ministry for Housing (Ministère du Logement) and the Ministry for Social Affairs (Ministère des Affaires sociales) .....	51
<b>3.</b>	<b>ANNEXES</b> .....	<b>53</b>
3.1.	Annex 1 – Statistical data and tables .....	53
3.2.	Annex 2 – Court, specialised body or tribunal decisions.....	54
3.3.	Annex 3 – Bibliography .....	64
3.4.	Annex 4 - Legislation .....	67

## Executive summary

The French Constitution of 1958 established a republic based on the idea of indivisibility; as stated in Article 1, France is an indivisible republic, assuring protection for the rights of every citizen without distinction based on origin, race, or religion.<sup>2</sup> This Constitution, currently in force, integrates the Preamble of the 27th of October 1946 Constitution, providing that ‘the French state guarantees to any citizen and his family the necessary conditions to his development [...], protects his health, his material security and his rest and leisure. Any individual who is unable to work because of his age, his mental or physical condition or his financial situation has the right to receive a financial aid from the collectivity.’ The Constitution also guarantees the principle of human dignity against any degradation. As a result, the right to obtain decent housing is a constitutional principle available to any French citizen.

The issue of housing for Travellers in France is endowed with a particular dimension that contrasts with the position prevailing elsewhere in Europe. The French universal and egalitarian concept ensures that all citizens have access to, and enjoy, all human rights – including the right to housing. This concept does not, however, prevent the adoption of specific policies intended to guarantee that vulnerable groups have effective access to their rights. Such policies fit into the more general one against exclusion and discrimination. Thus, public policies for the reception and housing of Travellers have been put into place in France and are based on the idea of travelling as a lifestyle. However, these policies only concern French Travellers, and not Roma people coming from Central and Eastern Europe, whose situation is governed by migration and asylum policies, and the legal possibilities to access and live on French territory that these policies grant.

For French Travellers, two legislative texts from 31 May 1990 for the implementation of the right to housing<sup>3</sup> and from 5 July 2000 on the reception and housing of Travellers,<sup>4</sup> known as ‘Besson Laws 1 and 2’, are at the foundation of a voluntarist policy, in that they create an obligation for towns and cities with more than 5,000 inhabitants (following an evaluation of the needs) to make halting sites available. In return, such towns and cities may forbid Travellers to park on the rest of the council territory. It appears that, almost 20 years after their coming into force, the effectiveness of these laws

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<sup>2</sup> Constitution of the 4<sup>th</sup> of October 1958, Article 1: ‘La France est une République indivisible, laïque, démocratique et sociale. Elle assure l’égalité devant la loi de tous les citoyens sans distinction d’origine, de race ou de religion [...]’.

<sup>3</sup> Loi n°90-449 du 31 mai 1990. Available at : <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000159413&fastPos=1&fastReqId=1026378303&categorieLien=cid&oldAction=rechTexte>

<sup>4</sup> Loi n°2000-614 du 5 juillet 2000. Available at : <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000583573&fastPos=1&fastReqId=1064480752&categorieLien=cid&oldAction=rechTexte>

remains in fact very relative: Travellers are faced with a great lack of spaces on halting sites and evictions have been made easier since the home security law of 13 March 2003. As a result, a high proportion of Travellers are forced to travel and settle on unregulated encampments.

The 2000 law mentioned above acknowledges that, beyond the installation of halting sites, some travellers may need to settle down for longer times without necessarily giving up their nomadic lifestyle. And, while travelling practices have evolved significantly as a consequence of changes in French society and the economy, this situation, which seems to be increasing, is only rarely taken into account and personal projects of caravan settlements on council areas compete with increasingly strict urban development policies.

While the right to travel and the right to adequate housing are far from being effectively enjoyed by Travellers, the situation of Roma is also problematic. These populations, who for the most part used to live a sedentary life in their country of origin, do not have access to the labour market, because of temporary provisions, and are forced to live in inhumane conditions. Mostly they live in slums in the suburbs of large French cities, places from which they are regularly evicted. Additionally, for Roma as well as for Travellers, access to ordinary services (i.e. accommodation or social housing) is very limited. (See 1.1.)

There are few figures available which could indicate that French Travellers and Roma are victims of discrimination in the field of housing, but many sources come to the same conclusion that segregation processes do exist, and that living and housing conditions for these populations are often precarious. More specific information about the situation of the elderly, women, children or the disabled in the Roma community is not available.

Spaces to park in halting sites which have been found for Travellers are most often located in segregated areas, meeting only very partially the minimum living standards (e.g. access to water, electricity, sanitation). These are sometimes built like enclosures with high walls and managed very differently depending on location, which implies differences in daily costs, leading to a discriminatory situation particularly detrimental for such poor populations. Due to difficulties in parking on regulated halting sites, a high number of Travellers live in unregulated encampments with no access to the minimum basic services for leading a decent life. For Travellers who settle permanently on their own sites, access to water and electricity is only ever granted temporarily, and there is a constant risk of having this access suspended. Access to water is the main issue faced by Roma living in shanty towns, in addition to the use of heating and cooking devices likely to provoke fires. (See 1.2. and 1.3.)

Travellers and Roma live in a permanently insecure environment due to the threat of eviction, which also affects the effective enjoyment of social rights other than the right to housing (such as education, permanent and continuous access to healthcare and work). Travellers and Roma are excluded from social

inclusion processes, and are marginalised in society with an increasingly high number of other social outcasts.

The decision of the European Committee of social rights in 2007 on France<sup>5</sup> concluding with the violation of the right to housing at an accessible cost and on the existence of a discrimination due to an insufficient application of the legislation on halting sites for Travellers as well as the rich national case law concerning Roma and Travellers clearly confirm that these populations are victims of discrimination in the field of housing. This being what it is actions for the resettlement of families of Roma and Travellers have been successfully carried out and demonstrate that the combination of a full legal framework and a strong political will can be fruitful. (See 1.4.)

All actors, institutional as well as associative, insist that the key to the success of such good practice lies in the participation of the people directly affected by the projects in their definition and implementation (i.e. their 'empowerment'). This, as well as recognising the need for individual responses, and not only collective responses as is usually the case. In addition to a deep examination of the situation and projects of each family, experiences carried out so far allow us to recommend that an individualised approach and social support be included into each housing project, regardless of whether it is 'adapted' (meaning that the attachment to the caravan as a place to live is taken into consideration). (See 1.5.)

Almost 20 years after the law of 31 May 1990,<sup>6</sup> the time for evaluation has come. Housing policy for Travellers should be re-adjusted, taking into account the dialectic between local settlement and mobility. Concerning Roma, their arrival in France from central and Eastern Europe also approximately dates back 20 years; the eradication of shanty towns must be a priority, and should be accompanied by solutions for resettlement or accommodation, taking examples from some initiatives existing around big French cities.

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<sup>5</sup> Decision 39/206.

<sup>6</sup> Loi n°90-449 du 31 mai 1990 available at:  
<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000159413&fastPos=1&fastReqId=1026378303&categorieLien=cid&oldAction=rechTexte>

# 1. Desk research

## 1.1. Legal and policy framework

Despite gradually improving legislation in France, which has for a long time assured the right to housing, the housing situation and the pervasive problem of poor housing<sup>7</sup> is such that the European Committee for Social Rights has recognised that France is guilty of violating housing rights as defined in the European Social Charter.<sup>8</sup> The aim of the Besson Law of 31 May 1990 was ‘to implement the right to housing’, which the Law of 5 March 2007 establishing the right to housing and various measures to promote social cohesion, the Law of 25 March 2009 relative to housing, and the fight against social exclusion have reinforced. (A list of the main laws relative to housing appears in the Annex.) Roma and Travellers are not the only victims, but while it appears that the right to housing across Europe is an area where discrimination towards Roma and Travellers is most apparent, it is clear that despite national legislation and laws specific to Travellers, the effectiveness of this legislation is far from perfect.

The housing issue in France differs according to whether one is considering Travellers or migrant Roma. In any event, we can not give figures for minorities here due to the French approach to ‘ethnic’ data collection. As explained in the foreword, in France, the proclaimed unitary character of the Republic does not accommodate the notion of a ‘minority’, and accordingly no ethnic data collection is authorised.

### 1.1.1. Travellers

In accordance with the provisions of Law No. 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 their circulation documents, which moreover should be stamped at regular intervals. They should also declare the municipality where they want to be ‘administratively attached’. However, the total number of holders of circulation documents attached at any given time to any municipality should not exceed 3 per cent of the local population. The French National Commission on Human Rights joined the Council of Europe’s Commissioner for Human Rights in criticising the French state for imposing

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<sup>7</sup> The Abbé Pierre Foundation estimated the number of people in poor housing, including Travellers, to be 3.5 million in 2009 (the report only contains general information and does not provide specific data on Travellers).

<sup>8</sup> See 1.4.



this requirement on Travellers, noting inter alia that this violates their right to freedom of movement and establishment.

In terms of housing and living conditions, Law No. 2000-614 of 5 July 2000 regarding the reception and housing of Travellers (hereafter, Besson Law 2) is the basis of a specific policy towards Travellers and aims to improve the conditions of their right to access housing. It was preceded by the first Besson Law, of 31 May 1990, which aimed at implementing the right to housing, and which is the cornerstone of government involvement in matters concerning the needs of itinerant populations. Besson Law 1 focused on those persons and families without any accommodation, who had been threatened with expulsion without re-housing, had been accommodated or lodged provisionally, or experienced situations of unworthy habitat, as well as on those confronted by a plurality of difficulties. Besson Law 2, of 5 July 2000, however, specifically addresses Travellers and those living in caravans, without any specific reference to 'vulnerable groups'.

The principle of Besson Law 2 is to respond to the needs of Travellers, to generalise the provision of halting sites in towns of over 5,000 inhabitants, and to create departmental programmes for the reception of Travellers, using incentives and increased financial assistance to assure the effectiveness of this law.<sup>9</sup> The departmental programme should allow, 'in view of the existing supply and an assessment of needs, notably the frequency and duration of Traveller stays, schooling opportunities, access to care and the exercise of economic activity', the identification of areas for the creation of permanent halting sites and the towns where these could be located.

In practice, these halting sites could be occupied in different ways: they may be short, long-stay or permanent, they may be transit sites or sites for occasional, temporary gatherings. A circular of 17 December 2003<sup>10</sup> 'relative to the parking of caravans on family land constituting a fixed tenure for the users' states the processes for carrying out private development projects. It is recalled that the circular of 21 March 2003<sup>11</sup> 'relative to the implementation of housing policy and the state aid financing programme' allows the development of rented family land to be financed by local associations.

Even in the absence of an approved departmental scheme, towns of over 5,000 inhabitants have an obligation to set aside suitable sites for Travellers. However, Law No. 2003-710 of 1 August 2003 for Town Planning and Urban Renewal provides the possibility for towns of less than 20,000 inhabitants (and with half that in 'sensitive' urban areas) to request that they be exempted from their obligation towards Travellers.

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<sup>9</sup> A section entitled 'Besson Law' in the Annex, contains the text of the law and the results of its implementation at the end of 2008.

<sup>10</sup> *Circulaire N°2003-76/UHC/IUH1/26.*

<sup>11</sup> *Circulaire no 2003-21-UHC/IUH2/6.*

In return for meeting this obligation, the Law of 5 July 2000 allows for those towns providing halting sites planned for in the departmental scheme to prohibit Travellers from parking anywhere else in the town. The law states that ‘the caravan place must allow for the parking of a caravan, its towing vehicle and, where applicable, its trailer. The area must be sufficiently large to allow for private living space and respect safety regulations. [...] The average private area per caravan place [should] not be less than 75 m<sup>2</sup>, excluding communal areas and traffic access within the halting site’. It is stipulated that ‘a halting site contains a minimum of one sanitation block, with at least one shower and two toilets for every five caravan places’ and that each caravan place be equipped with easy access to sanitation facilities, potable water and electricity, enabling the use of household electrical equipment. Provisions concerning the removal of waste water, the possibility of accessing a system for the emptying of chemical toilets, the stabilising of ground used for parking and traffic, rubbish collection, etc. are also provided for.

The Law of 18 March 2003<sup>12</sup> on Home Security creates the new offence of ‘gathering on a site with a view to establishing a dwelling, even temporary, without the consent of the owner or the town which has met its obligations’; the Law of 5 March 2007 relative to crime prevention, which makes eviction easier, was issued by simple decree by the prefect, with no ruling or hearing. Both laws compound the instability of Travellers, especially as the provision of permanent halting sites planned for in departmental schemes is far from being fulfilled.<sup>13</sup> This means that evictions can happen without site provision. Jacqueline Charlemagne speaks of ‘exorbitant and repressive legal procedures’ on this subject.

Outside the provision of halting sites, Besson Law 2 focused on housing and returned to the general housing policy (e.g. departmental housing schemes for disadvantaged persons). Article 8 notably provides ‘in areas where construction is permitted, developed or undeveloped land may be developed in such a way as to allow for the parking of caravans which constitute a permanent dwelling for their occupants’. In reality, the scope of this Article is reduced by the provisions of the Urban Planning Code: respect of heritage, the environment, conservation of the landscape, etc. In the opinion of certain people questioned, towns can find many possibilities for reducing halting in this code: the Consultative Council for Human Rights was told in 2008<sup>14</sup> that, ‘in France, although the mobile home is not to blame, the absence of, or the difficulties in providing and developing halting sites proves that the choice to live in a mobile home is

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<sup>12</sup> *Loi 2003-239 2003-03-18.*

<sup>13</sup> For the results of the implementation of the 2000 Law, see 1.6. For more details, see ‘Commission nationale consultative des droits de l’homme (CNCDH), Etude et propositions sur la situation des Roms et des gens du voyage en France’, February 2008, available at: [http://www.cncdh.fr/article.php3?id\\_article=599](http://www.cncdh.fr/article.php3?id_article=599).

<sup>14</sup> Preparatory hearings to the abovementioned study.

difficult in practice. This therefore constitutes a de facto non-recognition of the right to travel.’

In France, the caravan is regarded as accommodation (see planning provisions) and as a home but never as a dwelling. The consequence of this is Travellers cannot claim housing benefit payments, despite very low incomes and the costs of maintaining a caravan.<sup>15</sup> The interviews carried out for this study have shown that herein lies one of the main legal pitfalls, especially as it is often difficult to insure caravans or obtain bank loans to purchase them; access services (e.g. opening a bank account) may be denied due to the lack of a fixed address.<sup>16</sup> Indeed, there is no social support available for housing in the case of travelling, although the Finance Law of 2006<sup>17</sup> introduced a housing tax on mobile homes; however, the caravan is not recognised as a dwelling.

