

FRANCE

A REPORT BY THE EUROPEAN ROMA RIGHTS CENTRE



Country Profile

2011-2012

CHALLENGING DISCRIMINATION PROMOTING EQUALITY

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1 About the Country Profile

About the country profile: The country profile on France focuses strongly on migrant Roma and thereby, on the following issues: violence and hate speech, movement and migration, evictions. The information is correct as of April 2013.

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2 Introduction and Background Data

Approximately 400,000 Roma and related groups (e.g., Gens du voyage, Sinti, Manouche, Kale, etc) live in France, according to estimates, representing approximately 0.64% of the total French population.¹ This number includes French nationals and migrant Roma.² The estimated number of migrant Roma in France is between 15,000 and 20,000.³ Exact data on the number of Roma (including migrant Roma) is not available, as French legislation does not allow for the recognition of cultural or ethnic minorities. This means that ethnically disaggregated statistical data is not available.

In 2011 and 2012, the ERRC focused its activities on Romani migrants from Romania and Bulgaria. The term Roma in this report refers to Romani migrants from these two countries, unless stated otherwise. Romani migrants in France mainly live in the outskirts of the main cities, with the majority in the Paris region (Ile de France) and further larger communities in Marseille, Lille, Lyon, Toulouse and Nantes. Roma often live in abandoned houses and segregated settlements, which accommodate groups numbering from a few families up to 800 people.

ERRC research indicates that Romani individuals face regular discrimination across many areas of life, and that the prohibition on collecting data obscures the extent of that discrimination.⁴

2.1 Socio-Economic Data

Employment: There are no official statistics available concerning the employment of Roma in France. The employment of Romanian and Bulgarian migrants in France is governed by the Treaties of Accession to the European Union for Romania and Bulgaria respectively. In a 2009 report, the Fundamental Rights Agency (FRA) pointed out that the lack of access to formal employment and the language barrier leads migrant Roma to informal work.⁵ In order to make a living, many migrant Roma sell scrap metals, newspapers or secondhand clothes.⁶ Some Roma have registered their activities with the relevant authorities and have obtained the status of being self-employed.⁷

1 “The Situation of Roma in France and in Europe: Joint Information Note by Vice-President Viviane Reding, Commissioner Laszlo Andor and Commissioner Cecilia Malmstrom”, 1 September 2010, p. 17.

2 It is estimated that over 90% of the migrant Roma living in France are Romanian. Romeurope National Human Rights Collective, “Report on the Situation of Roma Migrants in France”, September 2010, p. 14.

3 «Les pouvoirs publics et la «question rom» dans les villes européennes: perspectives de recherches», Olivier Legros, *Etudes tsiganes: Roms et Gens du voyage, nouvelles perspectives de recherche*, n° 39-40, 2009, p. 43.

4 Ongoing ERRC monitoring of the situation of Roma in France in 2010, 2011, 2012.

5 European Agency for Fundamental Rights “The situation of Roma EU citizens moving to and settling in other EU Member States”, November 2009, available at: <http://fra.europa.eu/en/publication/2010/situation-roma-eu-citizens-moving-and-settling-other-eu-member-states>.

6 ERRC ongoing fieldwork research.

7 ERRC fieldwork research, July 2011.

The Treaties of Accession foresee transitional measures restricting the exercise of the right to free movement of workers until 31 December 2013.⁸ Romanian and Bulgarian citizens are subject to employment restrictions until the end of 2013; in practice this includes obtaining both a work permit and a residence permit.⁹ In order to obtain a work permit, Romanian or Bulgarian citizens need an employer who can submit an application to the local employment office, *Directions Départementales du Travail, de l'Emploi et de la Formation Professionnelle* (DDTEFP), together with a list of documents. Furthermore the employer needs to pay a fee to the *Office français de l'immigration et de l'intégration* OFII (French Immigration and Integration Office). However, the paperwork that needs to be filled in before employment, and the relatively long waiting time of two to eight months before the Prefecture gives its approval, can be an obstacle to work.¹⁰ Moreover, a work permit is only issued to people working full time with at least the monthly minimum wage, which excludes individuals who can only work part time.

Education: According to local organisations, migrant Romani children of school age represent between a third and a half of the migrant Romani population in France. According to a study in 2010, between 5000 and 7000 Romani migrant children will reach the age of 16 years without having ever been to school in France, or in their country of origin.¹¹ The situation is further compounded by precarious living conditions and the threat of being evicted.¹² The level of school attendance varies from town to town. It can be as low as 10% of children in the Paris region, but can reach much higher levels in cities where the number of Roma is lower (Nantes for example).¹³ According to Médecins du Monde, some municipalities refuse to enrol migrant Romani children. For example, schools in Saint Denis

8 Restrictions on the exercise of the rights to free movement for work purposes (free movement of workers) from EU Member States, concerns workers from Bulgaria and Romania for a transitional period of up to 7 years after they join the EU the first of January 2007. Accession Treaties are available at: <http://ec.europa.eu/social/main.jsp?catId=474&langId=en>. For example in the case of Romania see ANNEX VII List referred to in Article 23 of the Act of Accession: Transitional measures, Romania available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:157:0311:0361:EN:PDF>; Ministère de l'immigration, de l'intégration, de l'identité nationale et du développement, *Maintaining transitional measures for workers from Romania and Bulgaria until 31 December*, available at: <http://www.immigration-professionnelle.gouv.fr/en/node/503>.

9 Article L 121-2, paragraph 2 of the Immigration Code provides that “the European citizen, who wishes to work, remains subject to the possession of a residence permit during the time of the validity of transitional measures provided by the treaty of accession of countries to which they belong.”

10 Romeurope National Human Rights Collective, *Report on the situation of Roma Migrants in France, 2009-2010*, available at: <http://www.romeurope.org/IMG/Rapport%20en%20anglais-%20sans%20commentaire.pdf>.

11 Assessment carried out by CNDH (Collectif National Droits de l'Homme) Romeurope Report. *La non-scolarisation en France des enfants Roms migrants. Étude sur les obstacles à la scolarisation des enfants Roms migrants en France*. Available at: <http://www.romeurope.org/IMG/pdf/ETUDESCO-2.pdf>.

12 For more information See: Régis Guyon, Michaël Rigolot, *Des écarts entre textes officiels et réalités*; Mohamed Boujaddi, *Quelles conditions nécessaires à la scolarisation des enfants roms ?*; Marie-Claire Simonin, *Apprendre à lire, oui, et ensuite... ?* in CRAP - Cahiers pédagogiques, *À l'école avec les élèves roms, tsiganes et voyageurs*. Available at: http://www.cahiers-pedagogiques.com/IMG/pdf/hsn_roms.pdf; See also Romeurope Report. *La non-scolarisation en France des enfants Roms migrants. Étude sur les obstacles à la scolarisation des enfants Roms migrants en France*. Pp. 23-52 Available at: <http://www.romeurope.org/IMG/pdf/ETUDESCO-2.pdf>.

13 Mattea Battaglia, “Scolarisation des enfants roms: un «mieux»... dans les textes”, *Le Monde*, 18 September 2012.

rejected Romani children since they lack “domiciliation documents”¹⁴ or because they applied for enrolment when the school year had already started.¹⁵

Despite recent measures aimed at increasing the participation of Romani children in the French education system,¹⁶ the level of school attendance of these children is still very low, according to local organisations.

Many children do not attend school at all, and others drop out at an early age due to a variety of factors, including a lack of flexibility and “bridge” programmes in the mainstream school system, refusals by some mayors and school directors to admit these children,¹⁷ and difficulties relating to housing (life conditions in the settlements and forced evictions).¹⁸

Housing: The majority of EU Romani migrants live just outside large cities, such as Paris, Lyon, Lille, Nantes and Marseille, in settlements with poor living conditions that in general do not offer basic services such as access to water or waste collection.¹⁹ Gradually, Roma migrants tend to settle in more dangerous locations (for example, close to highways or railways) in order to avoid evictions.²⁰

Local authorities in some areas have built temporary camps for migrant Roma, which are called Integration Villages (“*village d’insertion*”). The first village was built in 2006; currently five exist in the department of Seine-Saint-Denis, and one in each of Choisy le Roi, Bordeaux, Nantes and Lille. These segregated formal settlements host only Roma either in

14 Médecins du Monde, 29 November 2012. In other municipalities schools rejected the enrolment of Romani children under the pretext that families do not reside in the municipality, that children do not speak French, or with the excuse they will be evicted from a land that is illegally occupied.