The rather imperfect implementation of Besson Law 2 has been criticised for several years by organisations responsible for the protection and promotion of human rights, by the Council of Europe, the European Union and the UN High Commission for Human Rights. We can therefore speak of indirect discrimination towards Travellers, stemming from the absence of halting sites or ‘anchorage’ (temporary residence) requirements on private or public sites within towns. Added to this is direct discrimination: refusal to sell sites to Travellers; exercising the right to first refusal without justification; and refusal to rent accommodation despite laws which formally forbid this<sup>18</sup> (all of which are frequently denounced). Examples of good practice worthy of praise do exist though, and are described later.

The provisions of the abovementioned Law No. 2000-614 of July 5 2000 would in theory grant protection against forced evictions of travellers. In practice, due to the lack of political will from many mayors, the Law has failed with its obligations to establish halting sites. Travellers are thus increasingly faced with a lack of available halting spaces. As evictions have been made easier since the

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<sup>15</sup> Code de la Sécurité Sociale Titre 5 : aide aux collectivités et organismes logeant à titre temporaire des personnes défavorisées ou gérant des aides d'accueil des gens du voyage, available at : <http://droit-finances.commentcamarche.net/legifrance/245606-aide-aux-collectivites-et-organismes-logeant-a-titre-temporaire-des-personnes-defavorisees-ou-gerant-des-aides-d-accueil-des-gens-du-voyage>

<sup>16</sup> See also France/Loi No. 69-3 du 3 janvier 1969 relative à l'exercice des activités ambulantes et au régime applicable aux personnes circulant en France sans domicile ni résidence fixe.

<sup>17</sup> France/Loi No. 2005-1719 du 30 décembre 2005 de finances pour 2006, published in Journal Officiel December 31 2005. Available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000634802&dateTexte=>

<sup>18</sup> France/Loi No. 2002-73 of 17 January 2002 on social modernisation provides that no-one can be refused access to rented accommodation on the grounds of their ‘origin, heritage, [...] or their belonging or not to a real or supposed ethnic group, race, nation or religion’. Furthermore, the leaser cannot refuse a deposit on the grounds that a person is not of French nationality.

law of 13 March 2003<sup>19</sup> on home security, Travellers face an increased number of forced evictions.

In terms of territorial planning laws, the acceptance of the French ‘SRU’ (Solidarity and Urban Renewal) Law in 2000,<sup>20</sup> complementing the 1999 laws strengthening inter-communal cooperation (known as the Chevènement Law<sup>21</sup>) and guidance on the sustainable layout and development of territories (known as the Voynet Law<sup>22</sup>), France committed itself to a major wave of projects to renew and modernise urban planning tools and methods:

- laying down requirements for new urban planning documents – the SCoT (Territorial Cohesion Plan) at metropolitan-area level; the PLU (Local Development Plan) at municipal or intercommunal level; and the PADD (Sustainable Development Plan).

- deciding to no longer produce urban planning documents on behalf of local authorities, the de-concentrated departments and services of the French State opened up a new area for local urban planners.

The new territorial planning laws had to also take into account the various provisions regarding the establishment of halting sites for travellers.

As explained above, in France it is still illegal to classify people by ethnicity or to ask census questions on race or origins, despite the various requests made to France by international bodies. The foundation stone of the French Republic is that all citizens should be equal and free from distinctions of class, race or religion. During recent months, there has been a debate in France on the hypocrisy of everyday racism and discrimination and on the lack of data on ethnic minorities, which would hamper the ability to measure and deal with inequality. Meanwhile, race campaigners describe a society plagued by discrimination, where non-white French citizens with ‘foreign-sounding’ names are routinely discriminated against in education and employment, or targeted by police stop and searches. Even state housing authorities have been found guilty of denying flats on the grounds of race. The French president has recently established a voluntary and anonymous commission to examine ways of officially collecting statistics on minorities.

Positive action has existed in France for several years. It is applied in the field of employment (e.g. by the Law of 10 July 1987)<sup>23</sup>, on all private employers. Since 2005, the state administrative offices have been obliged to employ enough disabled employees to compose at least 6 per cent of their workforce.

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<sup>19</sup> France/Loi No. 2003-239 du 18 mars 2003.

<sup>20</sup> France/Loi No. 2000-1208 du 13 décembre 2000.

<sup>21</sup> France/Loi No. 99-586 du 12 juillet 1999.

<sup>22</sup> France/Loi No. 99-533 du 25 juin 1999.

<sup>23</sup> France/Loi No. 87-517 du 10 juillet 1987.

Several programmes of positive discrimination are being set up for students from underprivileged suburbs. In France, positive discrimination applies not only to visible minorities, but also to women: as French women are subjected in effect to difference of treatment in employment and in policy, several laws have been passed to improve their equality of treatment. Nevertheless, none of these laws or practices applies to the housing of Travellers. In the same vein, the question of multiple discrimination has been debated in the context of positive action and ethnic data, but no concrete legislation has been passed so far.

Through different circulars<sup>24</sup> from 2001 to 2003, various ministers of home affairs have tried to provide some regulations to large gatherings of Travellers and Roma in France within the provisions of existing legislation. It was explained that assistance could be provided by local authorities for the establishment of temporary halting sites. Such placements should be able to accommodate numerous (indeed, thousands) of Travellers for a few days per year (e.g. during pilgrimages). These placements (in effect, large parking spaces) would have no access to any kind of public utilities, and although their inclusion in the departmental plan was obligatory, they would benefit from no subsidy for either landscaping or operation.

On 17 April 2008, a complaint<sup>25</sup> was introduced by the European Roma Rights Centre (ERRC) against France before the Committee of Social Rights of the Council of Europe and registered. The complainant organisation pleads a violation of Articles 16 (right of the family to social, legal and economic protection), 19 (right of migrant workers and their families to protection and assistance), 30 (right to protection against poverty and social exclusion) and 31 (right to housing), read alone or in conjunction with Article E (non-discrimination), on the grounds that Travellers in France are victims of injustice with regard to access to housing, inter alia social exclusion, forced eviction as well as residential segregation, substandard housing conditions and lack of security. Furthermore, France has failed to take measures to address the deplorable living conditions of Romani migrants from other Council of Europe member states. The European Committee of Social Rights declared the complaint admissible on 23 September 2008. Although the case is still pending,<sup>26</sup> it is of interest to read the arguments and the response of the French government.

It should be recorded that a certain number of travellers tend now to be sedentary / semi-sedentary and as a result a new strategy focused on the provision of 'adapted housing' is needed. In this respect, a new circular is expected to be issued soon, informing all relevant actors of the problems involved / highlighted good practices, etc.

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<sup>24</sup> France/Circulaire No. 2001-49 du 5 juillet 2001; France/Circulaire NOR:INTK0300039C du 31 mars 2003; France/Circulaire No. 2003 43/UHC/DU1/11 du 8 juillet 2003.

<sup>25</sup> Complaint No. 51/2008, *European Roma Right Centre (ERRC) v. France*.

<sup>26</sup> [http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC51Admiss\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC51Admiss_en.pdf).

Many travellers also face problems of property, having decided to live on their own plots of land outside towns, and having decided to build their own house but not being able to obtain a building permit. It is generally assumed that the permit is to be obtained from the local authority, and in particular the mayor, who decides the outcome of planning applications. However, in small communes the process is usually managed by the Direction départementale de l'équipement (DDE). The DDE is a highways and planning department, based in the 'prefecture' but with a network of regional offices. The mayor formally signs the consent or refusal on their behalf, but may not always be responsible for actually making the decision. Having said that, in many instances the mayor may well have an excellent relationship with the DDE and is likely to exercise a great deal of influence over individual applications. In fact, some municipalities have also taken the opportunity of the switch from Plan d'Occupation des Sols (POS) to Plan Local d'Urbanisation (PLU) to regularise plots of land belonging to Travellers located outside the Town Plan.<sup>27</sup>

It should be noted that if a caravan has had its wheels removed, then it does not rank as a caravan and can qualify as a 'light home'.<sup>28</sup> Hence its owner may be entitled to housing benefits. Nonetheless, when qualified as 'light homes', such caravans are subject to the complicated procedure of building permits,<sup>29</sup> which is often refused by local authorities.

### 1.1.2. Roma

Migrant Roma in France may have a different status depending on whether or not they carry a 'visitor card', are asylum seekers, or are 'without papers'. Their situation differs according to whether they come from the Schengen area; Roma from Romania have benefited from European citizen status since 1 January 2007. Nevertheless, their right to housing depends on the recognition of their right to stay in France, as highlighted by the Romeurope group.<sup>30</sup> On the other hand, the French authorities apply article 5C of the Convention implementing the Schengen Agreement of 14 June 1985,<sup>31</sup> which states that foreigners arriving from the Schengen area must prove that they have resources amounting to at least 500 euros. Therefore, in practice, Roma are often excluded from provisions in law and are not permitted to work under the terms of the

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<sup>27</sup> Fondation Abbé Pierre: Report on inadequate housing 8t May 2009.

<sup>28</sup> Décision du Conseil d'Etat CE, 30 décembre 1998, SARL Madex.

<sup>29</sup> Décision du Conseil d'Etat CE, 22 mai 1992, Maris.

<sup>30</sup> Romeurope, 'Rapport 2007-2008', January 2007 – July 2008. Available at: [www.romeurope.org](http://www.romeurope.org).

<sup>31</sup> Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, Official Journal L 239, 22/09/2000, pp. 19-62.

transitional provisions which apply to new EU citizens.<sup>32</sup> The consequences of this barrier to the labour market on living conditions are dramatic. Two recent reports by European Commissioners for Human Rights, Alvaro Gil-Robles<sup>33</sup> and Thomas Hammarberg,<sup>34</sup> denounce the insalubrious and dangerous living conditions arising from this.

In 2006, the report by Alvaro Gil-Robles underlined that ‘since 1 January 2002, Roma of Romanian origin, as for all Romanian citizens, are exempt from short-stay visas in the Schengen area,’ if the stay does not exceed 90 days. Since then, as citizens of the European Union, Romanians and Bulgarians have been able to rely directly on European law. However, certain restrictive measures with regard to access to the labour market and freedom of movement remain in place during this so-called transition period, which can not extend beyond seven years of the adhesion date, that is to say 1 January 2014 at the latest.<sup>35</sup>

As regards the right to housing in France, it is stated that nationals of the European Union have access to private rented stock and can apply for social housing from the housing agencies of their choice (but must then have a residence permit valid more than three months). Any renter can request the social housing allocation for his main residence, if his income is below a set threshold. The accommodation must also correspond to minimum criteria of comfort (potable water, sink, toilets and heating) and surface area. The ‘right to decent housing’ mentioned in Article 1 of Law No. 90-449 of 31 May 1990 will normally be guaranteed by the state to ‘any person residing on the French territory on a regular and permanent basis and who is not able to access housing through their own means’. This first Besson Law does not contain specific provisions regarding elderly Roma, women, Roma with disabilities or children. Both Besson Laws avoid suggesting any definition of ‘vulnerable groups’ or characterising Roma as members of such groups.

The March 2003 Law on Home Security allows the forces of law and order to intervene within 48 hours in order to effect an eviction order, with no judicial decision taken, nor the consent of the land owner. These evictions frequently involve force and violence, and material damage has occurred on encampments in the name of ‘good order, hygiene, the peace and public safety’.<sup>36</sup>

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<sup>32</sup> Arrêté du 18 janvier 2008 relatif à la délivrance, sans opposition de la situation de l'emploi, des autorisations de travail aux ressortissants des Etats de l'Union européenne soumis à des dispositions transitoires NOR: IMID0800327A.

<sup>33</sup> 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, 15 February 2006, CommDH(2006)2.

<sup>34</sup> Memorandum by Thomas Hammarberg, Council of Europe Commissioner for Human Rights, following his visit to France from 21 to 23 May 2008 CommDH(2008)34.

<sup>35</sup> [http://ec.europa.eu/enlargement/the-policy/conditions-for-enlargement/index\\_en.htm](http://ec.europa.eu/enlargement/the-policy/conditions-for-enlargement/index_en.htm).

<sup>36</sup> Amendment of Article L-2215-1 of the General Code of local authorities.

In the same vein, the Law of 5 March 2007<sup>37</sup> referring to the ‘right to housing’ applies to people who have no dwelling or are threatened with eviction. Finally, EU citizens can also exercise their right to housing, particularly in urgent cases, in order to be housed. Under Article 4 of the Law of 5 March 2007, a person in an emergency situation is allowed to stay in this dwelling until a permanent proposal for a move into ‘stable housing or care, or adapted housing’ is made. De facto it aims to give people the right to seek legal redress before an administrative tribunal, where their right to housing has been avoided by public authorities. It can require the state to offer the claimant adequate housing, within certain categories of need.

In reality, migrant Roma in France have only limited access to legal provisions and often live in squats or slums, from which they are often evicted without being offered alternative housing, and without the ‘winter break’ (from 1 November to 15 March) being respected, as defined in article L 613-3 of the Housing and Building Code. This state of affairs has been widely criticised in the international reports mentioned above. Once again, certain good practices can be praised but these only concern a few hundred out of tens of thousands of Roma who live in France. Migrant Roma are thus amongst the most vulnerable groups; they are most in need of assistance because of the interplay of multiple exclusionary factors as well as open discrimination.

As regards schooling conditions, according to the current Council of Europe Commissioner for Human Rights, ‘under the 1998 Act, [...] primary school enrolments take place at municipal level and require proof of address or an accommodation certificate, few of which are issued. It is possible to find a way round this problem; school heads can enrol a child even if the municipality is opposed. This option is rarely used, however. In addition, the financial insecurity of Roma families and the regular evictions to which they are subjected are an impediment to school attendance.’<sup>38</sup>

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<sup>37</sup> France/Loi No. 2007-290 du 5 mars 2007.

<sup>38</sup> Memorandum by Thomas Hammarberg, Council of Europe Commissioner for Human Rights, following his visit to France from 21 to 23 May 2008 CommDH(2008)34.



## 1.2. Quantitative data on the housing situation of Roma and Travellers

Once again in this section, we treat Travellers and Roma separately for the reasons indicated previously.

### 1.2.1. Travellers

In France, no official figures on Travellers can be produced or published due to the fact that the republican principle of not distinguishing minority groups does not permit specific surveys of persons identified as being of gypsy origin.<sup>39</sup> However, estimates do exist and should be considered with care. The Abbé Pierre Foundation report on 'The housing and accommodation difficulties of Travellers' says:

The only people that can be counted, under the INSEE's General Population Census, are those whose main residence is a mobile home (127,767 in 1999), which gives a first but subjective indication.

The itinerant practices of parts of the population generate a not insignificant source of statistical error in the production of statistics based on surveys that are carried out at a point in time and at a specific location.

Statistics on holders of travelling cards (books or booklets, provisions issuing from the 1969 Law), produced by the Ministry of the Interior, pose other kinds of problems. These cards are designed for persons over the age of 16 who do not have an address or are of no fixed abode. Furthermore, certain Traveller households, owners or tenants of a main residence, do not hold this type of document. In 2002, there were 156,282 travelling cards, compared to 87,822 in 1972 and 175,000 in 1984.

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<sup>39</sup> 'France does not recognize the existence on her territory of minorities as holders of collective rights that are enforceable under its legal system. France considers that the application of human rights to all citizens of a State, on an equal basis and without discrimination, normally provides them, irrespective of their situation, with the full protection which they may claim. This conception of human rights thus sets a particularly high standard' (Replies by the government of France to the list of issues (E/C.12/FRA/Q/3) to be taken up in connection with the consideration of the third periodic report of France concerning the rights referred to in articles 1-15 of the International Covenant on Economic, Social and Cultural Rights (E/C.12/FRA/3)).

Thus, based on a combination of different sources, the estimates for the number of people in France considered to be 'Travellers' ranges from 250,000 to 450,000, or 0.5 per cent of the national population.<sup>40</sup>

As to the distribution between nomadic, sedentary or semi-sedentary persons, these categories are not as clear cut as one would often be led to believe, as 'this approach accredits a dual and simplified reading of the housing and accommodation problem for Travellers, between the need for temporary accommodation for strictly itinerant populations, and the need for housing for sedentary populations and those in the process of becoming sedentary'.<sup>41</sup> As such, the dialectic between anchorage and mobility is less simple than it seems and it is difficult to say that a population of Travellers divides into three equal parts, especially in the face of a wide trend appearing at the moment, linked to loss of economic independence and a high household dependency on social welfare, which is that of ever-increasing demand for permanent housing. In fact, the practices of Travellers are changing.

The fact that France has a legal framework which imposes the planning of receiving Travellers for short or long stays at individual department levels provides significant information on reception areas and notably on the glaring lack of places available. For permanent sites (legal or illegal) figures are not available, for the reasons given above. As to the segregated nature of Traveller sites, the question does not seem to be pertinent, as these temporary sites are created specifically to accommodate Traveller populations.

Although the information on housing tenure, segregated settlements and public utilities is extremely difficult to get as there is no data publicly available, at the end of 2008, 17,365 caravan places had been provided across 729 sites, representing just over 40 per cent of those planned for in departmental Traveller programmes. Depending on the region, the level of provision, compared to the needs identified in the development of the programmes, ranges from 20 per cent in Provence-Alpes-Côte d'Azur (and a total absence of provision in Corsica), to 71 per cent in Basse-Normandie and Poitou-Charentes<sup>42</sup>.

According to data provided by the ministry for housing,<sup>43</sup> at the end of 2007, the total number of places in family sites was 274.

A nationwide map is included in the Annex showing both the number of places in departmental schemes and the percentage completed at the end of 2008; a

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<sup>40</sup> J.-P. Liégeois (ed.) (2007) 'L'accès aux droits sociaux des populations tsiganes en France', Rapport d'étude de la Direction générale de l'action sociale, Paris: ENSP (especially the chapter entitled « *L'accès au logement et à l'habitat* », by Ch. Robert).

<sup>41</sup> Abbé Pierre Foundation report, [http://www.fondation-abbe-pierre.fr/\\_pdf/rml\\_09.pdf](http://www.fondation-abbe-pierre.fr/_pdf/rml_09.pdf).

<sup>42</sup> This information comes from the data transmitted by the ministry for housing, in particular the table of figures and the chart which detail by area and department the funds for the development of reception areas and effective achievements.

<sup>43</sup> [http://www.logement.gouv.fr/IMG/pdf/DL49\\_GDV\\_cle5bbb14.pdf](http://www.logement.gouv.fr/IMG/pdf/DL49_GDV_cle5bbb14.pdf).

table also presents the figures at the end of 2008, for the number of sites and caravan places brought up to accepted standards.

It is difficult to deduce the number of unauthorised places outside authorised sites from the deficiency in the number of places available, and the government does not have, to date, statistics on the number of Traveller evictions. A study in 2003 on eviction orders on occupants without right or title, carried out for the Ministry of Justice, provided some data but it was carried out at a time when the 2000 Law had yet to take effect.<sup>44</sup> The same figure was put forward in a work published in 2000;<sup>45</sup> there were 27,500 illegally parked caravans in France on any given day.

The technical specifications to which halting site development must conform are detailed in the decree of 29 June 2001. It relates to technical standards applicable to Traveller halting sites, and also in the circular of 5 July 2001 on application of the Law of 5 July 2000 which dealt with the reception and housing of Travellers.

The interviews conducted with users of these sites have shown that there were often great differences between the development requirements for these sites and the reality of the situation. Although the location of sites should 'avoid the effects of social relegation' and be 'situated in areas adapted to their housing purpose, that is to say in or near to urban areas in order to allow ease of access to various public services (social and cultural, schooling and education, health)', we have been told on several occasions that the sites set aside for development were unsuitable for housing (9 times out of 10 located in the immediate vicinity of a rubbish dump, between two motorways and near an industrial site, for example<sup>46</sup>). In addition, the question of the price of staying on sites was raised several times: a price range of 5 to 30 euros per day was cited as one reason why certain Traveller families refuse to stop on sites where the services do not meet expectations or, worse still, cannot afford to stay for financial reasons. The interviews also revealed that it is not uncommon for sites to be enclosed by high walls or fences and that the departure of vehicles was only possible while the site manager was present (but who is often absent at weekends).

While we still do not have accurate figures, it is known that some families reside permanently on temporary sites, which reduces the number of places available for itinerant Travellers. The maximum stay is left to the discretion of the site manager and is indicated in the site regulations; the government recommends that, barring exceptions, the maximum stay does not exceed nine consecutive months.

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<sup>44</sup> [http://www.justice.gouv.fr/art\\_pix/Rapport\\_Expulsions.pdf](http://www.justice.gouv.fr/art_pix/Rapport_Expulsions.pdf).

<sup>45</sup> D. Merchat (2000) 'Reception and parking of Travellers – Organisation, authorisation, bans, evictions', Paris: Moniteur Editions, p. 238.

<sup>46</sup> See the interviews herein with the National Association of Catholic Travellers.

## 1.2.2. Roma

There are even fewer data available for Roma than for Travellers. It is estimated that there are 10,000 Roma living in encampments (often compared to shanty towns) and essentially located in the Paris region and around other large towns (notably Lyon, Lille, Nantes and Marseille).<sup>47</sup> On a recent visit, the Council of Europe Commissioner for Human Rights reasserted comments made on the Commissioner's previous visit:

Most Roma groups in France live in squalid shanty towns, often without access to water or electricity [...] Rubbish is collected only sporadically. Hygiene conditions are often deplorable. Some camps do not even have toilets. According to a survey conducted by Médecins du Monde, about 53 per cent of Roma live in caravans, many of which are not mobile, 21 per cent in converted squats and 20 per cent in huts. In his 2006 report, the Commissioner had already voiced alarm about such conditions. The general situation does not appear to have improved. These appalling living conditions must therefore be brought to an end.<sup>48</sup>

There are no national data on evictions from halting sites, but the Romeurope group indicates in the same report that there had been 'at least 80 evictions from squats or sites between 1 January 2007 and 30 June 2008. In two-thirds of cases, these involved groups of more than 50 persons, half of whom were often children'; these figures are not exhaustive. The specific reference to children in the report points out the fact that evictions from halting sites have a stronger impact on children, and especially on the enrolment of children to schools.

Although current work on access to social rights for Roma and Travellers systematically shows the consequences of halting difficulties or poor housing conditions on access to other rights, notably education, work and health, there are no precise figures as such allowing us to establish the link between housing conditions and the exercising of these rights. The same causes produce the same effects; the principles of equality and unity of its citizens lead to the lack of such figures in France and those that exist are, in any event, very patchy. We can, however, provide some indications.

On the subject of schooling, we know nearly nothing about the level of schooling by age, type of schooling, qualifications obtained upon leaving school, levels of late schooling, etc. In addition, it seems that for Travellers, it is

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<sup>47</sup> Unlike Travellers, migrant Roma are sedentary.

<sup>48</sup> Memorandum by Thomas Hammarberg, Council of Europe Commissioner for Human Rights, following his visit to France from 21 to 23 May 2008 CommDH(2008)34.

less a question of the size of accommodation than parking, which explains any schooling difficulties (absenteeism, poor attendance, etc.).<sup>49</sup>

On the subject of health, the 2009 edition of ‘The state of inequality in France’ states that ‘different observers come together to give an estimated figure for life expectancy [for Travellers] which lies between 20 and 25 years below the national average’. The Médecins du Monde mission for Roma women, focusing on questions of childbirth, allowed figures to be applied to objective observations and identifies healthcare access difficulties for women in highly precarious situations.<sup>50</sup>

### 1.3. Qualitative information on the housing situation of Roma and Travellers

With regards to the question of housing, the situation of travellers and Roma is very different as their lifestyles, means and expectations are not the same. The French Advisory Commission on Human Rights has published an extensive study<sup>51</sup> on Roma and travellers which addresses the two different situations, and provides a set of recommendations addressed to the French Authorities on several issues, which will be quoted in the different parts of the present report.

#### 1.3.1. Travellers

It is useful here to distinguish between those whose needs are associated with temporary stays (populations living in caravans) and those who wish to settle permanently in a municipality (in a caravan or otherwise). For the former, the non-respect on the part of the municipalities of their obligation to provide halting areas leads to great difficulties and poses problems for their spatial, social and economic integration, as well as being the origin of disputes between elected representatives and residents of the towns through which they pass.<sup>52</sup> In addition to this is the fact that in many cases, the halting sites do not meet with the rules that should govern their provision (whether this be the choice and

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<sup>49</sup> It is useful to refer to the May 2006 EUMC report on ‘Roma and Travellers in public education’, pp.28-29.

<sup>50</sup>[http://www.medecinsdumonde.org/fr/presse/dossiers\\_de\\_presse/medecins\\_du\\_monde\\_aupres\\_des\\_femmes\\_rroms\\_mars\\_2008](http://www.medecinsdumonde.org/fr/presse/dossiers_de_presse/medecins_du_monde_aupres_des_femmes_rroms_mars_2008)

<sup>51</sup> Commission nationale consultative des droits de l’homme (2008) Etude et propositions sur la situation des Roms et des gens du voyage en France, 7 février 2008, [http://www.cncdh.fr/article.php3?id\\_article=599](http://www.cncdh.fr/article.php3?id_article=599).

<sup>52</sup> Ch. Robert (2007) ‘[Eternels étrangers de l’intérieur? – Les groupes tsiganes en France](#)’ Paris: Desclée De Brouwer.

location of site, services and facilities provided, etc.).<sup>53</sup> For the latter, a number of legal obstacles hinder their settling: non-recognition of the caravan as a dwelling in town planning, difficulties in land regularisation for owners of agricultural land, and discrimination in access to land and renting.

For example, the following case<sup>54</sup> was referred to the High Authority to Combat Discrimination and Promote Equality (HALDE). Two family heads had long since purchased a plot of land on which they lived with their families. Following the revision of the local development plan, this land was declared 'free land' and assigned to the construction of an encampment area, depriving its owners of the use of the land and therefore the possibility of any private building work. The HALDE considered that 'Travellers who own their land are free to stay there when their caravan constitutes a permanent dwelling even if they regularly travel to the places where they exercise their activities.'

Further to these issues, another major problem is that the non-recognition of the caravan as a dwelling excludes travellers from housing benefits, and denies them access to low-interest bank loans for the purchase of caravans. In addition to that, as the caravan is not recognised as a home, it is not protected by the 'winter break' (from 1 November to 15 March), with many evictions take place during this time.

Whether based on government or NGO reports or international mechanisms for the protection of human rights, the gaps in respecting the 2000 Law and 'halting' difficulties due to the 'over-populating' of existing sites form the core of the observations and analyses. In a memorandum of November 2008, the Council of Europe Commissioner for Human Rights mentioned the condemnation of France by the European Committee for Social Rights. The Committee took the view that 'the inadequate application of the law relative to halting sites for travellers constitutes a violation of the right to affordable housing, and discrimination'.<sup>55</sup>

This significant decision should not obscure the fact that it is difficult for Travellers who are settled locally to have the right to housing acknowledged, whether their settling is through a deliberate choice or through the constraint of a lack of money to continue travelling. Many of them have bought land on which to live permanently or a few months of the year when they are not on the road. Most of them have set up fairly makeshift facilities on this land, often in breach of local development plans. Even when this land is supposed to be constructible, pressure from neighbouring residents often prevents Travellers

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<sup>53</sup> See Décret n° 2001-569 du 29 juin 2001 relatif aux normes techniques applicables aux aires d'accueil des Gens du Voyage at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000579796&dateTexte=>

<sup>54</sup> Ministry of Foreign Affairs (France) Study on Roma and Travellers, September 2006.

<sup>55</sup> See Annex 2, 'Case Law' for the ESCR decision.

from obtaining planning permission to build a garage where they can park their caravan.

The interviews carried out have shown that associations are frequently called upon by the occupants of private sites with temporary water and electricity supplies which are subject to threats of supply cuts<sup>56</sup> by the authorities. Three quarters of families who are owners of a private site are confronted with problems regularising their position: either the land is unsuitable for development, or the caravan is not recognised as a form of dwelling under town planning rules.<sup>57</sup> On 15 April 2009, the HALDE delivered two deliberations on requests concerning town councils' refusals to connect caravans parked on land unsuitable for development to the water and electricity supplies. It would be useful, to illustrate our point, to consult the HALDE internet site when these decisions are available.<sup>58</sup>

Furthermore, 'the conditions for accessing social housing create barriers for Travellers in France. Amongst the required documentation to be presented when seeking social housing is proof of employment (pay slips) for household members, the most recent rental receipts and tax declarations. Given the disproportionately high levels of unemployment amongst French Travellers indicated earlier in this report, as well as the fact that most live in caravans and would not have rental records, such documentation is extremely difficult to produce. Travellers have also reported long waiting periods for accessing social housing. The average wait time noted during ERRC/Númena research was 6 years. During research in 2004, the ERRC met Traveller individuals who had waited for almost a decade for social housing, apparently because there was no housing big enough available, and were living in squalid conditions. At the same time, the director of ASNIT, Bouches du Rhône, informed the ERRC that the normal waiting time for qualified persons in the region was generally three years.'<sup>59</sup>

To date, all 96 departmental schemes have been approved and published. At the end of 2008, the total number of places having been the subject of a State subsidy decision was 24,640 (or 60 per cent of the total number of places under departmental schemes), while the number of caravan places in developed and operational halting areas was 17,365, or 42 per cent of those planned for in schemes (there is a time-lag between the subsidy being secured and development work being carried out by the project leaders). The number of

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<sup>56</sup> Interview with the National Association of Catholic Travellers.

<sup>57</sup> Interview with the National Association of Catholic Travellers.

<sup>58</sup> To date the information is still not available on the website.