15 It is an obligation for children to be in school, and for Mayors and school directors to accept them, even in the middle of the year. A journalist related the story of a young Roma who was refused access to pre-school because of supposed lack of space in the class. An activist called the same school a few days after to enrol his child to pre-school, because he had just moved back from New York, and succeeded without any problem. See: <http://mrapp.montpellierain.over-blog.com/article-roms-a-la-rue-pourquoi-la-mairie-de-paris-ne-leur-trouve-pas-d-abris-114858409.html>.

16 Ministry for Success in Education, circular on “Organisation of the Schooling of Non-French Speaking Children. The Circular was addressed to all rectors of academies (local education departments), inspectors of academies, and directors of departmental services of the national education system. It recalls that the right to education depends on “the national law of the State, whatever the nationality of the children, the administrative status of their parent or their type of housing”. Available at: <http://www.depechestsiganes.fr/wp-content/uploads/2012/09/CIRC-NORMENE1234231C.pdf>.

17 See HALDE, Deliberation No. 2007-372 of 17 December 2007, at paragraph 35; and Deliberation No. 2009-143 of 6 April 2009.

18 *Lanna Hollo, Du droit à l’éducation pour les Tsiganes et Gens du voyage*, Magazine *Diversité* no. 159, «Roms, Tsiganes et Gens du voyage», CNDP (Centre national de documentation pédagogique), 2009.

19 European Union Agency for Fundamental Rights, *France RAXEN National Focal Point Thematic Study: Housing Conditions of Roma and Travellers*, 2009, available at: http://fra.europa.eu/fraWebsite/attachments/RAXEN-Roma%20Housing-France_en.pdf.

20 ERRC fieldwork research and monitoring, 2010-2012.

caravans or in modular housing.²¹ Almost all of the camps have strict regulations which do not allow families to host other people, and for most of them there is a constant guard at the entrance of the site. These formal camps were created as local solutions to the precarious and risky situation faced by immigrant Roma in informal settlements, where residents were vulnerable to fire hazards and multiple evictions.²²

Health: There are no official statistics available concerning the health status of Roma and their access to healthcare. Travellers face difficulties in obtaining a health card because their circulation documents are not accepted as eligible identity documents, a practice which has been identified as discriminatory treatment.²³ Migrant Roma from EU Member States can access healthcare in emergency cases. It is more difficult to register for French health insurance, since applicants have to fulfil certain criteria and the procedure is onerous (e.g., one has to prove residence in France for more than three months and a registered address is compulsory. An address can be provided by authorised NGOs, but in a very limited quantity).

In a 2010 report, Médecins du Monde estimated that 90% of the migrant Roma population in France do not have access to basic health insurance (Aide Médicale d'Etat). According to Médecins du Monde, only 38% of Roma in camps have a vaccination card, and only 8% have all of their required vaccinations.²⁴ According to the same organisation, only 70% of Romani children under the age of two years are vaccinated against diphtheria, whooping cough and tetanus, which generally occur at the age of two months. Additionally, 2.5% of the Roma living in illegal camps have tuberculosis, compared to the overall percentage of 0.03% of the French population.²⁵ Médecins du Monde estimates life expectancy among Roma to be between 50 and 60 years,²⁶ well below the national average of 81 years.²⁷

21 For more information see the following articles: <http://www.reseau-terra.eu/article947.html>; <http://test.espacestemp.net/articles/les-pouvoirs-publics-et-les-grands-bidonvilles-roms-au-nord-de-paris-aubervilliers-saint-denis-saint-ouen/>; <http://www.metropolitiques.eu/Les-villages-roms-ou-la.html>.

22 Interview with Marie-Louise Mouket, project manager at the association ALJ 93, on the site of Montreuil, February 2012.

23 HALDE, Deliberation No. 2009-242 of 15 June 2009.

24 G. Viscusi, "Roma Health in France Worsened Since Crackdown, Group Says", 26 July 2011, available at: <http://www.bloomberg.com/news/2011-07-26/roma-health-in-france-worsened-since-crackdown-group-says-1-.html>.

25 *Ibid.*

26 Médecins du Monde, "La Santé des Roms en France: Une Urgence Sanitaire?", 2010, available at: <http://www.medecinsdumonde.org/fr/En-France/Rroms/Publications/La-sante-des-Roms-en-France-une-urgence-sanitaire>.

27 Central Intelligence Agency World Fact Book, "Life Expectancy at Birth", available at: <https://www.cia.gov/library/publications/the-world-factbook/fields/2102.html>.

3 Summary of (Crosscutting) Laws, Policies and Structures

3.1 Prohibition Against Racial and Ethnic Discrimination

In France, fundamental rights are included in the body of Constitutional laws: the Preamble of the current constitution, the Constitution of the Fifth Republic of 1958,²⁸ directly invokes and preserves the principles and norms of the Declaration of Human and Civic Rights of 26 August 1789²⁹ and the Preamble to the Constitution of 27 October 1946,³⁰ therefore giving these rights a constitutional value. These constitutional laws ensure the protection of a wide range of fundamental rights such as, inter alia, the principle of non-discrimination.³¹

Legal categorisation on the basis of (ethnic) origin does not exist in the French legal system. The universalistic concept of equality and the refusal to use the criteria “origin” for legal purposes create an obstacle in recognising and addressing racism and discrimination.

Equal treatment between persons is a constitutional principle; in addition anti-discrimination provisions can be found in codified laws, such as the Labour Code, the Civil Code and the Penal Code.

The French approach relies heavily on the Penal Code, and considers discrimination as a criminal offence, i.e. a violation of human dignity. Given the framework of criminal law, the Penal Code only sanctions direct discrimination when intent to discriminate is proven.³² Reliance on the criminal law also weakens the anti-discrimination framework insofar as the burden of proof is not shifted onto the defendant in criminal matters.

The French anti-discrimination law and the equality body

The EC Race Directive 2000/43 was transposed to the national legal system by laws in 2001,³³ 2002³⁴ and 2004.³⁵ However, further to the European Commission’s infringement procedure, the

28 Constitution of the fifth Republic of 1958, available in English at: <http://legislationline.org/documents/action/popup/id/8808/preview>.

29 Declaration of Human and Civic Rights of 26 August 1789, available in English at: <http://legislationline.org/download/action/download/id/1596/file/10d0173e52927fc294d18e29dd2e.htm/preview>.

30 Preamble to the Constitution of 27 October 1946, available in English at: <http://legislationline.org/download/action/download/id/1601/file/6b1891a9a33272f1c7f8a8d0142e.htm/preview>.

31 Article 1 of the Preamble to the Constitution of 27 October 1946.

32 Latraverse, Sophie, *Report on measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Country report 2009 France*, 2009 December, available at: http://www.non-discrimination.net/content/media/2009-FR-Country%20Report%20LN_final.pdf, page 13.

33 Law no. 1006-2001 of 16 November 2001.

34 Law of Social Modernisation no 2002-73 of 17 January 2002.

35 Law no 2004-1486 of 30 December, 2004 on the creation of the specialised body.

French Government introduced Law no 2008-496 of 16 May 2008, relating to the Adaptation of National Law to Community Law in Matters of Discrimination,³⁶ in order to transpose EC Directives, including the 2000/43 and 2000/78 Directives.³⁷ This law defines direct and indirect discrimination, harassment and instruction to discriminate³⁸ and has amended several laws accordingly, including the Labour Code and the Penal Code. In defining direct discrimination, the law indicates a comparability test in regard to actual treatment but does not indicate the possibility to refer to a hypothetical comparator.³⁹ There is no explicit reference in the provision transposing the RED about the use of statistical evidence, and the lack of statistics related to origin (race/ethnicity) creates an obstacle to using statistical evidence in race/ethnic discrimination cases.