<sup>59</sup> ERRC/NUMENA, 'Social Inclusion Through Social Services: The Case of Roma and Travellers. Assessing the Impact of National Action Plans for Social Inclusion in Czech Republic, France and Portugal', March 2007, 92 pages. Available at: [www.errc.org/db/02/23/m00000223.pdf](http://www.errc.org/db/02/23/m00000223.pdf)

transition sites was 79, with an average of 100 places per site. This should be compared with the estimate number of travellers in France.

### 1.3.2. Roma

Access to decent housing for Roma is very difficult and is linked to their exclusion from the labour market. The majority of their requests for social housing are not even considered. Access to private housing also seems to be very restricted at the moment. Some sites have been developed in certain municipalities, offering fairly adequate infrastructure for everyday life but these projects are very limited in number.

However, the majority of Roma live in slums or squats, usually on the outskirts of large towns, on brownfield or empty sites and in totally insalubrious conditions. Temporary and self-built solutions therefore face the risk of being rapidly destroyed by fire. With regard to public services (refuse collection, access to social or health services, etc.), access is very rarely assured, which renders daily life even more arduous. In reality, Roma encampments therefore form isolated ghettos on the outskirts of towns or even further away on agricultural or forest land. This spatial segregation on the fringes of transport networks, health and education amenities (schools and hospitals) therefore leads to real social segregation for these populations. As such, children are the first to fall victim to the lack of hygiene and develop health risks such as tuberculosis.

The latest report from the Romeurope group gives some indication of living conditions: there is lack of sanitation in many cases; a single water supply point on sites for groups of 100 to 200 persons; lack of access to electricity or unauthorised connections to the electricity supply; lack of public services, etc.<sup>60</sup> With respect to evictions, these seem to have been increasing for several years with no sign of stopping.

According to the circular:<sup>61</sup>

‘the main reason why a significant delay was being witnessed in the implementation of the 2000 Besson Law was the increased cost incurred by the construction of the sites. The fact that many halting sites had not been created was a consequence of the prefects’ inability to take action against Travellers who were squatting since no halting sites were available. The ERRC notes that the reference to the “impossibility of evicting the Travellers” due to the inexistence of halting sites in a circular purporting to outline the technical specifications of halting sites is inappropriate. The impression that is given is

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<sup>60</sup> Romeurope, ‘Rapport 2007-2008’, January 2007 – July 2008. Available at: [www.romeurope.org](http://www.romeurope.org).

<sup>61</sup> France/Circular No NOR/INT/D/06/00074/C ‘Implementation of the Prescriptions of the departmental plan concerning the halting of Travellers’ 03.08.2006.



that the drafter of the circular considered that the only reason why the construction of halting sites should be expedited was not to provide suitable accommodation to the Travellers but rather to comply with the necessary legal requirements in order to evict them. This impression is reinforced by the content of the circular: its main tenor appears to be to reduce as much as possible the construction cost of halting sites, even if that meant that the quality of life in those sites would be affected. Thus, the circular recommends to the authorities to avoid engaging consulting companies over the construction of halting sites while it stipulates that only one sanitary block, consisting of at least one shower and two WCs, per five caravan places should be available. By contrast, under the previous legal framework, this ratio was considered to be the minimum and in fact the ratio deemed more suitable was one such sanitary block per two/three caravan places. Similarly, whereas under 5 July 2001 the longest period of sojourn could not be, as a rule, more than nine months, under the new circular the sojourn could be as a rule no longer than five months.<sup>62</sup>

The rapid and brutal character of these evictions also has psychological consequences for the people involved: the permanent threat of eviction, harassment or intimidation tactics, denounced in the Romeurope report, render the living conditions for families even more unstable. Following these evictions, families often face discrimination in access to emergency accommodation, are sometimes broken up, although children are not separated from their parents. Those families often end up on the street, despite their state of health or the age of their children. These evictions do not even respect the 'winter break' defined in article L 613-3 of the Housing and Building Code. The Hammarberg report denounces the practice of 'humanitarian repatriation' demanding that they be conducted 'with the respect of the rights of the people concerned' and that these regressions are entirely wilful. It condemns the tactics of intimidation or threats which might be used to 'convince' families to accept these conditions of 'humanitarian repatriation'.

We read with interest the ruling of the Pontoise High Court, dated 30 June 2008, which dismissed the request of the Ile de France Agency for Green Spaces for an eviction order on families settled on land in Montmagny within 24 hours with the help of the police if necessary, and with a penalty of 200 euros per day. The ruling states the conditions in which these evictions are mostly carried out (accounts of eviction also appear in this part of the latest Romeurope report).

Deprivation of housing has an effect on the situation of Roma as a group. Indeed, the process of social exclusion which comes into play when access to decent housing is impossible is much wider and endangers the most vulnerable groups such as women, children, the elderly and the disabled. Thus, repeated evictions, the lack of resources and unstable living conditions render the

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<sup>62</sup> Complaint No. 51/2008, *European Roma Right Centre (ERRC) v. France*

schooling of children haphazard or impossible. Young people often find themselves poor and forced into undeclared work; or more seriously, fall into prostitution, crime or illegal trafficking.<sup>63</sup> Several international studies<sup>64</sup> have demonstrated the close link between homelessness, poverty and prostitution or trafficking.<sup>65</sup> Therefore, Roma and Travellers, as particular vulnerable groups amongst French society, are doubly exposed to the danger of their situation deteriorating, and suffering many consecutive violations of their most fundamental rights.

In conclusion, there are numerous sources highlighting the consequences of the housing situation for Roma and Travellers on the process of social exclusion of which they are victims.

The impact of housing conditions on schooling has been clearly shown. All the existing literature on the subject requires an examination of living and halting conditions in towns.

Schooling is based on an essential: that of halting; that is to say providing, or not providing, families with the possibility of halting long enough for them to enrol their children in school. Currently, the lack of places on halting sites, their location, combined with the refusal of some families to park of 'halting sites', inevitably leads to illegal halting on 'unauthorized' sites and incessant evictions, which hinders any possibility of enrolling in schools.<sup>66</sup>

Some families refuse halting sites as a matter of principle and others refuse because of the cost or poor conditions (e.g. water, sanitation, etc.)

The impact of the difficulties of halting on schooling has been criticised on a number of occasions by international authorities. To cite one of the most recent sources, in his memorandum following his visit to France on 21-23 May 2008, the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, highlights schooling difficulties:

In many cases, the difficulties with regard to schooling for Traveller children seem bound up with the caravan parking issue. Frequent moves and the locations of sites for Travellers far way from schools are not conducive to adequate access for children to education. Notwithstanding the fact that schooling is compulsory and [faces] growing demand from Traveller parents, some municipalities continue to refuse to enrol Traveller children in primary schools, on the grounds that they will not be there long enough, that an eviction procedure is under way or that classes are full. The HALDE was

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<sup>63</sup> Complaint No. 51/2008, *European Roma Right Centre (ERRC) v. France*

<sup>64</sup> Shelagh Day, June 2008 'Prostitution: Violating the Human Rights of Poor Women'.

<sup>65</sup> <http://humantraffickingwatch.com/portal/>

<sup>66</sup> See the chapter 'Access to education' of the report 'Access to Social Rights by Gypsy Populations in France', J.-P. Liégeois for the General Directorate for Social Action.

notified, for instance, of one mayor's refusal to enrol a group of 14 Roma children.

The National Centre for Distance Education (CNED) has introduced some special courses and set up a support network used by 6,000 Traveller children.

The Commissioner is of the view that greater flexibility should more frequently be offered to those families who so desire. Travellers have long harboured a degree of mistrust towards schools, and parents do bear some of the responsibility for their children's failure to attend, but the efforts made by families should not be discouraged.

Alternatives to conventional schooling may be envisaged for those Traveller families who so desire because of their high degree of mobility. The Commissioner commends these initiatives, while expressing disappointment that there are still far too few of them. Such arrangements should be made generally available: as well as affording a means of providing schooling for these children, they serve as a springboard into conventional schooling and foster a more open attitude to the education system.

On the whole, Roma families are keen for their children to attend school. [...]

The Commissioner would like the French authorities to ensure better access to education, employment and medical care and assistance for Roma groups. A successful integration policy has to involve a role in the economy for adults and education for children.<sup>67</sup>

The interviews carried out for this study have been the occasion to consider the link between housing and living conditions and schooling. These have deplored unstable living conditions and halting difficulties which prevent continuity in schooling for Traveller children in particular, or show that the desire for 'anchorage' at the heart of the current Traveller housing problem is closely linked to the desire to enrol children in school (despite the fact that the socio-economic situation has changed, affecting travelling).

Nevertheless, the information provided is general. More specific elements concerning aspects of the living conditions of Roma and Travellers (such as affordability, location, accessibility, habitability, segregation, private housing, social housing, legality and legalisation) are not available due to a lack of data on this matter.

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<sup>67</sup> Memorandum by Thomas Hammarberg, Council of Europe Commissioner for Human Rights, following his visit to France from 21 to 23 May 2008 CommDH(2008)34.

## 1.4. Case law and complaints relating to housing of Roma and Travellers

Under the Pleven Law (Law No. 72-545, 1 July 1972), acts of discrimination are covered exclusively by the criminal law. In order to obtain justice under this law, victims must prove to a court that a landlord or agent has acted with discrimination because of the victim's race, ethnic group, nationality or religious beliefs. This is an arduous task. Due to the lack of compelling evidence (e.g. a written statement establishing that the victim has suffered discrimination based on these criteria) it is difficult to prove the criminal offence. Designed to combat racism, the 1972 law also established the crime of racial discrimination, which stems directly from the Convention for the Elimination of all Forms of Racial Discrimination (CERD). However, these provisions are only rarely invoked in court despite the growing increase of discrimination cases.

When faced with decisions by the authorities relating to discrimination or a denial of rights, all persons are entitled to appeal to the Administrative Tribunal, regardless of the accused (government, regional and local authorities), the form (court order, decree, letter) or the content. Once the Administrative Tribunal has delivered its decision, the administrative department concerned is required to apply, and more broadly, to comply with it.

The High Authority for the Fight against Discrimination and for Equality (HALDE) was set up by Law 2004-1486 of 30 December 2004 as an Independent Administrative Authority, charged with identifying all discrimination (direct or indirect) prohibited in law or by an international agreement to which France is a signatory. Its main task is to deal with claims submitted by persons who consider themselves to be the victims of discrimination. The law is also credited with introducing measures concerning discrimination in the area of goods and services. Article 19 also allows for specific recourse concerning racial discrimination in access to goods and services. Furthermore, it provides for a change in the burden of proof before the civil courts. The HALDE receives around 30 claims per year concerning Travellers, mainly based on refusal to enrol children in schools, refusal to insure caravans, refusal to open bank accounts and refusal to connect water or electricity supplies to caravans parked on family land with no planning permission. However, generally speaking, according to an official of the HALDE Travellers show a reluctance to make complaints on the basis of racial discrimination, as they have a strong sense of their French identity. This explains the small number of claims received by the HALDE. Furthermore, the

HALDE has set up a working group<sup>68</sup> for Travellers, on the basis that it was previously not representative of the problems these people encountered.

According to the interview with experts from the HALDE, no particular complaints have been made related to particular barriers that women, the elderly or disabled might face. On 6 April, the HALDE issued a deliberation<sup>69</sup> on access to voting by travellers, travel permits, refusal of halting sites, and the refusal to enrol children in schools due to the Traveller's family living on a non-constructible plot of land. The deliberation points out the lack of cooperation from a number of municipalities as well as from some mayors. It contains a set of recommendations addressed both to the French authorities and the local governments on how to address those issues and solve the problems.

The Ombudsman, established by the 1973 law, can be called upon by any person who, regardless of nationality, finds themselves in conflict with a government department, a land agency or any public service organisation. As the referral to the Ombudsman is not direct, in order to call upon that body, the case must be referred through a Member of Parliament or Senator, or by approaching one of the Ombudsman's representatives. In practice, the Ombudsman has not been called upon to deal with any complaint concerning housing discrimination made by Roma or Travellers.<sup>70</sup>

A Children's Advocate was established by Law No. 2000-196 as an independent administrative authority. This body can be called upon directly and is able to deal with cases of individual or collective breaches of children's rights. The Children's Advocate can also be called upon by children themselves, their parents, and relevant organisations recognised as providing a public service. In practice, the Children's Advocate has not been called upon to deal with any complaint concerning housing discrimination made by Roma or Travellers.

## Annex 1

In France, the Ministry of Justice does not produce statistics on the number of complaints by category of victim, and a fortiori statistics on ethno-racial complaints. It is impossible therefore to read precisely from the statistical table in Annex 1. As indicated above, discrimination complaints received by the HALDE concerning Roma and Travellers are limited to around 30 cases per year compared to the 7,788 complaints received in 2008.<sup>71</sup> The other Independent Administrative Authorities (the Ombudsman and the Children's Advocate) have not received complaints of this type.

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<sup>68</sup> The working group is only composed of members of the HALDE, with 50 per cent women. They organise hearings with Roma and Travellers representatives.

<sup>69</sup> HALDE, Deliberation No. 2009-143.

<sup>70</sup> Considerations on the basis of informal interviews with the French Ombudsman office.

<sup>71</sup> <http://www.halde.fr/Publication-du-rapport-annuel-2008.html>

## Annex 2

In addition to the jurisprudence presented, it is interesting to note that on 13 June 2007, a request was made to the European Court of Human Rights by Laetitia Winterstein and others belonging to the Traveller community. The ATD-Quart Monde organisation also presented itself as a plaintiff. The applicants claimed to be victims of inhuman or degrading treatment by the authorities, arguing that expulsion decisions made against them were a breach of their right to respect of private and family home life and that because of their social origin, wealth and lifestyle, they are the target of discrimination in the exercise of rights guaranteed by the last two provisions. The case is pending.

## 1.5. Identifying good practices

It is also important when considering good practices to distinguish between initiatives that concern Roma and those that are aimed at improving the housing conditions of Travellers.

### 1.5.1. Travellers

The interviews carried out for this study suggest two examples of good practice of clearly differing importance.

The first concerns the development of a temporary reception site in the town of Colombes, in the Paris suburbs. This example must be seen with all the necessary precautions linked notably to the lateness of the response (at the national level) in the development of these sites, the disparity between these sites and the demands of Travellers for anchorage, and the rejection of these sites by some Travellers who associate them with 'ghettos'. In the case of Colombes, the standard of facilities at the site was raised to approach the standards of social housing (notably in sanitation), and the management is close to that of general social housing; the aim is for the residents of the site to become part of the population of the town as a whole.

The second example is that of securing families a fixed tenure on land where they are tenants or owners: security which goes beyond the alternative of travelling or being sedentary. The Minister of Housing has just completed a study on the question, which has led to the identifying of certain good practices.

Rented family plots have been set up through government grants, for example in Ravoire, Savoie. Seven 150m<sup>2</sup> plots are serviced by an alley, with a building within the plot boundaries comprising a shower, toilet, sink, space for a washing

machine and an outdoor living area. Each plot is fitted with individual water and electricity metres and a storage area at the entrance to the plot.

Further to the development of family plots, other 'adapted' housing projects have received state funding, and come under the scope of ordinary loan-financed housing. Adaptations (for example the provision of a caravan parking space) are general planned for. For instance in 2007, a project was carried out in Rosny-sous-Bois,<sup>72</sup> in the Paris suburbs: it consisted of 57 houses, of which seven were adapted for persons with disabilities. The whole programme was entirely dedicated to Travellers, with the establishment of special sites for caravans behind each of the houses. In addition, a special halting site with 10 places was also dedicated for transit Travellers. Based on the same model, the municipality of Forbach decided to launch a similar programme of 55 houses with individual sites for caravans.

Other projects in the framework of access to property have been implemented, for example in Thenay, Indre, where six individual houses were built through a property company.

N.B. It is not possible to expand further on good practices where the studies of which they are part have yet to be approved by the relevant authorities. It seems in any event, that in all cases the Travellers concerned have been included in the development processes of the various projects.

## 1.5.2. Roma

The comments of the people and organisations questioned for this study<sup>73</sup> are convergent and highlight the difficulties associated with the size of the problem (it is necessary at the same time to move these populations from the outskirts of large towns where they settle, but which offer no prospects, particularly in terms of employment). According to the ASAV for example, action so far has not been satisfactory, on one hand because the political drive is very localised, and on the other hand because the operational provisions do not correspond to the type of social development usually practised in France. The prevailing logic of removing an unauthorised settlement is not to provide individual solutions, but collective one, the consequence being to accentuate the stigmatism associated with these populations. According to the ALPIL, which works in the Lyon region, the solution does not lie in creating camps for Roma in order to move them from the unauthorised settlements where they live. Rather than thinking of Roma as a group, it would seem clear that access to social rights, work, and the housing question require that we move from a collective view of

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<sup>72</sup> [http://www.ateliers-solidarite.com/ateliers-solidarite/medias/supports\\_interventions/forums\\_1a\\_et\\_b/adoma\\_sedentarisation\\_gdv.pdf](http://www.ateliers-solidarite.com/ateliers-solidarite/medias/supports_interventions/forums_1a_et_b/adoma_sedentarisation_gdv.pdf)

<sup>73</sup> In recorded and unrecorded interviews (see chapter 2.1.).

the group to an individual view of cases. On the whole, it is not about providing housing 'for Roma' but for individuals, on a case-by-case basis.

Without disregarding these reservations, the Romeurope group, in its latest report,<sup>74</sup> has identified initiatives taken at a local level by certain public actors, which have enabled the implementation of a dignified reception and an inclusion project for Roma families. Depending on the actors involved, the provisions and credit which can be brought into play and the partnerships which form differ greatly [...] Different forms of housing and accommodation have been experimented with: emergency shelter, shelter in accommodation and social inclusion centres, accommodation in various parks, in social or private residences, settlements on sites, provision of various vacant buildings, access to social or private housing.

In all cases, Romeurope advocate that: a detailed study of the situation and plans for each family be completed; the handling of the case is personalised; a social worker is planned for at the same time as the initiating of the re-housing plan; and the solutions are recorded as a priority in the framework of national law, in order that re-housing plan is developed in conjunction with the organisations and committees supporting Roma Families.

Social inclusion projects through housing have been carried out in Île-de-France, and specifically in Seine-Saint-Denis, in Nantes and in the Lyon region. In each case, they concern no more than a few hundred persons.

In Seine-Saint-Denis, the involvement of different finance streams (central and local government) come under the MOUS (Urban and Social Management) project which allows large-scale projects to be carried out over several years. This type of provision is frequently used to manage inclusion and housing projects for French Travellers, and for the moment only in Île-de-France have MOUS projects been used to benefit migrant Roma populations. This can be explained by the incentive nature of the Île-de-France regional council project to eradicate slums, in place since 2005, and which is aimed specifically at Roma. Under this project, local authorities can obtain loans (up to a maximum of 500,000 euros) to support their investment in housing and accommodation for inhabitants of slums that have been pulled down (up to 80 places), under conditions which comply with the minimum standards of individual housing and facilities. However, these loans remain under-subscribed today due to the difficulty in obtaining commitments from local authorities.

The first social inclusion and housing project under MOUS was set up in Aubervilliers. The town council there wished to undertake, for a number of Roma families present in the town, an adapted housing plan which comes under the overall inclusion plan. The council therefore drew upon regional council

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<sup>74</sup> Available at: <http://www.romeurope.org/wp-content/uploads/2008/10/rapport-cndh-romeurope-2007-2008.pdf>



subsidies and has, since the beginning of 2006, called upon the sub-prefecture of Saint-Denis for the implementation of a MOUS project within three years. As a first step, while awaiting this implementation, provisional support for selected families was provided through the help of an association; the project was actually able to begin in March 2007. A second project has since emerged, led by the government.

## 1.6. Major national projects targeting the housing situation of Roma and Travellers

### 1.6.1. Reception policy for itinerant Travellers

Article 1 of the Quillot Law stipulates that the right to housing ‘implies the freedom of choice for all [types and locations] of residence.’ The right to housing has since been recognised for the poorest and most socially excluded populations. However, several concurring analyses have identified a major problem facing Travellers that cannot be solved by the classic method of building low-cost rented housing. Article 28 of the 1990 Besson Law, which guarantees access for all to decent housing and broadens eligibility for housing benefits, expressly stipulates that Travellers can camp on encampment areas specially reserved for them in municipalities with over 5,000 inhabitants in accordance with department plans. Yet by 1999, less than one-quarter of these areas had been created. This observation prompted parliament to pass a special law for Travellers in 2000, making the creation of encampment areas compulsory. This second Besson Law concerns Traveller facilities, housing and encampment, as well as access to education and healthcare. The associations appointed to assist the authors of Besson Law 2 observed that the existing encampment areas were not suitable for everyday living; they were neglected by the municipal technical services; they had little or no sanitation; many of them were situated on dangerous sites, near a motorway or a dump; few provided access to water and electricity, and they were often far from schools. The Besson Law 2 rectifies these failings by introducing coercive measures (obligation for the municipalities to create encampment areas) and incentive measures (funding aid). Municipalities with over 5,000 inhabitants are bound to create and equip permanent encampment areas in keeping with department plans. The department plan takes account of the size of the municipalities, the frequency and length of stay of the Travellers and the possibilities of accessing schooling, healthcare and economic activity.

The permanent encampment areas have a capacity of 25 to 40 places and are intended for small groups and individuals for stays of no longer than nine months.

The law also provides for large sites to be created in municipalities where traditional and occasional gatherings are attended by hundreds and even thousands for a fairly short space of time. These sites can accommodate 50 to 200 caravans for stays of a few days to a few weeks.

Short-stay areas are sites with a small capacity of four to six places where isolated families or caravans travelling in small groups can stop for a short period of time. Family sites can also be provided for a maximum period of three months' encampment at a time. Their creation is subject to the owner of the land on which the caravan is encamped, or any other person with tenure obtaining an authorisation issued by the relevant authority.

All encampment areas must have adequate sanitation facilities for the families staying on them (i.e. at least one toilet block with at least one shower, and two toilets for every five caravan places). Families must also have access to mains electricity and running water.

Municipalities with less than 5,000 inhabitants may also be concerned when a department needs analysis finds that an encampment site is needed on their territory, and when they have agreed to provide such a facility by means of an inter-municipal agreement signed prior to the publication of the plan.

The department plan is drawn up and approved by the department's state representative and the President of the Department Council following the opinion of the town councils concerned and a Department Advisory Commission representing Traveller associations. The central government pays for 70 per cent of the investment required to develop and rehabilitate the encampment areas; the region, the department and family allowance funds can grant additional site development subsidies.

All the plans were supposed to be adopted within 18 months of the publication of the law and the municipalities in question had two years to apply them. The 2004 Social Modernisation Law extended the deadline for a further two years following implementation delays. This law also stipulated that if the municipalities had still not complied with the plans' obligations by the end of four years, central government could, following formal notice from the prefect, acquire the necessary land, perform the construction work and manage the encampment areas on their behalf, charging the expenditure to the municipal budget.

In return, the Besson Law enacted a ban on encampment on unauthorised sites. Article 9 of the Law stipulates that, once a municipality has fulfilled its obligations, the mayor can issue an order prohibiting encampment on

unauthorised sites. In the event of a breach of this order, the mayor can refer the case to the high court to order the eviction of the mobile homes. Where the land belongs to the municipality, the mayor can take action directly if the encampment is a threat to public health, safety or peace. The judge can propose that the occupants move onto the equipped site or order their eviction from the land.

The 2003 law on internal security<sup>75</sup> added an enforcement measure by stipulating that persons in breach of the unauthorised encampment ban are liable to a prison sentence of six months and a fine of €3,750, a maximum three-year driving ban and the confiscation of the vehicles used to commit the offence.

Certain local authorities tend to make heavy use of these provisions, whereas the new encampment areas set up for Travellers are sometimes located far from their economic activities and the educational and social facilities frequented by their families. This has led to an often extremely negative opinion of French legislation among the Traveller community. The Council of Europe Commissioner for Human Rights himself has regretted this sanction, which he deems excessive and liable to place Travellers in inextricable situations, creating problems in areas such as childrens' schooling.

Following this criticism, the Minister of the Interior sent a circular to prefects with a call to comply with the law. He reminded them that they could implement the adopted department plans in the place of local elected representatives, and also that they should not bring in the police to carry out evictions if the local authority requesting police assistance has not fulfilled its other obligations. The courts also refuse to issue eviction orders to mayors who have not implemented the department plans.

At the end of 2008, NGOs and experts pointed out some of the unsatisfactory results of the Besson Law's encampment provisions. They feel like the implementation of the Law is far from effective.<sup>76</sup> As of 1 January 2009, virtually all (96) of the department plans have been signed and published. The remaining four departments are French Overseas Departments. Yet the rate of site creation is still low.

There are a number of reasons for the delays.

The legislation has encountered funding problems: land prices have often soared while government subsidies have levelled off. At the same time, the municipalities have been ordered to make sure that 20% of their housing stock is low-cost rented public housing. Failure to do so is liable to a fine. This obligation is causing budgetary problems at a time when the municipalities are

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<sup>75</sup> France/Loi No. 2003-239 du 18 mars 2003.

<sup>76</sup> For details, see the Romeurope report 2007-2008 (interviews provided with representatives of Roma and Traveller organisations).

often already heavily in debt. A think tank has been set up to address how to overcome this obstacle. A bill being debated in parliament makes Traveller encampment areas part of the 20 per cent quota of low-cost rented housing. This measure would go some way to easing the tensions in certain municipalities between Travellers and sedentary applicants for this kind of housing.

Many court cases have been brought about by residents and associations claiming that the plans breach town-planning or environmental obligations, or the coastline law. Two department plans have consequently been cancelled.

Traveller associations themselves dispute the location of encampment sites. Many are near dumps or on the outskirts of town, wedged between roads and far from schools.

The problems with enforcing the Besson Law are now being overcome by local initiatives.

The Sub-Prefect of Bobigny, department advisor for Traveller affairs, was the driving force behind the winter encampment areas opened by the government and the Seine-Saint-Denis Department Council with the help of certain municipalities. This project provides additional encampment areas during the winter period, which is the hardest season for Travellers. The Sub-Prefect, the relevant mayor, the associations and the beneficiary family heads have also concluded agreements to commit the Travellers to complying and ensuring compliance with a certain number of rules and social behaviour, and to providing the registration numbers of the vehicles and caravans authorised to encamp in these areas. In return, the town councils provide a rubbish collection service and water supply free of charge. The associations have also promised to offer a mobile school service.

On 3 August 2006, the Ministers of Interior and Social Affairs issued a joint circular<sup>77</sup> to replace the 2001 circular on the application of Besson Law 2. Following complaints from locally elected representatives, who felt that the cost of creating and equipping the encampment areas was too high, this circular aims to facilitate and speed up the implementation of the specifications in the department plans on Traveller encampment facilities by reducing to a minimum the technical standards and facilities required. It also clarifies the possible forms of financing. It stipulates that entitlement to a government subsidy is subject to compliance with the technical standards. It sets the absolute maximum stay on a site as five months, save cases where children are at school and need to finish the school year. Lastly, the circular provides the possibility of appointing a mediator to examine problems and make proposals.

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<sup>77</sup> France/Circulaire No. NOR/INT/D/06/00074C.

Indeed, the Law of 5 July 2000, relating to the reception and housing of Travellers, and its implementation may be considered as being the French national plan on matters of housing for Travellers. It is a public policy based on the development of departmental schemes, which are pivotal to providing support, and which provide permanent halting sites (including transition sites) based on an assessment of needs and supply, their capacity and towns where they are established. The schemes identify possible sites for traditional or occasional gatherings. The need for family sites destined for sedentary Travellers appears in the Annex.

A consultative departmental commission of elected representatives and representatives of organisations and Travellers participates in the development and implementation of the departmental scheme.

The towns which have signed up to the scheme have an obligation to provide the permanent sites planned for in the scheme. For its part, the state provides financial support to towns (or the public departments involved in inter-community cooperation) in order to assist them in implementing the provision of this support. To assist towns in meeting their obligations, the state provides a subsidy to develop sites (70 per cent of the cost, with a ceiling of 15,245 euros per place). Loans taken out to finance these sites have risen significantly since 2003. In 2007, borrowing amounted to 64m euros, a level never reached before; in 2008, the figure was 44m euros.

Year	2001	2002	2003	2004	2005	2006	2007	2008
Borrowing (in millions of euros)	6.03	14.65	23.0	26.0	35.4	42.46	64.0	44.44

There are large regional contrasts in the implementation of scheme proposals. Among the better performing regions are: Brittany; Poitou-Charentes; Pays de Loire; Centre; Franche Comté; and Midi Pyrénées. Among the lesser performing regions are: Île-de-France; Languedoc Roussillon; Provence Alpes Côte d'Azur; and Nord Pas de Calais.

The law requires a schemes review at least every six years, from the date of publication. For the government, 2009 is the ideal opportunity to produce an assessment and evaluation of results as well as reviewing needs, for both support and housing. Following this assessment, the departmental schemes should be updated.

## 1.6.2. National action on providing fixed tenure

Beyond the national policy for developing halting areas, the public policy on Traveller housing for those wishing to settle permanently lies as much as possible in national legal provisions and consists of providing solutions adapted to a family or group of families. In all cases the government insists on the fact that housing actions adapted for Travellers can not bear fruit unless they are formed in cooperation with the interested parties. There are examples 1.5. of family tenancy sites said to be 'adapted' and having benefited from state financing. This policy, in any event, is at a less advanced stage than that of providing halting sites, which is in itself far from being completed.