The High Authority for the Fight against Discrimination and for Equality (HALDE) was created by law on 30 December 2004, complying with the requirements of Directive 2000/43/EC.⁴⁰ It was mandated to identify discriminatory practices, fight against them and find concrete solutions to the problems that they pose. It issued numerous recommendations to the government highlighting problems of discrimination affecting Travellers, and requesting that the government acts to resolve these problems. In 2011, HALDE was integrated into a new institution, Defender of Rights (“*Défenseur des droits*”), together with other institutions such as the Mediator of the Republic (“*Médiateur de la République*”), the Defender of Children (“*Défenseur des enfants*”), and the National Commission on the Ethics of Security (“*Commission nationale de déontologie de la sécurité*”).⁴¹

The Defender of Rights⁴² uses its investigative powers to request any document, to interview people and, when necessary, to carry out field investigations. It can favour an amicable resolution of the conflict providing recommendations; it may choose to mediate or, according to the circumstances, may opt for an equity settlement.⁴³ The Defender of Rights continued to intervene in matters regarding Roma. HALDE/the Defender of Rights have resolved 8500 complaints and given 180 decisions. 23% of the claims alleged discrimination based on origin (including race).⁴⁴ HALDE has dealt with approximately 200 complaints related to Roma and Travellers, related mostly to the conditions of parking accommodation, their insufficient

36 Law no 2008-496 of 16 May, 2008, available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000018877783&fastPos=1&fastReqId=780500433&categorieLien=cid&oldAction=rechTexte>.

37 Latraverse, Sophie, *Report on measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Country report 2009 France*, 2009 December, available at: http://www.non-discrimination.net/content/media/2009-FR-Country%20Report%20LN_final.pdf, page 10.

38 Article 1 of the Law no 2008-496 of 16 May.

39 See also Latraverse, Sophie, *Report on measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Country report 2011 France, State of affairs 1st January 2012*, page 9.

40 Law no. 2004-1486 of 30 December 2004 Creating a High Authority for the Fight against Discrimination and for Equality, Official Journal 31 December 2004.

41 The respective law is available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000023781167&dateTexte=&categorieLien=id>; Information about the *Défenseur des droits* is available in French at: <http://www.defenseurdesdroits.fr/sinformer-sur-le-defenseur-des-droits>.

42 Information available in French at: <http://www.defenseurdesdroits.fr/sinformer-sur-le-defenseur-des-droits>.

43 *Ibid.*

44 *Ibid* 5.

number, the connection of family land to water, electricity, access to registration in public school, access to car insurance and the refusal of authorities to issue ordinary identity papers.⁴⁵

3.2 Governmental Policies on Roma Inclusion

France is not a member of the Decade of Roma Inclusion, but following the requirements of the EU Framework for National Roma Integration Strategies, the French Government adopted the strategy: “An equal place in French society: French government strategy for Roma integration within the framework of the Communication from the Commission of 5 April 2011 and the Council conclusions of 19 May 2011”.⁴⁶

Due to the specific French legal context, the strategy was not developed exclusively for Roma, but targets social inclusion in general, with a focus on Roma. The strategy does not follow a rights-based approach, and fails to acknowledge the long-lasting discrimination against the Romani population and to identify specific aspects of their discrimination. Consequently, it fails to offer any specific measures addressing these issues.

In 2012, the National Action Plan against Racism 2012-2014 was adopted by the Minister of Interior.⁴⁷ An inter-ministerial delegate, Regis Guyot, was nominated to initiate, coordinate and evaluate governmental actions related to these matters and to report directly to the Prime Minister and the Minister of Interior. However, he is not active on Roma issues.

The European Commission underlined several shortcomings in its assessment of the French strategy.⁴⁸ In all areas of the strategy (housing, employment, health and education), the Commission considered that the French policy lacks a clear assessment on the impact of the equal treatment approach on the situation of Roma and Travellers in France. Similarly, the policy does not comprise a clear-cut approach concerning migrant Roma. In several areas the strategy lacks targets, indicators, calendars for implementation and, most importantly, the allocated budget that is needed to secure the efficient implementation of the strategy. The European Commission also indicated the need for a strong monitoring mechanism, as well as stronger cooperation with local actors and civil society.⁴⁹

45 Latraverse, Sophie, Report on measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Country report 2011 France, State of affairs 1st January 2012, page 40.

46 Strategy available at: http://ec.europa.eu/justice/discrimination/roma/national-strategies/index_en.htm.

47 National Action Plan Against Racism and Anti-Semitism, “Plan national d’action contre le racisme et l’antisémitisme, 2012-2014” <http://www.interieur.gouv.fr/Le-ministere/Organisation/Delegation-Interministerielle-a-la-Lutte-contre-le-Racisme-et-l-Antisemitisme/Plan-national-d-action-contre-le-racisme-et-l-antisemitisme-2012-2014>.

48 Commission staff working document accompanying the document National Roma Integration Strategies: a first step in the implementation of the EU Framework Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, SWD (2012) 133, 21 May 2012, report available at: http://ec.europa.eu/justice/discrimination/files/roma_nat_integration_strat_en.pdf.

49 *Ibid*, page 38.

3.3 Political Participation and Roma Related Structures

The Ministry of Social Affairs is the contact point for the implementation of the National Strategy. In the preparation of the Strategy, the Government held consultative meetings with stakeholders, including a one-day meeting with “the associations representing those concerned”.⁵⁰

Government bodies that are specifically dedicated to minorities in general or Roma in particular do not exist in France. Whereas French Roma and Travellers are organised in civil society organisations, there are no political parties or self-organisations that officially represent Roma migrants in France.⁵¹ However, there are some civil society organisations – made up of Roma and non-Roma – that advocate for them.

In order to implement the circular “Anticipation and Support for Eviction of Illegal Camps”⁵² and to coordinate the activities at ministerial level, the Prime Minister appointed a Prefect in charge of housing, Alain Régnier, in August 2012.⁵³ He constituted several working groups involving NGOs working on Roma issues, *inter alia* on “culture and representations”, “the anticipation of the evictions and the guidelines for the *diagnostic*” and “housing”, and several NGOs participated.⁵⁴ The office of Alain Régnier is also responsible for coordinating the process of updating the French Roma Integration Strategy.

50 National Strategy, p.20 available at: http://ec.europa.eu/justice/discrimination/roma/national-strategies/index_en.htm.

51 See *inter alia* UFAT (Union Française des Associations Tsiganes) and ANGVC (L’association Nationale des gens du voyage Catholique).

52 Circular available at: <http://www.gisti.org/spip.php?article2923>.

53 Délégation interministérielle à l’hébergement et à l’accès au logement des personnes sans abri ou mal logées (DIHAL) http://lannuaire.service-public.fr/services_nationaux/administration-centrale-ou-ministere_193435.html.

54 Romeurope, Médecins du Monde, Amnesty International, la Voix des Roms, Rencontres Tsiganes, AMPIL, ALPIL, ADDAP 13, FNASAT, ATD Quart Monde, Hors la Rue, Fondation Abbé Pierre.

4 Key Issues by Theme

4.1 Movement and Migration

Residence for EU Citizens and Expulsions

“Nobody translated what was written on the papers we all got. They didn’t tell us that we can appeal against the expulsion, and they didn’t ask me if I work, or if I have children, or if I have anything to eat, or if I’m good or bad; they are not interested in these kinds of things.”⁵⁵

4.1.1 LEGAL AND POLICY FRAMEWORK

The Free Movement Directive (Directive 2004/38/EC, FMD) allows European Union citizens to stay in another Member State for up to three months, subject only to the possession of a valid identity card or passport.⁵⁶ In order to apply for a residence permit and to take up official residence in France, citizens of Romania and Bulgaria have to either register as self-employed, or to find a full-time job and get a work permit from the Prefecture.⁵⁷ In accordance with the Treaty of Accession of Bulgaria and Romania to the EU, this regulation remains in place until 31 December 2013.⁵⁸

The French transposition of the Free Movement Directive (FMD) was enacted through Law No. 2011-672 on Immigration, Integration and Nationality on 16 June 2011.⁵⁹ However, the law inadequately implements the FMD, allowing for unequal treatment of European Union citizens under certain conditions. With regard to expulsions, the FMD stipulates that expulsions must be based on an individual assessment of the circumstances, and Law No. 2011-672 stipulates individual assessments in accordance with the Free Movement Directive.⁶⁰

55 ERRC Interview with a Romani woman, 18 March 2011, Lyon.

56 Directive 2004/38/EC, Article 6(1).

57 The Accession Treaties are available at: <http://ec.europa.eu/social/main.jsp?catId=474&langId=en>; see in particular ANNEX VII List referred to in Article 23 of the Act of Accession: Transitional measures, Romania available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:157:0311:0361:EN:PDF>; Ministère de l’immigration, de l’intégration, de l’identité nationale et du développement, *Maintaining transitional measures for workers from Romania and Bulgaria until 31 December*, available at: <http://www.immigration-professionnelle.gouv.fr/en/node/503>.