## 1.6.3. An example of consultation: The National Consultative Commission for Travellers

In order to provide itself with a representative contact and a point of national consultation, the government set up, on 27 August 1999, the National Consultative Commission for Travellers (CNCGV) charged 'through the Ministry for Social Affairs and the Ministry for Housing, with studying the specific problems encountered by Travellers and to put forward proposals with a view to improving their integration into the national community.' The prime minister may consult this commission on legislative and regulatory texts and action plans leading to better integration of Travellers. It can also be referred to for advice by the members of government whose responsibilities fall within its remit, and by the president and other members of government on all questions within the scope of its activity. The commission is made up of locally and nationally elected politicians, but also ten representatives from the Traveller community and ten members with relevant knowledge and experience. Each year the commission produces a report on the results of its work and proposals and provides a report of innovations contributing to a better integration of Travellers.

Since its inception, this National Commission has placed the question of ways of life at the heart of its interests, and the many recommendations it has adopted have fed into the consideration of legislators and fuelled proposals targeted at improving the conditions of support and housing for Travellers. In terms of working practice, the Commission recommended from the outset involving families and representative partners in the establishment of specific housing, considering that, 'though it seems difficult to involve families in transit in the

development of halting sites, it is however indispensable to design housing plans in close consultation with them.’<sup>78</sup>

This National Commission has played an active role, but has not met since 1 April 2008, and should be reformed in June 2009.

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<sup>78</sup> Commission nationale consultative des gens du voyage, rapport annuel 2002 (National Consultative Commission for Travellers, Annual Report 2002).

## 2. Field research: interviews of key actors

### 2.1. Methodology

Five face-to-face interviews were conducted and recorded with actors from associations, one of whom is also a lawyer and university researcher and spoke, largely, in that capacity. They are the subject of the summary that follows. The associations that participated in the study include the Human Rights League, the Romeurope group, the National Association of Catholic Travellers, the National Federation of Associations of solidarity with Gypsies and Travellers, the French Union of Gypsy Associations and the France Liberty Travel Association. Among those interviewed, two women were questioned (one of whom was a Traveller). In total, three Travellers were questioned: two men and one woman.

Several face-to-face and telephone interviews not recorded were conducted with people belonging to a variety of associations, public authorities, local government and anti-discrimination institutions/organisations: the Directorate General of Planning, Housing and Nature at the Ministry of Housing; the Directorate General for Social Welfare at the Ministry of Employment; the Ministry for the Interior/Home Affairs; the Office for General Crime and the Protection of Individual Liberty at the Board of Criminal Affairs and Pardons at the Ministry of Justice; the HALDE; the Communauté urbaine de Lyon (CUL); the Action in Lyon for insertion through housing; the Abbé Pierre Foundation; Romeurope; and the Fédération nationale des associations solidaires d'action avec les Tsiganes et les Gens du voyage (FNASAT) [the National Federation of Associations of Solidarity with Gypsies and Travellers].

Finally, this section includes a summary of the recorded hearing conducted with representatives of the Ministry for Housing (Ministère du Logement) and the Ministry for Social Affairs (Ministère des Affaires sociales), as requested. Before this interview, the office which has competence in the field of Roma and Travellers housing, linked to the Directorate General on Housing and Nature of the Ministry of Ecology, Energy and Sustainable Development had also provided some information by telephone, as well as some documentation concerning the implementation of the 2000 Besson Law. All this official documentation is included in the CD-ROM provided and also presented in a printed version.



## 2.2. Interview with the Human Rights League

This interview was also the opportunity to discuss the housing and living conditions of itinerant Roma and French Travellers.

### 2.2.1. Itinerant Roma

For European nationals (Romanians, Bulgarians) who are sedentary, the difficulties they encounter are access to social housing, and more broadly, to legal provisions concerning accommodation, as these transitory provisions limit access to work for these populations. The consequence of this is that they live under very precarious conditions, in unsanitary housing and slums (notably around Paris and Lyon). It is important to understand that 'what Roma demand is adequate housing, within the framework of legal provisions, social housing, emergency housing and access in individual or collective private housing'.

For migrant Roma from outside the European Union, the situation is the same as that for asylum seekers. At best they have access to emergency accommodation; problems are associated with difficulties establishing their legal status. The Romeurope group is currently carrying out a 'test' on access to emergency housing for Roma migrants which reveals a great lack of understanding by the relevant French authorities of people's needs. Furthermore, 'prejudices prevent these people, often families with children, from accessing emergency accommodation. Often because the solutions proposed are not suitable.'

Certain good practices in improving the housing conditions of Roma should however be acknowledged. Some Roma have been able to benefit from Maîtrises d'Oeuvre Urbaine et Sociale (MOUS) [Urban and Social Management Projects], which are a set of actions designed to provide access to housing for persons in social difficulties, based on an analysis of their needs and providing social support. In this case, the local authorities make property available and meet the cost of making the accommodation suitable, with the state co-financing the social assessment.

The respondent cites an example in the French department of Val-de-Marne in the Paris suburbs: the regional Council made a property available to an association which housed a family there. 'Social inclusion' was made possible with this move through both schooling and employment.

However, of the 15,000-16,000 Romanian and Bulgarian Roma present in France's large towns, according to the lowest estimates, very few people (only

around 1,000) have been able to benefit from a social inclusion provision through housing (100 persons both in Nantes and Lille, and a few hundred Roma in Seine-Saint-Denis). Furthermore, ‘the responses which aim to provide segregated accommodation to replace slums are not suitable, the key is not to offer collective solutions but individual solutions’.

## 2.2.2. Travellers

The Besson Law of 2000 consisted of two parts: on one hand, the development of reception centres, which corresponds to temporary collective housing; and on the other hand the reinforcement of housing rights, corresponding to individual housing. However, the latter, which requires a needs assessment, has never, or hardly ever, been implemented by departments or municipalities. To date, the only response to the Besson Law has been to meet 45 per cent of the need of places in reception areas, which is clearly insufficient, especially as these reception areas are assigned to family groups who become regular inhabitants of these areas.

‘The demand of Travellers is to have “anchor points” in order to have a sense of home while maintaining the possibility of moving. Yet the implication of the Besson Law is to place everybody on the move for temporary periods, which has consequences on schooling and life expectancy (social and health services have difficulty following these populations). The duration of stay and request for individual housing are not taken into consideration. Essentially, provisional collective accommodation is offered, which reflects a lack of awareness and assessment of needs on the part of the state, even if we see responses to requests for long stays emerging with the construction of a permanent building next to the caravan.’

Most of the responses given by the authorities are of ‘ethnic segregation’ while logic would suggest that these populations be ‘de-ethnicised’, and that these inhabitants be accepted in desegregated areas. Instead, people are grouped together living in caravans on habitable sites, imposing their neighbourhood on them. Local urban plans should not consider the form of accommodation, but the construction opportunities of the land. This is how to progress in equal rights. ‘In fact, the responses made by local authorities lead to segregated settings for Travellers.’

Two recommendations were made: recognise the caravan in law as a form of dwelling, which would no longer pose a problem for settling in a housing area; and offer more individual solutions which are better spread across urban and rural areas.

## 2.3. Interview with the National Association of Catholic Travellers

The association is called upon by around 150 families per year, and for whom the association acts in respect to the authorities, in two-thirds of cases these are questions relating to housing or urban development (notably questions of connecting to the electricity supply when families are land owners). The requests made to the association have changed over the last five years: from requests concerning the parking of caravans to requests for permanent settlements in municipalities; 'today the central problem is that of permanent settlement'.

### 2.3.1. Problems in temporary reception areas for Travellers

'The number of places in reception areas today remains highly insufficient', especially as families remains all year long, which poses halting problems for those who continue to travel. For many reasons, much fewer Travellers travel today, or their moves are much reduced; they have found a custom, want to educate their children, and do not want to fight the authorities for occupying an illegal site or a site reserved for large gatherings. There are sites which are "squats" for Travellers who no longer move; the managers keep the same families by changing the name of the occupant, to avoid 'undesirables'. The families who settled at the reception area in Orange, for example, have not moved for four or five years. The lack of space leads to illegal sites in places with no water or electricity. In Sete, for example, children do not go to school because they cannot wash.'

Reception areas are always 'built in spite of common sense' (in Marseillan, no turning point was planned for caravans having to leave the site backwards). 'They have not been designed to be habitable places'; 'I call them reserves, Indian reserves, parks, ghettos that you do not leave at the weekend if the manager is not there. The freedom to come and go is restricted.' Nine times out of ten, these sites are out of town, near rubbish dumps; they are places of 'social relegation'. The association has managed to have certain sites banned that were situated in 'Seveso zones', between motorways and a refinery, seven km from a school etc.<sup>79</sup>

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<sup>79</sup> The directive known as 'Seveso' or directive 96/82/CE is a European Union directive which imposes the duty on the EU Member States to identify the industrial sites presenting risks for major accidents. This directive, adopted on 24 June 1982, was modified on 9 December 1996 and amended in 2003 by directive 2003/105/CE. This directive is thus named after the Seveso

The management of reception sites is the responsibility of each local authority and varies depending on whether the interested parties are consulted or not. When management is private, it is a market, with an objective of making profit. 'With cleaning for example, when managed by the local authority, everything is fine. But in most cases, private firms manage this, there are sometimes rats. There should be an obligation of management by the local council which more often than not is indifferent to the situation.' Other rights violations are cited, notably that at the entrance to certain sites, 'site managers demand vehicle registration documents and medical vaccination certificates'.<sup>80</sup> According to the respondent, these sites are an instrument for 'putting Travellers on police files'.

Prices charged vary widely. They can differ in the same Department: between 5 euros, in Vaucluse and Isle sur la Sorgue, and 25 euros, in Orange. 'Water and electricity are sold at exorbitant prices; never at the same price as for sedentary residents.' Nevertheless, in Elne in the department of Pyrénées Orientales, the town hall claims to make a profit by charging 5 euros per day. More and more often, Travellers are going to have to deprive themselves access to reception areas due to a lack of financial means. They do not receive social security benefits as the caravan is not considered as a dwelling; reception areas do not provide receipts for rent. In most cases, a deposit of 150 euros has to be paid in cash. 'Therefore, there will always be people in illegal occupancy, due to the problem of cost. In addition to the fact that there will not be enough places.' The result is that Travellers settle wherever they can.

However, the respondent regards the site at Isle sur la Sorgue as a good example: the prices are reasonable, a social worker is available, the children walk to school, and there is an obligation for parents to send their children to school from the time they enter the site.

### 2.3.2. Problems for Travellers on family sites

These are very often sites where building is forbidden, without access to mains electricity, on which Travellers stay illegally. 'Connection to the electricity mains becomes a tool for expulsion for local councils: they force people to leave the site.' The association has taken issue with local councils so as not to have the electricity supply cut in mid-winter. The authorities lobbied remain insensitive to these issues. Family sites can also be provided for a maximum period of three months' encampment at a time. Family sites are intended particularly for the reception of travellers in a process of settlement. They consist of a piece of land, rented or bought by the travellers themselves, which can receive up to six caravans for a maximum of three months subject to the

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accident which took place in Italy in 1976, which incited the European states to conduct a common policy as regards prevention of major industrial risks.

<sup>80</sup> From the interview with National Association of Catholic Travellers.

approval by the owner of the ground. These family fields are similar to private programmes, even if installations can be created and managed by state, regional and local authorities

In conclusion, it is raised once again that the caravan is not recognised as a form of dwelling, which constitutes 'fundamental discrimination' and prevents access to social rights. In addition to this, the inclusion in urban planning regulations of the prohibition of halting on sites outside reception areas is considered scandalous by the association. It is currently conducting a campaign of officials reminding them of the role the state plays in the development of urban planning laws and ensuring legality. The responses received to date are still evasive.

## 2.4. Interview with the National Federation of Associations of Solidarity with Gypsies and Travellers (FNASAT)

The FNASAT has entered the field of housing and accommodation, in conjunction with the Abbé Pierre Foundation, since ‘many of the administrative, legal, social and economic problems stem from the notion of tenure being poorly understood by the public powers’.

In short, it appears that though ‘the tenure of Travellers had been recognised, at least on paper, it is enshrouded in contradictory rules: on one hand the right to housing, and planning regulations on the other. The issues of housing and homelessness suffer from these constraining rules. The right to housing is badly implemented, as are planning regulations which are a useful tool for rejecting Travellers; the halting and settling of Travellers, who already find themselves strictly controlled, are further punished by extremely repressive legal procedures, from which stem a number of discriminatory practices.’

Since the first Besson Law of 31 May 1990, which was the first to draw up a policy guaranteeing the right to housing, legal texts, up to the very recent Law of 25 March 2009 promote housing and fight exclusion, and the foundations of housing in social policy have been set down. Yet, for Travellers, the notion of a right to housing is in contradiction with the urban planning code; furthermore, this code introduces the notion of ‘mobile residences for Travellers’ and refers to a group of people designated in name in the code (which is contrary to the republican principle of equality). This code provides many possibilities for local councils to restrict the halting of Travellers, and ban permanent connections to mains electricity, etc. ‘We see that everything is open to debate; it requires only a lack of political will to receive a family for there to be arguments for prohibiting the family to stay. It is very easy not to make room for Travellers, not to integrate them into the social tissue to give them chance to be part of a certain citizenship.’

Furthermore, the repressive arsenal available to the authorities further strengthens the limits in the urban planning code to exercising the right to housing. Since the first half of the decade, Travellers have been considered in national legislation as ‘an inherently criminal group’. However, it is difficult to ban illegal halting when even local councils do not fulfil their obligations (we estimate on a national scale that 40,000 places have been provided in reception areas for 60,000 caravans in circulation; it is not unusual for Travellers to stay for long periods on transition sites which are not actually suitable).

The non-acceptance of the caravan as a dwelling appears to be ‘the most serious problem’ and has multiple consequences: no housing benefit payments, no social worker assigned to the address, no holiday assistance, etc. In the eyes of the administrative departments in general, the caravan is always associated with temporary accommodation and so cannot constitute a true home for a family which has chosen it; for the authorities it is always ‘second-best’, even though the rules for accommodation are standardised. The FNASAT is trying to resolve this situation, especially since the caravan has been chosen as a dwelling by persons who do not belong to the Traveller community.

The request for a permanent settlement is important, on sites where Travellers are owners or tenants; it is linked to schooling (which Travellers today are concerned with) or changes to travelling which Travellers have experienced. However, the homelessness experienced by Travellers is not recognised by the public authorities, and this non-recognition is part of a broader rejection of Travellers as disadvantaged persons or criminals.

Other questions are raised: discrimination in buying land; the fact that notaries sell land without unsuitable for development; that local councils sequester land without justification; the refusal to insure the caravan as a fixed dwelling; the refusal to open bank accounts for Travellers due to problems associated to residence.