58 Ministère de l’immigration, de l’intégration, de l’identité nationale et du développement, *Maintaining transitional measures for workers from Romania and Bulgaria until 31 December*, available at: <http://www.immigration-professionnelle.gouv.fr/en/node/503>.

59 Law No. 2011-672 on Immigration, Integration and Nationality. available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000024191380>.

60 Directive 2004/38/EC, Article 28; corresponding to Law No. 2011-672, Article 39.

Whilst the Treaty on the Functioning of the European Union allows for the expulsion of EU citizens from the territory of another Member State on public policy or public security grounds, the FMD explains that such measures “*can seriously harm persons who [have] availed themselves of the rights and freedoms conferred on them by the Treaty*”.⁶¹ To this end, the FMD makes clear that “*measures taken on grounds of public policy or public security shall comply with the principle of proportionality and shall be based exclusively on the personal conduct of the individual concerned*.”⁶² According to the FMD expulsions can only be undertaken in response to “*the personal conduct of the individual concerned [which represents] a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society [and] justifications that are isolated from the particulars of the case or that rely on considerations of general prevention shall not be accepted*.”⁶³ Thus, for expulsions to be in line with the FMD’s requirements, they must be the result of individualised assessments and cannot be the result of a collective determination based on group identity.

In autumn 2010, the European Commission launched an investigation into the expulsion of Roma from France and examined whether France had implemented the Free Movement Directive. In a statement on 14 September 2010, European Commissioner for Justice Viviane Reding condemned the practice of mass expulsions of Roma from France and compared the actions of the French authorities to the ethnic expulsions of the Second World War.⁶⁴ She stated, “This I thought Europe would not have to witness again after the Second World War. Discrimination on the basis of ethnic origin or race has no place in Europe.”⁶⁵ Consequently, France was threatened with legal action from the European Commission for the improper and discriminatory application of the Free Movement Directive, by targeting a specific ethnic group or minority and for failure to offer those expelled “substantive guarantees” to which they were entitled under the Directive.⁶⁶ In response, France enacted changes to the immigration code on 16 June 2011.

A new Article L511-3-1⁶⁷ of the immigration code introduced an individual assessment criteria into French law, aiming to bring it into compliance with the FMD. However the law still remains unclear and is still not fully in compliance with the FMD. Article L511-3-1 obliges the administration to take into account “*all the circumstances related to his/ her situation, such as how long the individual has resided in France, his/ her age, state of health, family and economic situation, social and cultural integration into France and the extent of his/ her links with the country of origin*”.

Under the FMD these guarantees should apply to all removal measures, but the structure of the new French text suggests that this safeguard is applicable only in case of a measure based

61 Directive 2004/38/EC, Recital 23.

62 *Ibid.*, Article 27(2).

63 *Ibid.*

64 “Reding slams France on Roma expulsions”, *EuropeanVoice.com*, 14 September 2010, available at: <http://www.europeanvoice.com/article/2010/09/reding-slams-france-on-roma-expulsions/68855.aspx>.

65 *Ibid.*

66 *Ibid.*

67 Article L511-3-1, available at: <http://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006070158&idArticle=LEGIARTI000024195700&dateTexte=&categorieLien=cid>.

on public order. The implementation therefore remains unclear in the law and leaves open space for French courts to decide on their discretion. This is in violation of the FMD.

Law No. 2011-672 also contains a provision which is not in compliance with the Free Movement Directive. The Law states that European Union citizens who have resided in France for less than three months can be expelled, not only if they are found to pose a genuine, present and sufficiently serious threat to one of the fundamental interests of French society,⁶⁸ but also if they have committed an “abuse of rights”, e.g. when they have stayed repeatedly for less than three months with the alleged intention to “abuse” the French social welfare system.

The ERRC has observed several cases of mass distribution of expulsion orders (OQTFs),⁶⁹ which puts in question the individual assessment of circumstances as stipulated by the FMD and Law No. 2011-672.⁷⁰ In general, it seems to remain unclear how individual assessments are carried out, and it seems that the actual practice varies between different prefectures.⁷¹

4.1.2 BACKGROUND AND ERRC ACTIVITIES

The issue of Roma movement and migration in and to France has remained the main focus of ERRC work in France during 2011 and 2012. Following a riot in July 2010 in Saint-Aignan,⁷² President Sarkozy called for the dismantling of “illegal nomad camps” throughout the country.⁷³ A year later, 75% of the 741 illegal camps recorded in France in 2011 had been dismantled, according to the Interior Ministry.⁷⁴

Eric Besson, the former immigration minister, stated that during the first nine months of 2010, 13,241 of the 21,384 foreign nationals expelled from France were Romanian or Bulgarian citizens; more than half of whom were returned to their home countries by force (6,562 Romanian and

68 Law No. 2011-672, Article 39(3), available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFT EXT000024191380&dateTexte=&categorieLien=id>, corresponding to Directive 2004/38/EC, Article 27(2).

69 Expulsion orders are known as OQTF, *Obligation de quitter le territoire français*/Order to leave French territory.

70 See also: Human Rights Watch, “France One Year On, New Abuses Against Roma”, available at: <http://www.hrw.org/news/2011/09/29/france-one-year-new-abuses-against-roma>, and Romeurope, “Les Roms, boucs-émissaires d’une politique sécuritaire qui cible les migrants et les pauvres”, available at: <http://www.romeurope.org/Les-Roms-boucs-emissaires-d-une,1066.html>.

71 On 17 January 2013, expulsion orders were distributed to inhabitants of a settlement in the 18th district of Paris. Allegedly, police did not spend more than five minutes with each person, hardly providing an “assessment of their individual situation”. ERRC interview with three Roma living in Porte de la Chapelle, 18 January 2013.

72 The riot was instigated by the shooting of a Traveller by a gendarme at a checkpoint. BBC News, “Troops patrol French village of Saint-Aignan after riot”, 19 July 2010, available at: <http://www.bbc.co.uk/news/world-europe-10681796>.

73 BBC News, “France to shut illegal Roma camps and deport migrants”, 29 July 2010, available at: <http://www.bbc.co.uk/news/world-europe-10798440>.

74 G. Viscusi, “Roma Health in France Worsened Since Crackdown, Group Says”, 26 July 2011, available at: <http://www.bloomberg.com/news/2011-07-26/roma-health-in-france-worsened-since-crackdown-group-says-1-.html>.

910 Bulgarian citizens).⁷⁵ An assisted return scheme, organised by the French Office for Immigration and Integration (OFII), accounted for the other 5,086 Romanians and 683 Bulgarians.⁷⁶

In 2011, French authorities did not release official figures regarding expulsions. The Minister of Interior sent a document to the ERRC on 19 November 2012 stating that almost 2,700 expulsion orders were distributed to Romanians and 340 to Bulgarians in the three first months of 2012. In 2011, more than 7,400 Romanians 1,250 Bulgarians received an expulsion order.⁷⁷ The ERRC has also been gathering data and testimonies on systematic evictions and expulsions, particularly of Roma from Romania, and has been monitoring the situation of returns before and after the new French bill on immigration entered into force.⁷⁸ Official figures for expulsions for the year of 2012 have not been published yet.

The ERRC also documented expulsion orders issued to Roma from Romania and Bulgaria. This non-exhaustive list documented at least 545 expulsion orders served to Romanian and Bulgarian Roma for 2010. In 2011 the number of expulsion orders served was around 1,690 (418 copies of OQTFs are on file with the ERRC); out of which around 680 were served after the enactment of the new law (Law No. 2011-672, 16 June 2011). In 2012, around the presidential elections there was a visible decrease, however the practice still continued and the ERRC documented at least 650 expulsion orders in 2012, 84 copies of OQTFs are on file with the ERRC.

Making use of ERRC research, the Centre on Housing Rights and Evictions (COHRE) submitted a complaint to the European Committee for Social Rights (ECSR).⁷⁹ The ECSR concluded in its decision of 28 June 2011 that the 2010 evictions and expulsions of Roma (from Romania and Bulgaria) constituted an “aggravated violation” of the European Social Charter. The ECSR declared that returning Romanian and Bulgarian Roma to their countries of origin was based on discriminatory provisions, and that these expulsions have a collective nature.⁸⁰ On 9 November 2011, the Committee of Ministers of the Council of Europe issued a Resolution taking note of the European Committee for Social Rights (ECSR).⁸¹

75 Eric Besson, National Assembly, Thirteenth Legislature, Regular Session of 2010-2011, Verbatim Report, Session of Wednesday, 3 November 2010, available at: http://www.assemblee-nationale.fr/13/cri/2010-2011/20110039.asp#INTER_13.

76 *Ibid.*

77 Letter from the Ministry of Interior to the ERRC, 19 November 2012, on file with ERRC.

78 Law No. 2011-672 on Immigration, Integration and Nationality, available at: <http://www.hrw.org/node/101963>.

79 Resolution CM/ResChS(2011)9 Collective Complaint No. 63/2010, *Centre on Housing Rights and Evictions (COHRE) v. France*, available at: http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/Complaints_en.asp.

80 European Committee for Social Rights, Decision on the merits of 28 June 2011, Collective Complaint No. 63/2010 *Centre on Housing Rights and Evictions (COHRE) v France*, available at: http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC63Merits_en.pdf.

81 Council of Europe, Committee of Ministers, Resolution CM/ResChS(2011)9, Collective Complaint No. 63/2010, *Centre on Housing Rights and Evictions (COHRE) v. France*, available at: [https://wcd.coe.int/ViewDoc.jsp?Ref=CM/ResChS\(2011\)9&Language=lanEnglish&Ver=original&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/ResChS(2011)9&Language=lanEnglish&Ver=original&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383).

In 2011 and 2012, the ERRC monitored 66 operations of mass distributions of OQTF. At least 30 of these operations were conducted by police in cooperation with representatives of the French immigration authorities (Office Français de l'immigration et de l'intégration (OFII)). While police were issuing the OQTFs, OFII representatives identified the eligibility of the migrant Roma for "humanitarian return assistance" (*aides au retour humanitaire*; ARH) and offered assistance to those who were eligible. This raises concerns about the voluntary nature of the return scheme. Representatives of OFII offered assisted returns to those who had not previously received it. The assistance consisted of flight tickets and financial assistance (€ 300 per adult; € 100 per child). Those who had previously been issued with an expulsion order were arrested and placed in an immigration detention centre, in order to proceed with a forced return (see below for more information).

The operations in general were conducted very quickly and followed a certain pattern. Police arrived at the settlements early in the morning. The settlements were surrounded by police forces, to prevent anyone from entering or leaving. Families were brought to a car where their identities were verified, and police asked for documents proving they had been in Romania less than three months ago: for example a travel ticket, or any other document that proved that the person concerned had not been on the French territory. Police issued an OQTF to anyone who could not produce some kind of evidence.

The ERRC conducted two fact-finding missions in March 2011 (south Paris and Lyon) and in February 2012 (north Paris and Lyon), and has monitored the situation in the camps in the Prefecture Seine-Saint Denis in the North of Paris, where large communities of Romani migrants live.⁸² The ERRC has closely monitored the distribution of the expulsion orders by eye witnessing or collecting testimonials of Roma, including relevant documents.

This ERRC monitoring reveals that expulsion orders were produced en masse, without genuine consideration of personal situation, and other irregularities. For example, in an operation on 6 December 2011, in the camp at Rue Pascal in La Courneuve (Northern Paris), police and OFII checked the identity and residence status of more than 200 persons in approximately three hours, issued 90 OQTFs and offered voluntary returns to the camp inhabitants.⁸³

The ERRC monitored 66 operations of mass distribution of OQTFs and noted the following aspects:

- ⁸² According to data from local organisations around 3000 Roma lived in that area in 2009. Seine-Saint Denis District has the highest number of immigrant and one of the youngest and poorest populations in France. Mass expulsion orders have been delivered to Roma since 2008 in this area and here also the expulsion policy in the summer of 2010 started.
- ⁸³ ERRC research identified several similar operations, e.g., 2 March 2011 in a camp in Valenton in south Paris, 50 OQTFs were issued in an operation lasting for ca two hours. The community had received an eviction order from the Tribunal de Grande Instance of Créteil on the 4 of February. No translators were present and nobody was questioned about their personal situation. Different law enforcement officers filled out paperwork with the names of the Roma and then made them sign the OQTFs forms. 21 April 2011, 63 OQTFs were issued to Roma in the settlement in Passage Dupont, Saint Denis in ca 2.5 hours though the community is part of an integration project. Activists were not allowed inside the camp. Moreover this community previously went through an eviction process in a slum called Hanul, and another mass distribution of OQTFs in the summer of 2010. The expulsion orders distributed in Hanul were invalidated by the administrative Court of Montreuil in early April 2011.

- Almost all expulsion orders monitored were based on the legal category of ‘lacking economic resources’. This indicates that in practice Roma do not have the right to stay up to a three-month period.
- The Roma who were evicted and/or expelled were not informed about the opportunity to ask for legal aid or their right to appeal against unlawfully served OQTFs. The respective information is available on the back of the expulsion order, but since migrant Roma in general do not speak French, they could not make use of this information.
- At least eight operations took place in settlements where children were enrolled in French schools.
- In at least four operations the distribution of OQTFs overlapped with an actual eviction from camps.
- One operation took place in a community that was part of an integration project with housing and social component, supported by the Municipality of Saint Denis (April 2011).
- Inhabitants of the camp in Montreuil still received expulsion orders (OQTFs) when stopped by police on the street, even though the camp is part of a project supported by the authorities (“village d’insertion”). 170 Romanian Roma families live in caravans paying a daily rent of 1 Euro per caravan for water and electricity or 10% of their income when they work.⁸⁴
- In one operation, police allegedly signed the OQTFs for the Roma with a false declaration (Lyon, March 2011).
- On 2 March 2011, in a camp in Valenton in south Paris, 50 OQTFs were issued in an operation started at 15:00 and ended at 17:00. This community had received an eviction order from the Tribunal de Grande Instance of Créteil on 4 February 2011. No translators were present and nobody was questioned about their personal situation. Law enforcement officers filled out the forms and made the Roma sign the OQTFs forms.⁸⁵
- On 14 November 2012, in a settlement of Porte de la Villette (Paris), five police vans arrived at 6:30 to carry out identity checks and distribute OQTFs. Law enforcement officers took away about 40 men to the police station. They spent five minutes with each man, which is only enough time to translate the expulsion order and to sign it. No individual assessment of the person’s situation was carried out.

In 2011, ERRC and local lawyers supported 235 persons in appealing against expulsion orders, mainly from settlements in the Paris region.⁸⁶ Some of the appeals are still pending before the court, but at least 127 OQTFs have been cancelled due to lack of proof of the permanence of more than three months and lack of evidence provided by the French administration issuing the expulsion orders.⁸⁷ Only 29 of the appeals the ERRC helped to launch have been unsuccessful.

⁸⁴ ERRC interview with Marie Louise Mouket, Project Manager for *villages d’insertion*, March 2011.

⁸⁵ ERRC internal report of the fact finding mission 15-16 March 2011, Lyon.

⁸⁶ In total, local ERRC monitor has gathered 432 OQTFs (expulsion orders) in 2011 distributed on camps where mass distribution of OQTFs was documented and Romani testimonies collected. Previous monitoring activities are available at: <http://errc.org/cikk.php?cikk=3619>.

⁸⁷ Sentences of the Administrative Court of Paris, Sentence No. 1116001/3-3, 24 January 2012, Sentence No. 1116004/3-3, 24 January 2012, Sentence No. 1116006/3-3, 24 January 2012, on file with the ERRC.