In conclusion, the FNASAT’s commitment in aiming to bring Traveller housing issues into a national legal framework was raised. A last remark was made on ‘the low consideration in which the associations are held by the public authorities’: for example, when the MOUS projects are conferred by town councils to associations, it is not unusual to discover that only 10 out of 30 families will be re-housed. The term ‘instrumentalisation’ has been used to describe these practices.

## 2.5. An interview with the French Union of Gypsy Associations (UFAT)

The UFAT is an association founded in December 2008, and whose objective is the defence of Travellers' interests in the role of mediator between the Traveller community and public bodies, and/or the police. It is essentially composed of Travellers. Its scope for action lies at the national level for the moment, but it hopes to widen this to the European level.

The problem of halting is central. The 'Traveller' card held by the majority of Travellers, but which is not the equivalent of a national identity card, is cited in this respect. The fact that the caravan is not recognised as a dwelling, that Travellers do not have access to credit, insurance, bank accounts, benefits, and have no vote is also expanded upon. Furthermore, certain people take advantage of this situation by offering credit at exorbitant interest rates (up to 50 per cent).

As well as noting that the number of reception areas is highly inadequate, the respondent regrets that 'plans are not made in consultation with Travellers but left to the consideration of sedentary residents in the municipality concerned who are not fully aware of the cultural diversity among Travellers'. There is a real need to create reception areas adapted to the needs of Travellers: 'a minimum of 150 m<sup>2</sup> for a caravan space, safe electricity points and water points in order to avoid waste and notably the respect of privacy at the sanitary level'.

On the subject of managing reception areas, notably by private firms: the internal rules are very strict, a policy of filing is practised, in addition to extremely high prices. Therefore, a number of Travellers who have small financial means are excluded from these areas, the consequence of which is to doubly marginalise a part of the travelling population. It seems important to prioritise the creation of several small capacity reception areas in municipalities, able to receive around 20 caravans, representing several families who generally travel together in order to avoid mixing different ethno-cultural groups.

As for private sites, the refusal of local councils to allow Travellers to halt in the town is often due to the fact that neighbouring property sees its value diminish because of the presence of caravans. The UFAT would like the government to authorise the construction of small dwellings in areas which do not pose problems to the local population, as they would not experience a reduction in value of their property.

The association also wishes to engage in consultation with town councils and local populations in order to arrange meetings, debates and lectures in order for the communities to better know and understand each other.

To conclude, what appears to be most discriminatory is halting/parking. Travellers find themselves forced to travel in large numbers (between 50 to 200



caravans) in order to be able to have an 'impact' on the power struggle with local councils and the police when reception areas are full or quite simply inexistent.

## 2.6. An interview with the France Liberty Travel Association

The France Liberty Travel Association was set up following an increase in hostile behaviour towards Travellers when parking their vehicles, after the introduction of the 2003 Law on home security. This hostility rose with the provisions of the 2007 Law on Crime Prevention. The aims of the association are to defend the rights of Travellers who are French citizens, in particular the right of free movement and the right to be assured of a halting place, for short or long stays. Regarding discrimination which Travellers face, as they are often considered to be dangerous, and face eviction or a sometimes violent threat of eviction because of the abuse of police power and persistent checks, the existence of such an association offers a certain assurance. In fact, discrimination is greater when Travellers are not part of a 'group' (approximately 90 per cent of this population), which renders those concerned much more vulnerable.

### 2.6.1. Living conditions on halting sites

Towns should comply with the law and provide halting sites and reception areas for small and large gatherings. This is not currently the case for most towns. Furthermore, a number of sites are in a deplorable state, situated near rubbish tips, purification plants, or motorways. Some sites are surrounded by fences, and access to facilities is not guaranteed. In addition to this, hygiene conditions are condemnable: cases of scabies have been recorded in two sites in Isere. Following the intervention of the association to record the state of the premises, these sites were closed. Nevertheless, good examples, such as that at Chambéry, can be cited: upon parking, priority is given to access to water and electricity, and a rubbish collection system has been put in place, a service for which families pay the town council.

## 2.6.2. The slow implementation of the Besson Law by towns; halting difficulties

While halting sites have not been established in passing towns (as presently only 20 per cent of towns respect the law), it is difficult to plan a schedule/itinerary and find places. Certain prefectures have established a mediator who can be addressed and assist in finding sites: in Aix les Bains for example, the esplanade situated opposite the lake has been made available in the absence of halting sites. In other cases, when (Travellers) are forced to park illegally, the respondent favours municipal sites. He can thus highlight the town's failure to respect the law. Thus taken to court by local government referrals against illegal settlements, he has won his case on a number of occasions. There are even cases where persons have volunteered up land for Travellers and not sought financial recompense.

## 2.6.3. Towards a responsabilisation of Travellers

The respondent implemented a system of attestations which towns submit to him when sites are vacated. They prove that a group has conformed to hygiene rules and standards of good order on sites and plots made available to him. As such, he has received 150 attestations from towns that he has passed through. A halting charter is signed before the stay begins. An essential part of the association's work is negotiation with local councils, which leads both to a change in attitudes towards Travellers and better conditions for the stay.

## 2.6.4. Schooling

The respondent highlighted the fine line between halting and enrolling children in local schools, in addition to distance learning. Even though the attitude of the personnel in the national education services towards Travellers has changed greatly, certain mayors display a certain reluctance/resistance and refuse enrolments. According to him, enrolment in local schools is preferable to 'mobile' provisions.

## 2.7. An interview with the Ministry for Housing (Ministère du Logement) and the Ministry for Social Affairs (Ministère des Affaires sociales)

In France, public policies towards Travellers come under three ministries' authorities: the Ministry for Social Affairs (Ministère des Affaires sociales), the Ministry for Internal Affairs (Ministère de l'Intérieur) and the Ministry for Housing (Ministère du Logement). These policies come under common law, precisely housing legislation, without further distinction between a specific category of beneficiaries and another. Regarding Travellers, they are considered as an itinerant population and ethnic criteria are not taken into account consideration in the drafting of public policies.

The 2000 "Besson Law", which aimed at correcting the deficiencies of the 1990 "Besson Law", led to quite positive results from a global point of view, according to the Ministry for Housing, even though it is too early to make any evaluation for these elements. As regards reception areas, about 2/3 of the places have been funded in 2009 and more than 40% of them have effectively been operational<sup>81</sup>. Indeed, we observe some important territorial disparities at a national scale; however, the government tried his best in providing very important funds for the benefit of investment and management of reception areas.

Currently, the departmental outlines for reception areas regarding Travellers are being reviewed. We can probably observe a general tendency of decrease on the needs for places in the reception areas (places intended for Travellers). However, the needs for family lands – governed by a 2003 circulaire<sup>82</sup> – seem to increase regularly. At the end of 2008, 357 places had been built, including, for each of them, solid buildings for sanitary arrangements, kitchen, a collective room and a parking area for the caravan. Smaller than reception areas, these lands can cater for an expended familial unit, i.e. from 4 to 10 caravans.

The increase of requests concerning family lands is due to the change in travelling habits, related to both economical – integration by economical activity is a strong factor for settling – and educational imperatives, at least for children's primary education. Therefore, we can estimate today to be 1/3 the number of Travellers settled, 1/3 the number of them travelling at least 4 months per year, and the last 1/3 travelling all year long. In that perspective, the

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<sup>81</sup> See balance sheet and maps appended to the report and provided by the Ministry for Housing.

<sup>82</sup> *Circulaire du 17 décembre 2003 relative aux terrains familiaux permettant l'installation des caravanes constituant l'habitat permanent de leurs utilisateurs.* Cf. annex 4 (legislation) for the hypertext link.

family lands are an “in-between” solution; the Ministry for Housing encourages the Departments to take into consideration these needs during the outlines reviewing, requiring at the same time the “fitting” housing to be “mutable”, which means able to be used both by Travellers and other occupants without caravans<sup>83</sup>.

The housing policy towards Travellers is considered as a part of a larger housing management strategy for underprivileged people, that is currently subject to important funding in France, especially since the Loi sur le droit au logement opposable (Law on opposable housing right). In that matter, the development of social housing for Travellers is not an issue of available funds but of building projects adapted to specific needs. In the framework of the follow-up committee for « opposable housing right », a working group on Travellers has been implemented and the so-called DALO Commissions [N.B. from the initials “droit au logement opposable”] can make recommendations in order to lead a development operation of family lands or adapted social housing. Needless to say that this housing must be “fitting” or “adapted” up to reasonable limits and must remain “mutable”.

In conclusion, we can notice that the current difficulty of public actors in charge of the Travellers’ housing issue in France comes from the hesitation, nowadays, between travelling habits which have been deeply modified and a desire for a sedentary lifestyle which has to find its own path.

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<sup>83</sup> To identify good practices as regards installation of family lands, the Ministry for Housing has ordered a synthesis report which would be conducted by a research office and be delivered on 22 October 2009.

### 3. ANNEXES

#### 3.1. Annex 1 – Statistical data and tables

Please note that information in this section is missing because statistical data on Roma housing are not available in France. It is a constant position in the French Republic not to collect any statistical data regarding ethnic minorities, as treatment of such information is in opposition to the French Constitution of 4 October 1958, which specifies in Article 1 that France is an indivisible republic, assuring protection for the rights of every citizen without distinction based on origin, race, or religion.<sup>84</sup>

	2000-2009
Number of complaints regarding ethnic discrimination received by complaints authorities (such as ombudsperson’s offices and national equality bodies)	As indicated above, discrimination complaints received by the HALDE concerning Roma and Travellers are limited to around 30 cases per year. The other Independent Administrative Authorities (The Ombudsman and the Children’s Advocate) have not received complaints of this type.
Number of instances where ethnic discrimination was established by complaints authorities (such as ombudsperson's offices and national equality bodies)	No information is available

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<sup>84</sup> France/Constitution of 4 of October 1958, Article 1, see *supra* footnote 2.

Follow-up activities of complaints authorities (such as ombudsperson's offices and national equality bodies), once discrimination was established (please disaggregate according to type of follow up activity: settlement, warning issued, opinion issued, sanction issued, etc.)	No information is available
Number of sanctions and/or compensation payment in ethnic discrimination cases (please disaggregate between court, equality body, other authorities or tribunals, etc.) regarding access to housing (if possible, disaggregated by gender and age)	No information is available
Range of sanctions and/or compensation in your country (please disaggregate according to type of sanction/compensation)	No information is available

### 3.2. Annex 2 – Court, specialised body or tribunal decisions

	2000-2009
Case title	Mayor of Brangues, appeal n°06-81060. See: <a href="http://www.legifrance.gouv.fr/affichJuriJudi.do?idTexte=JURITEXT000007071753&amp;dateTexte=">www.legifrance.gouv.fr/affichJuriJudi.do?idTexte=JURITEXT000007071753&amp;dateTexte=</a>
Decision date	28 November 2006 Supreme Court, criminal division

<p>Key facts of the case (max. 500 chars) .</p>	<p>The mayor of Brangues had put pressure on an inhabitant of the municipality to dissuade her from selling her property to a member of the Traveller community. The mayor was thus convicted with Economic Discrimination by a person vested with public authority, based on article 432-7 2° of the Criminal Law. The Supreme Court upheld the conviction though, by re-classifying the evidence.</p>
<p>Main reasoning/argumentation (max. 500 chars)</p>	<p>The charge of economic discrimination by a person vested with public authority, under Article 432-7 2° of the Penal Code, has been reclassified as complicity in discrimination through refusing to supply goods on the basis of origin or ethnicity, by the Lyon Court of Appeal. In fact, it was felt that ‘the sale of property by one individual to another does not characterise the exercise of economic activity’. As such, the Court of Appeal reclassified the facts, but the conviction of the mayor has not been challenged.</p>
<p>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</p>	<p>The Supreme Court considered that this re-classification of the evidence did not justify overruling the decision of the Lyon Court of Appeal. It is important to note that above all, the notion of discrimination remains constant from one court to another. It is upon this count that the mayor was condemned. Furthermore, the re-classifying of the evidence by the Lyon Court of Appeal is particularly interesting as it replaces the wording ‘economic discrimination’ with ‘discrimination on grounds of origin or belonging to an ethnic group’.</p>
<p>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</p>	<p>The Supreme Court rejected the appeal and upheld the decision of the Lyon Court of Appeal of 11 January 2006: sentencing Mr. Bernard X, mayor of Brangues, to a three-month suspended prison sentence, fining him 1,000 euros and banning him from public office for one year.</p>

<p>Case title</p>	<p>The ‘Travelling Life’ (‘La Vie du voyage’) Association v. the Prefect of the Bouches-du-Rhône (French Department) and the mayor of Pertuis. See: <a href="http://www.fnasat.asso.fr/jurisprudence.html">http://www.fnasat.asso.fr/jurisprudence.html</a></p>
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Decision date	14 November 2006 and 11 April 2007 Administrative Tribunal of Marseille, Chamber 1
Key facts of the case (max. 500 chars) .	The Travelling Life Association asked the tribunal to annul a decision by the prefect of Bouches-du-Rhône, made implicitly through failure to reply within two months, to the association's request of 3 March 2004 that several areas in the Bouches-du-Rhône department be designated as areas for large gatherings; and to enjoin the prefect of the Bouches-du-Rhône to adhere to the departmental programme for Travellers and designate at least two sites destined for large gatherings and use by Travellers with caravans.
Main reasoning/ argumentation (max. 500 chars)	The Travelling Life Association highlighted the general need for halting sites not only for Travellers, but also the population as a whole. It took into account the difficulties caused by the lack of suitable sites, the breach of freedom of movement, the delay at department level, and the necessity to proceed with legal notices given the unmet needs of the department.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The decision clearly refers to the 1st article of the Law of 5 July 2000 relative to support and housing for Travellers. 'Municipalities participate in the support of persons known as Travellers and whose traditional form of housing is constituted of mobile home'. It establishes in part municipal responsibility for the support of Travellers and recognises the caravan as a dwelling.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	In this decision, the prefect of Bouches-du-Rhône is enjoined to re-examine within two weeks the request of the Travelling life Association, taking into account the motives of the present administrative order. Moreover, the state will pay to the association a total amount of 1,000 euros pursuant to article L. 761-1 of the code on administrative justice.