In 2012, the ERRC assisted 52 people in Seine-Saint-Denis (Noisy le Grand,⁸⁸ Bobigny,⁸⁹ Saint Denis⁹⁰) and in Paris⁹¹ to challenge the OQTFs which they had received. Thirty-eight of the cases were successful, while 14 appeals are still pending. It is highly likely that up to 150 OQTFs were distributed during the four police interventions in Seine-Saint-Denis, but not all the Roma involved were willing to appeal it before a court or were aware of the possibility to submit an appeal.

Forced Returns and Immigration Detention Centre

According to ERRC research in the Paris area, Lyon and Marseille during 2011 and 2012, at least 40 people were arrested by police during operations to check identity and residency status in camps. Those arrested were found with an older expulsion order, exceeding the 30-day window to leave the country.⁹² In addition, the ERRC has monitored cases where Roma are stopped by police on the street in order to verify their status.⁹³

An independent report of associations working in immigration detention centres shows that, in 2011, Romanians represented 6.6% of the people placed in these centres, or 1507 individuals. Even though there are no official data disaggregated by ethnicity, it is estimated that “most of them consider themselves Roma.”⁹⁴ The practice of detaining European Union citizens for issues related to their immigration status has received little attention, despite the rights infringements that it constitutes. The ERRC is also concerned about the early experience of immigration detention centres for minors.⁹⁵

Assisted Returns

In December 2006, a ministerial circular provided the possibility to grant ‘humanitarian assisted returns’ to citizens of a European Union Member State.⁹⁶ In recent years, it can be assumed that this assistance was offered primarily to Roma from Romania and Bulgaria, since OFII reached out in particular to Romani communities in informal settlements. In 2010, 8,182 Romanians and 958 Bulgarians received humanitarian return assistance (94% of the

88 Distribution of OQTF on 5 April 2012, OQTFs on file with the ERRC.

89 Distribution of OQTF on 10 May 2012, OQTFs on file with the ERRC.

90 Distribution of OQTF on 18 September 2012, OQTFs on file with the ERRC.

91 Distribution of OQTF on 14 November 2012, OQTFs on file with the ERRC.

92 ERRC can confirm that 15 people have been forcibly expelled from France for not having followed the expulsion orders. The information is confirmed in the most of the cases by the family or the person expelled and local organisations working inside immigration detention centre.

93 OQTFs are on file with ERRC.

94 La Cimade, ASSFAM, France Terre d’Asile, Ordre de Malte, Forum Réfugiés “Rapport rétention 2011”, 20 November 2012, available at: http://www.assfam.org/IMG/pdf/RAPPORT_2011-BD.pdf.

95 See the following article: “Une Rom et son fils de 12 ans en rétention”, Est Républicain, 17 September 2011, <http://www.estrepublicain.fr/doubs/2011/09/17/une-rom-et-son-fils-de-12-ans-en-retention>.

96 Circulaire interministérielle n°DPM/ACI3/2006/522, 7 December 2006, available at: http://www.gisti.org/IMG/pdf/circ_dpmaci32006522.pdf.

overall recipients).⁹⁷ According to a 2011 OFII report, 7,824 Romanians and 1,429 Bulgarians were sent back to their country of origin with the “humanitarian aid return” scheme in 2011; primarily people from informal settlements. In addition to the Romanian and Bulgarian citizens, 346 Macedonians, 100 Serbians and 74 Bosnians were returned.

Although the assistance was designed as support for persons who return voluntarily to their country of origin, the context in which this assistance was offered might have left individuals only a limited opportunity to make an informed decision. In many cases, the return assistance was proposed in high-stress situations in which persons were evicted from their dwellings (often including the loss of belongings) and/or confronted with police forces. Further, Roma were aware that they might have been threatened with the only “official alternative” which meant expulsion without any assistance.

Many Roma only accepted the assisted returns because of these circumstances. Outright forced acceptance of assisted returns has also occurred, as in the March 2010 case of Massy, in which people were detained in a gymnasium where they were subject to restriction of movement until acceptance.⁹⁸ Refusing an assisted could lead to receiving an expulsion order. People had to ‘choose’ between going back to Romania with 300 Euros, or being forcibly expelled.

According to a decision issued by the Minister of the Interior in January 2013, the amount of money given under assisted returns was reduced to 50 EUR per adult and 30 EUR per child for EU citizens returning to EU Member States.⁹⁹

4.2 Evictions

4.2.1 LEGAL AND POLICY FRAMEWORK

As a State Party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR), France is legally obliged to respect, protect and fulfil the right to adequate housing, including the prohibition of forced evictions.¹⁰⁰ Despite this, many Roma in France have faced multiple forced evictions, which leave them and their families in increasingly marginalised, poor, unstable conditions.¹⁰¹

⁹⁷ Behind the Romanians and Bulgarians, recipients of other nationalities ARH were Brazilians (92 people), Russians (46), Algerians (38) and Moldovans (31) See 2010 OFII’s report for 2010 p. 39, available at: http://www.ofii.fr/IMG/pdf/OFII-RapportActivites_2010-Client-150DPI-FeuilleAF.pdf.

⁹⁸ Le Monde, “Des Roms expulsés de Massy vers la Roumanie”, 11 March 2011, available at: http://www.lemonde.fr/societe/article/2010/03/11/des-roms-expulses-de-massy-vers-la-roumanie_1317556_3224.html.

⁹⁹ Article 2 of the arrêté du 16 janvier 2013 relatif à l’aide au retour, available at: http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=9B411FFCF07F938DB5E0024EEEB1FA5C.tpdjo11v_1?cidTexte=JORFT EXT000026954657&dateTexte=20130508.

¹⁰⁰ Article 17(1)(2) of the ICCPR and Article 11(1) of the ICESCR, supported by General Comments 4 (right to adequate housing) and 7 (protection against forced evictions) of the Committee on Economic, Social and Cultural Rights.

¹⁰¹ ERRC monitoring, See also: Amnesty International, France: Chased away: Forced evictions of Roma in Ile-de-France, 2012, available at: <http://www.amnesty.org/en/library/asset/EUR21/012/2012/en/ef5c3d8e-27df-4963-9b98-3b6209a1bf26/eur210122012en.pdf>.

Evictions of Romani settlements in France are governed by several policies, including administrative measures instigated by a breach of the public order or sanitary concerns, which target slum dwellers without legal rights or representation. The eviction procedure depends on the nature of the occupation of the site. When the evictions are justified on grounds of public order or sanitary administrative measures, the mayor has the power to order the clearance of and forbid access to the concerned buildings.¹⁰²

In general, legal eviction measures against occupants without title or ownership rights must be called for by the property owner,¹⁰³ who must request an eviction order from a judge. In practice, the property owners systematically make use of the referral procedure against the Roma. The administrative judge can then order an eviction or require the illegal resident to pay damages to the local authority. If inhabitants have been on the site less than 48 hours, the eviction can occur without the intervention of a judge, solely through a police action in the case of flagrant misdemeanour.¹⁰⁴ If the site has been occupied for more than 48 hours, only the appropriate legal authority¹⁰⁵ has the authority to order the eviction upon recognition of the illegal nature of the occupation.

On 26 August 2012, the Government issued an inter-ministerial circular called “Anticipation and Support for Eviction of Illegal Camps”.¹⁰⁶ A previous circular was declared as unlawful, since it was explicitly referring to “Roma settlements”.¹⁰⁷ The new circular does not explicitly target Roma living in informal settlements, but it follows the old circular in spirit and is used against Roma. This circular requires a social assessment to take place before any eviction takes place. Factors such as education, language level, employment or health should be taken into consideration, and solutions have to be considered for each individual.

4.2.2 BACKGROUND AND ERRC ACTIVITIES

ERRC research and monitoring activities demonstrate a pattern of a systematic eviction policy against Roma in France in 2011 and 2012. In 2011, the ERRC recorded 94 forced evictions involving 9396 people.¹⁰⁸ In 2012, 11,803 people were evicted from 117 locations.¹⁰⁹

¹⁰² CE 2 May 1990, Préfet de police de Paris C/Khali : G.P., 1990, II, Panorama, p. 661.

¹⁰³ Property owners can be state and not state actors such as companies or private people.

¹⁰⁴ Article 53 of the new Penal Code.

¹⁰⁵ The competent judge will be determined by the type of owner and the type of property occupied, as housing blocks, parking garages and land plots fall under different jurisdictions.

¹⁰⁶ Circular available at: <http://www.gisti.org/spip.php?article2923>.

¹⁰⁷ Already 5 August 2010, the Ministry of Interior issued a circular which was explicitly referring to the evictions of “Roma settlements” which, however, has been declared unlawful by the Conseil d’Etat, since the French constitution does not allow to build a policy or a law on an ethnic group See: <http://www.conseil-etat.fr/cde/fr/communiqués-de-presse/campements-illicites-de-roms.html>.

¹⁰⁸ Data about evictions comes from email alerts, from French NGOs, monitoring local and national media for reports, eyewitness reports. *Recensement des évacuations forcées de lieux de vie occupés par des Roms migrants en France*. Philippe Goossens (Imediat) and Gregoire Cousin (ERRC Monitor), 2012.

¹⁰⁹ *Ibid.*, also *Recensement des évacuations forcées de lieux de vie occupés par des Roms migrants en France*. Philippe Goossens (Imediat), 2012.

As a result of evictions, many Roma were made homeless, regardless of their health situation or enrolment in school. According to statements from Roma who were evicted, their personal belongings were destroyed during the evictions and in some cases they reported incidents of police violence and the use of tear gas. The monitoring of the ERRC further revealed that the state did not provide adequate alternative housing solutions in any of the evictions.¹¹⁰

A couple of examples illustrate the problems:

On 19 May 2011, about 400 Romani people were evicted from a field in Pantin in Seine Saint Denis, without any notification to the families, even though vaccination treatment was scheduled for the following day.¹¹¹ *Médecins du Monde* indicated that they had followed four cases of tuberculosis and several cases of measles in the camp, which required ongoing treatment. During the process of eviction the police used tear gas against the Roma, who unsuccessfully tried to save their belongings from the bulldozers. The Romani residents scattered and a group of 50 people were evicted three more times in the following days (in Bondy, Sarcelles and Ile Saint Denis).

On 1 October 2012, 40 Romani families were evicted from their settlement in La Courneuve¹¹² (Seine Saint-Denis). This Roma community included around 30 children, 20 of whom are attending school, including three at secondary school. At least 10 individuals from the community have lived in France for more than 20 years. Since their eviction, they have been living in caravans on the pavement, and no alternative housing solution has been offered to them. Even the intervention of the Ombudsman did not stop the eviction.

In cooperation with local lawyers, the ERRC supported communities to challenge evictions in seven settlements in 2011 and in eight in 2012. Until December 2012, eight out of the fifteen settlements supported with legal help by ERRC have been evicted; however thanks to the ERRC's support, evictions of seven settlements have been postponed. In addition to legal action and research activities, ERRC submitted four letters of concern regarding evictions in Lille, Lyon, Paris and Marseille in 2012.¹¹³

¹¹⁰ ERRC monitoring of evictions, 2010-2012.

¹¹¹ The owner of the land in this case the Conseil general of Seine Saint Denis and the police station who carried out the eviction refused to give information to the lawyer of some of the families have been evicted.

¹¹² ERRC, "ERRC Calls on French Authorities to Halt Planned Eviction", 28 September 2012, available at: <http://www.errc.org/article/errc-calls-on-french-authorities-to-halt-planned-eviction/4060>.

¹¹³ Lille: ERRC, "Roma Evicted in France as New Government Fails to Find New Solutions", 10 August 2012, available at: <http://www.errc.org/article/roma-evicted-in-france-as-new-government-fails-to-find-new-solutions/4035>; Lyon: ERRC, "Evicted Roma Families at Risk in France", 21 March 2012, available at: <http://www.errc.org/article/evicted-roma-families-at-risk-in-france/3974>; Paris: "ERRC Calls on French Authorities to Halt Planned Eviction", 28 September 2012, available at: <http://www.errc.org/article/errc-calls-on-french-authorities-to-halt-planned-eviction/4060> and in Marseille: "ERRC Calls for Strong Response by French Authorities to Marseille Violence", 1 October 2012, available at: <http://www.errc.org/article/errc-calls-for-strong-response-by-french-authorities-to-marseille-violence/4061>.

4.3 Violence and Hate Speech

4.3.1 LEGAL AND POLICY FRAMEWORK

According to the Penal Code, a person in a position of public authority who is found to be acting in a discriminatory manner in exercise of his or her public capacity will be subject to imprisonment and/or a fine.¹¹⁴ The Penal Code prohibits hate crime, i.e. offences that are committed because of membership, real or presupposed belonging of the victim to certain ethnic group, nation, race or religion, as aggravated circumstances.¹¹⁵

Any defamatory or insulting public or private communication is prohibited, including that which incites discrimination, hatred, or violence against a person or a group of persons on account of place of origin, ethnicity, nationality, race, religion, sex, sexual orientation or handicap.¹¹⁶

The Law on Freedom of the Press imposes a penalty for violating the prohibition of public incitement to discriminate against, or to hate or to harm, a person or a group, or for being disabled.¹¹⁷ This prohibition also applies to publicly defaming or insulting a person or a group on the abovementioned grounds.

4.3.2 BACKGROUND AND ERRC ACTIVITIES

Following President Sarkozy's controversial statements about Roma in July 2010,¹¹⁸ the French government faced international criticism of their policy targeting Roma. Subsequently, the French government has generally refrained from using the word Roma in public statements. However, stereotypes persist in the public speech of state officials. In an interview with *Journal du Dimanche* from August 2011, the Minister of Interior at the time, Claude Guéant, said, "many illegal camps were evicted, but another problem - that of Romanian delinquency - has to be faced."¹¹⁹ Since June 2011, the French government's discourse on criminality has been linked with Romanian nationals. This rhetoric on Romanian criminality and the policy of expulsions has been used by the government at the national and local level and has been picked up by the French media.

¹¹⁴ Article 225-2 of the Penal code, http://www.legifrance.gouv.fr/affichCode.do;jsessionid=4D5241BF8218B507FDC2805628732AC0.tp.djo07v_2?idSectionTA=LEGISCTA000006165298&cidTexte=LEGITEXT000006070719&dateTexte=20130121.

¹¹⁵ Article 132-76 of the Penal code, <http://www.legislationline.org/upload/legislations/cd/1b/f05864013134135c992550ab7c98.htm>.

¹¹⁶ Article R625-7 of the Penal code, <http://www.legifrance.gouv.fr/affichCode.do?idArticle=LEGIART1000022376044&idSectionTA=LEGISCTA000006165460&cidTexte=LEGITEXT000006070719&dateTexte=20130521>.

¹¹⁷ Law of 29 July 1881 on the freedom of press, available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006070722&dateTexte=20080312>.

¹¹⁸ "Discours de Monsieur le Président de la République Nicolas Sarkozy à Grenoble", July 2010, available at: <http://www.depechestsiganes.fr/wp-content/uploads/2011/06/Discours-de-grenoble-2010.pdf>.

¹¹⁹ Peter Allen, "One in 10 people arrested in Paris is a Romanian immigrant (and half of them are children)", *Daily Mail*, 12 September 2011, available at: <http://www.dailymail.co.uk/news/article-2036403/One-10-people-arrested-Paris-Romaninan-immigrant.html>.

Based upon the statistics given by Michel Gaudin, the prefect of the Paris police, pointing at an increase in Romanian criminality since 2010, a number of stigmatising statements targeting Roma indirectly have spread through the media.¹²⁰

- In an interview in September 2011 with the *Parisien*, a French newspaper, Claude Guéant, Minister of Interior at the time, declared that Romanian crime “is a crime that is difficult to fight because of one aspect that is extremely cruel: it frequently uses minors.”¹²¹
- The same day, *Le Figaro*, the second-largest national newspaper in France, published a map which implicated Romanians for petty crimes committed throughout the State, tracing the apparent networks back from their cities in Romania. The map includes the picture of a Villa allegedly belonging to “the head of a Romanian gang”. In this article, the French Interior Minister is quoted: “We must move up a gear with the return of suspects Romanian criminals to their countries of origin [either] voluntary or forced.”¹²²

At the local level, public figures, including politicians, have called for the expulsion of Roma. Specific incidents included the Villeneuve-le-Roi municipality and the town of Montmagny, which are both in the *Île-de-France region*.