Case title	The Agglomeration Community of Laval v. Miss Isabelle Delorme and others. See : <a href="http://www.fnasat.asso.fr/Ordonnance%20du%20TGI%20de%20Laval.pdf">http://www.fnasat.asso.fr/Ordonnance%20du%20TGI%20de%20Laval.pdf</a>
Decision date	26/09/2007 Laval High Court



<p>Key facts of the case (max. 500 chars) .</p>	<p>On 5 September 2003, the Agglomeration Community requested the eviction of Traveller families occupying a disused site in an industrial zone owned by the Agglomeration. The 16 persons responded that they would not leave until they could move to the site at Jaunie, which was undergoing work, and to which access was impossible due to the presence of a skip prohibiting entry to all motor vehicles. The Agglomeration Community had only three sites available, the other two being full. The families therefore alleged that they had no other choice but to occupy this site, since their children were schooled in Laval.</p>
<p>Main reasoning/ argumentation (max. 500 chars)</p>	<p>It is incontestable that the access to this site be condemned and that the two other sites are completely overpopulated. Thus, the tribunal recognised that the families had no other choice than to occupy the site, notably because the children were in school at Laval and some of them had frequent need to have access to a hospital. Thus, the reopening of the site at Jaunie, in compliance with legal requirements and holding 25 places, should happen unconditionally, any evictions being rejected.</p>
<p>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</p>	<p>The administrative tribunal argued that ‘those Travellers demonstrating a bond to Laval have the right to a [caravan] place in the same way that the sedentary population has the right to housing’. It thus confirms the obligation of providing a sufficient number of halting sites and furthermore, it reaffirms the right to a (caravan) place along the same lines as the right to housing, such as is provided for in the law concerning sedentary persons. It is upon this right that the administrative tribunal demands the reopening of the halting site and opposes any evictions.</p>
<p>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</p>	<p>The Agglomeration Community was ordered to pay all costs which are recoverable under the provisions of the Law on legal aid.</p>

Case title	The International Movement ATD-Quart Monde v. France. <sup>85</sup>
Decision date	05 December 2007 European Committee of Social Rights
Key facts of the case (max. 500 chars) .	ATD-Quart Monde alleges that the French law encourages breaches of the right to housing for persons living in extreme poverty. Such legislation would not therefore comply with article 16 (the family right to social, legal and economic protection), article 30 ( the family right to protection from poverty and social exclusion) and article 31 (the right to housing). This claim comes under the broad context of the right to housing in France. A very clear reference is made to the inadequacy of the implementation of the law concerning halting sites for Travellers.
Main reasoning/ argumentation (max. 500 chars)	The ECSR noted ‘the unsatisfactory application of the law on evictions and the lack of provisions available for the re-housing of evicted families, [...] the malfunctioning of the system of allocating social housing as well as that of means to appeal, the inadequate implementation of the law relative to halting sites for Travellers, the lack of a coordinated approach to promote access to housing for persons facing or at risk of facing poverty or social exclusion.’
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The Committee unanimously concluded that there were several violations of article 31, notably through the inadequate implementation of the law relative to halting sites for Travellers. By 11 votes to two, it noted that there was a violation of Article 30 of the revised Charter due to the lack of a coordinated approach to promote access to housing for persons facing (or at risk of facing) poverty or social exclusion.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The Committee of Ministers adopted Resolution Res Chs (2008)7, 2 July 2008 taking note of ‘the declaration of the government indicating that France had taken steps to comply with the revised Charter which the government pledges to assure the application of in light of the report, in particular by the implementing of the Law of 5 March 2007 instituting a right to housing’. It

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<sup>85</sup> [http://www.coe.int/t/DGHL/MONITORING/SOCIALCHARTER/Complaints/CC33Merits\\_fr.pdf](http://www.coe.int/t/DGHL/MONITORING/SOCIALCHARTER/Complaints/CC33Merits_fr.pdf)

	required France to provide evidence of the implementation of the measures announced, and that the Committee Of Ministers be kept regularly informed of progress made.
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Case title	The French Federation of National Associations working with the homeless (FEANTSA) v. France. <sup>86</sup>
Decision date	05 December 2007 European Committee of Social Rights
Key facts of the case (max. 500 chars) .	The complaint recorded on 2 November 2006 relates to article 31 (the right to housing) of the revised European Social Charter. It is alleged that the manner in which the housing legislation is applied in France renders the situation non-compliant with this article. Similarly, it brings into question French policy on housing, that is to say the practical application of the laws. Among their complaints, the claimants also highlight the problems of providing halting sites for Travellers and evictions of Roma.
Main reasoning/ argumentation (max. 500 chars)	With reference to the Besson Law of 2000, the ECSR stated that ‘the consequence of the inadequate implementation of the law was to expose Travellers to the illegal occupation of sites and evictions under the 2003 Law on Home Security. In respect to this it notes that [...] a growing number of complaints had been received that concern the non-respect of Roma housing rights in several European countries, notably France. The Committee also notes that another source has noted the disproportionate reaction of the French authorities in a certain number of [Roma] evictions.’
Key issues (concepts, interpretations) clarified by the	The Committee unanimously concluded that there were several violations of Article 31 of the revised Charter, notably of §3 in conjunction with Article E for inadequate implementation of

<sup>86</sup> [http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC39Merits\\_fr.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC39Merits_fr.pdf)

case (max. 500 chars)	the law relative to the provision of halting sites for Travellers.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The Committee of Ministers adopted Resolution Res Chs (2008)8, 2 July 2008 taking note of the ECSR decision, including a response from the French government. Similarly, it expects France to provide evidence of the implementation of the measures announced.

Case title	Gabriel Louis STENEGRY and Sonia ADAM v. France Application No. 40987/05. <sup>87</sup>
Decision date	22 May 2007: European Court of Human Rights, 2nd section, decision on admissibility
Key facts of the case (max. 500 chars) .	In 1997, the applicants, who are Travellers, bought a not-for-building agricultural land and settled illegally on it with full knowledge of the nature of the land. In 2000, they asked the city council for electricity and water to be permanently connected to their land. Their request was rejected by the mayor. A new request was made in 2002 founded on the ill health of the applicant, but was again rejected on the basis of article L 111-6 of the code on urban development (which forbids electric, water, gas and phone connections to buildings, offices, and installations subject to certain provisions and which have not been approved). In this specific case, the caravan was installed on a zone of natural protection and had not received any kind of approval. In 2004, the prefect offered them two other reception areas to go to, or to apply for social housing.

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87

<http://cmiskp.echr.coe.int/tkp197/viewhbk.asp?action=open&table=F69A27FD8FB86142BF01C1166DEA398649&key=39141&sessionId=27580657&skin=hudoc-fr&attachment=true>

<p>Main reasoning/ argumentation (max. 500 chars)</p>	<p>The applicants claim that Articles 8, 3 and 14 of ECHR have been violated. They claim that following refusals to have electricity connected, no adequate alternative solution compatible with their lifestyle and culture was offered to them. The only solution conforming to their lifestyle, that is the family area provided by Law 2000-597 of 30 June 2000, has not been implemented. The government agrees that interference of the right protected by Article 8 does exist. However, it explains that this interference was made in accordance with law, justified by the protection of the rights and freedoms of others through the need to protect the environment; this was necessary in a democratic society as demonstrated by the absence of any expulsion, in spite of the illegal occupation of land, and the proposals for alternative solutions.</p>
<p>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</p>	<p>The Court firstly recognises that interference in accordance with the law, and taken in protection of a legitimate interest, does exist. With regard to the necessity criteria, the Court reminds the state of the particular vulnerability of the Traveller minority, which requires special attention. It underlines the positive obligation of states to allow Travellers to follow their own lifestyle. The key question here is whether the refusal to connect the caravan with electricity and water takes into consideration the applicants' lifestyle and health. The Court acknowledges that the applicants have settled on the land illegally with full knowledge of their situation, and have repeatedly refused any alternative solutions to move on a land connected with electricity. The Court considers that alternative solutions were compliant with the applicants' lifestyle and health, and that therefore, the interference was proportionate.</p>
<p>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</p>	<p>The Court considers that Article 8 has not been violated because the interference was made in accordance with the law, to protect a legitimate interest, and necessary in a democratic society. The public authorities took full account of the applicants' particular situation when reaching their decisions. The measures taken cannot therefore be regarded as disproportionate. With regard to Article 3, the Court considers that the gravity threshold has not been reached. Concerning Article 14, the Court observes that the claim is not sufficiently supported by the applicants. As a result, the Court declared unanimously that the request was manifestly ill-founded.</p>

Case title	Île-de-France Agency for Green Spaces v. Marius Mihai, Tanasie Mihai and Costel Matei, Application No. 08/00590
Decision date	30 June 2008: The Pontoise High Court - ordonnance de référé (summary order)
Key facts of the case (max. 500 chars) .	A community of Travellers, represented by Marius Mihai, Tanasie Mihai and Costel Matei, was installed on property (Montmagny) belonging to the region and managed by the Île-de-France Agency for Green Spaces. After obtaining of the process server's affidavit on May 13 2008, at the Pontoise High Court, this agency ordered the displacement of the community on May 29 2008. During the summary procedure hearing on June 6 2008, the applicant requested expulsion of the Travellers within 24 hours, with police help if necessary, and with a penalty of 200 euros per day. The defendants protested, and requested a six-month deadline to leave.
Main reasoning/ argumentation (max. 500 chars)	The Court firstly recognised that the installations, although precarious, constituted their actual family housing. The Court also recognised that there was an interference with the right protected by Article 8 of the ECHR, and raised the particular vulnerability of the Traveller minority, which requires special attention and the necessity to respect their own lifestyle. However, the Court by reference to its case law, also stated that the interference was in accordance with the law if it protected a legitimate interest, and was proportionate and necessary in a democratic society.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	In this case, the Court considered that there was no urgency of the eviction (area is to be involved in a restructuring project, but there is no official proof). Especially, there was no alternative solution of re-housing, which was totally contrary to the right to housing recognised by the Court as 'a principle with constitutional value'. Consequently, the Court considered that

	Article 8 had been violated because the interference was not necessary, and was disproportionate.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The Pontoise High Court did not decide to force an eviction, but declared itself unable to do so and ordered the payment of costs.

### 3.3. Annex 3 – Bibliography

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## 3.4. Annex 4 - Legislation

Legislation is also available on the FNASAT website:

<http://www.fnasat.asso.fr/documents.html>

The complete text of the French Law No. 2000-614 of 5 July 2000 on the Reception and Housing of Travellers ('Besson Law'), Official Journal 6 July 2000, can be found in another annex titled 'Besson Law' (on the CD).

Legislation on the right to housing and on Travellers' housing

Laws

- [Loi No. 2007-290 du 5 mars 2007](#) instituant le droit au logement opposable et portant diverses mesures en faveur de la cohésion sociale
- [Loi No. 2006-872 du 13 juillet 2006](#) portant engagement national pour le logement [articles 1, 65 et 89]
- [Loi de finances 2006](#) instituant la taxe d'habitation pour les résidences mobiles [article 92]
- [Loi No. 2004-809 du 13 août 2004](#) relative aux libertés et responsabilités locales [articles 163 et 201]
- [Loi No. 2003-710 du 1er août 2003](#) d'orientation et de programmation pour la ville et la rénovation urbaine [article 15]
- [Loi No. 2000-1208 du 13 décembre 2000](#) relative à la solidarité et au renouvellement urbains
- [Loi No. 2000-614 du 5 juillet 2000](#) (dite Loi Besson II) relative à l'accueil et à l'habitat des Gens du Voyage
- [Loi No. 95-74 du 21 janvier 1995](#) relative à la diversité de l'habitat
- [Loi No. 90-449 du 31 mai 1990](#) visant à la mise en œuvre du droit au logement

Decrees and ministerial orders

- [Décret No. 2007-1018 du 14 juin 2007](#) modifiant la partie réglementaire du Code de justice administrative
- [Décret No. 2007-690 du 3 mai 2007](#) relatif à l'agrément prévu à l'article 9 de la loi du 5 juillet 2000 relative à l'accueil et à l'habitat des Gens du Voyage
- [Décret No. 2001-540 du 25 juin 2001](#) relatif à la composition et au fonctionnement de la Commission départementale consultative des Gens du Voyage
- [Décret No. 2001-541 du 25 juin 2001](#) relatif au financement des aires d'accueil destinées aux Gens du Voyage

- [Décret No. 2001-568 du 29 juin 2001](#) relatif à l'aide aux collectivités et organismes gérant des aires d'accueil des gens du voyage et modifiant le code de la sécurité sociale
- [Arrêté du 29 juin 2001](#) relatif au montant forfaitaire applicable pour l'aide aux collectivités et organismes gérant des aires d'accueil des gens du voyage
- [Décret No. 2001-569 du 29 juin 2001](#) relatif aux normes techniques applicables aux aires d'accueil des Gens du Voyage

#### Administrative orders

- [Circulaire No. NOR/INT/D/06/00074C du 3 août 2006](#), Mise en œuvre des prescriptions du schéma départemental d'accueil des Gens du Voyage
- [Lettre circulaire](#) relative à la réalisation des aires d'accueil et de grands passages destinées aux Gens du Voyage (17 décembre 2004)
- [Circulaire NOR/INT/D04/00114/C du 13 septembre 2004](#), du Ministère de l'Intérieur, relative aux réalisations ou réhabilitations des aires d'accueil et de grands passages des Gens du Voyage
- [Circulaire No. 2003-76/IUH1/26 du 17 décembre 2003](#) relative aux terrains familiaux permettant l'installation des caravanes constituant l'habitat permanent de leurs utilisateurs
- [Circulaire No. 2003-43/UHC/DU1/11 du 8 juillet 2003](#) relative aux grands rassemblements des Gens du Voyage : terrains de grand passage
- [Circulaire du 3 juin 2003](#) relative à l'application des dispositions du nouvel article 322-4-1 du code pénal réprimant l'installation illicite en réunion
- [Lettre circulaire du 11 mars 2003](#) relative aux dispositifs d'accueil départementaux des gens du voyage
- [Circulaire No. 2001-49/UHC/IUH1/12 du 5 juillet 2001](#) relative à l'application de la loi n°2000-614 du 5 juillet 2000 relative à l'accueil et à l'habitat des Gens du Voyage
- [Circulaire No. DSS/2B/2001/372 du 24 juillet 2001](#) relative aux conditions d'attribution de l'aide aux communes ou aux établissements publics de coopération intercommunale gérant une ou plusieurs aires d'accueil de Gens du Voyage prévue à l'article L 851-1 du code de la sécurité sociale

#### Legislation on forced evictions

##### Laws

- [Loi No. 2007-1631 du 20 novembre 2007](#) relative à la maîtrise de l'immigration, à l'intégration et à l'asile
- [Loi No. 2007-297 du 5 mars 2007](#) relative à la prévention de la délinquance [articles 27 et 28]

- [loi No. 2003-239 du 18 mars 2003 pour la sécurité intérieure](#) [Article 54]  
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Decrees

- [Décret No. 2007-1018 du 14 juin 2007](#) modifiant la partie réglementaire du code de justice administrative

Administrative orders

- [Circulaire du Ministère de l'Intérieur No. NOR INT/D/07/00080/C du 10 juillet 2007](#), adressée aux préfets de police, préfets de région, et préfets de département concernant la procédure de mise en demeure et d'évacuation forcée des occupants illicites d'un terrain

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