- In April 2011, Didier Gonzales, Deputy Mayor of Villeneuve-le-Roi, launched a petition demanding the eviction of a camp where Roma lived. In the aftermath, several banners were hung in the streets of this town with 18,500 inhabitants. The banners stated: “The General Council must evict the Roma camps from our city”.¹²³ The families made a complaint about the mayor, but the public ministry decided not to prosecute.¹²⁴
- The Montmagny Town Council denounced “squatter families” and complained of “garbage systematically gutted in the public domain, an uncontrolled consumption of public water and aggressive begging”.¹²⁵

120 “Claude Guéant: La délinquance roumaine est une réalité”, *20 Minutes*, 29 August 2011, available at: <http://www.20minutes.fr/politique/776918-claude-gueant-la-delinquance-roumaine-realite>, and “Claude Guéant va interdire la mendicité sur les Champs-Élysées”, *Le Parisien*, 13 September 2011, available at: <http://www.leparisien.fr/paris-75/claude-gueant-va-interdire-la-mendicite-sur-les-champs-elysees-13-09-2011-1604626.php>.

121 “Immigration roumaine: les mesures contre la délinquance”, *Le Parisien*, 12 September 2011, available at: <http://www.leparisien.fr/abo-faitdujour/immigration-roumaine-les-mesures-contre-la-delinquance-12-09-2011-1603498.php>.

122 “Claude Guéant s’attaque à la délinquance roumaine”, *Le Figaro*, 12 September 2011, available at: <http://www.lefigaro.fr/actualite-france/2011/09/12/01016-20110912ARTFIG00640-claude-gueant-s-attaque-a-la-delinquance-roumaine.php>.

123 Including a petition and a banner with “The ‘Conseil Général’ must evict the Roma camps from our city” printed on it. “Enquête sur un maire accusé d’inciter à la haine anti-Roms”, *L’Express*, 20 April 2011 available at: http://www.lexpress.fr/actualites/1/societe/enquete-sur-un-maire-accuse-d-inciter-a-la-haine-anti-roms_985020.html.

124 “Le maire attaqué en justice pour ses banderoles”, *Le Parisien*, 3 April 2011.

125 “Montmagny: La tribune municipale sur les Roms fait grincer des dents les associations”, *Vonews*, 5 July 2011, available at: http://vonews.fr/article_14304.

Within its regular monitoring activities, the ERRC identified several attacks targeting Roma.¹²⁶ These anti-Roma attacks included arson and physical attacks by individuals and groups, resulting in the destruction of homes and property. At least two people were injured and at least one person died.

- On 8 January 2013, several policemen came to the largest Roma settlement in Saint-Fons (Lyon) with four dogs.¹²⁷ The inhabitants say they broke car windows, sprayed tear-gas at people and wrecked the settlement. It seems that earlier that day, a police car was the target of stone-throwing by children from the settlement. Policemen said the aim of the visit was to identify the children responsible. The police justified the use of force because they had to face 30 “hostile individuals”. An investigation was launched to discover who threw stones at the police. The Roma are filing a complaint about the destruction of their car windows.
- In September 2012, a group of 35 Roma, including 15 children, were forced to leave the piece of land where they were living in Northern Marseille by local residents. The neighbours later returned and set fire to the Romani people’s belongings.
- Since July 2012, a settlement of 40 adults and 20 children in Metz has been targeted several times, with attackers throwing large stones.
- On 26 March 2012, a fire broke out in a settlement of approximately 200 Roma in Massy, a city 20 km away from Paris. In a press release, the Mayor said the fire was accidental and might have come from a stove. Inhabitants have declared that it was the result of a mob attack. The local police closed the case in the meantime.
- On 10 March 2012, a group of young people threw stones at a squat house around Lyon. The police told the Roma to return to the house, even though the families reported threats of a fire attack. The next day a Molotov cocktail was thrown at a car. No one was injured.
- In October 2011, a squat in Paris, home to 114 Romani people including 43 children, caught fire. The fire destroyed the sheds, and caused the death of one person and minor injuries to two others.¹²⁸ Witnesses reported seeing hooded individuals throwing Molotov cocktails.
- A violent attack on a camp of Romanian Roma occurred in June 2011 near Montpellier, in which six men threw two Molotov cocktails at parked cars and caravans. Although none of the inhabitants were injured, a fire broke out causing extensive property damage.¹²⁹
- In April 2011 in Corconne, two Roma were shot by a farmer when he caught them stealing a metal stake from his field. There were no casualties, but following the trial of

¹²⁶ Six attacks against Roma were reported in the media, six other attacks were reported to ERRC staff and monitors between July 2010 and August 2011.

¹²⁷ “A Saint-Fons, la police gaze-t-elle gratuitement des Roms”, *Rue89*, 9 January 2013, <http://www.rue89lyon.fr/2013/01/09/a-saint-fons-la-police-a-t-elle-gaze-gratuitement-des-roms/>.

¹²⁸ “Paris/incendie : un corps retrouvé”, *Le Figaro*, 26 October 2011, available at: <http://www.lefigaro.fr/flash-actu/2011/10/25/97001-20111025FILWWW00637-parisincendie-un-corps-retrouve.php>.

¹²⁹ “Molotov cocktail thrown into Romanian Roma camp in France”, *Romea.cz*, 13 June 2011, available at: http://www.romea.cz/english/index.php?id=detail&detail=2007_2541&utm_source=Romea&utm_medium=twitter.

the case, the farmer was given a four-month suspended sentence and the Roma were given six months, with a three-month suspended sentence.¹³⁰

- Between January and August 2011, a minimum of six violent attacks against Roma took place in Marseille, including arson attacks on tents, sometimes involving Molotov cocktails, and physical attacks with sticks on persons and property.¹³¹ The ERRC sought to verify whether incidents were investigated or prosecuted, contacting local lawyers for information in these instances. The ERRC also got in touch with the prosecutor's office, however they were not willing to provide information.
- On 16 January 2011, a group of 20 masked people attacked a Romani family in Porte d'Aix, beating children and burning tents.¹³²
- In October 2010, a group of masked and armed individuals dressed as police officers broke into a camp of Roma in Triel-sur-Seine, where they harassed and threatened the residents with rifles and batons, stole identity cards and money and allegedly fired shots into the air.¹³³
- In August 2010, a Bulgarian Roma family living in a squat in Bobigny lost everything in a fire caused by a Molotov cocktail thrown by an unidentified man.¹³⁴

¹³⁰ "Un viticulteur tire sur deux Roms: quatre mois de prison avec sursis", *Midi Libre*, 7 June 2011, available at: <http://www.midilibre.fr/2011/06/06/coups-de-feu-sursis-pour-le-viticulteur,330970.php>.

¹³¹ These attacks were reported to ERRC monitor by Romani individual and local organisations. According to the information gathered whilst only two of six attacks were reported to the relevant institutions, the ERRC is not aware of any perpetrators of violent attacks against Roma being prosecuted.

¹³² "La porte d'Aix fermée aux Roms", *20minutes*, 27 January 2011, available at: <http://www.20minutes.fr/article/659764/marseille-la-porte-aix-fermee-roms>.

¹³³ "Yvelines: un camp de Roms attaqué", *Le Figaro*, 30 October 2010, available at: <http://plus.lefigaro.fr/article/yvelines-un-camp-de-roms-attaque-20101030-317181/commentaires>.

¹³⁴ *Le Parisien*, "Le campement des exilés bulgares ravagé par le feu", 6 August 2010, available at: <http://www.leparisien.fr/faits-divers/le-campement-des-exiles-bulgares-ravage-par-le-feu-06-08-2010-1023456.php>.

Annex 1

Human Rights Treaty Ratification and Reservation Table

(Accession is an act by which a State signifies its agreement to be legally bound by the terms of a particular treaty. It has the same legal effect as ratification, but is not preceded by an act of signature.

Ratification is an act by which a State signifies an agreement to be legally bound by the terms of a particular treaty. To ratify a treaty, the State first signs it and then fulfils its own national legislative requirements.

Signature of a treaty is an act by which a State provides a preliminary endorsement of the instrument. Signing does not create a binding legal obligation but does demonstrate the State's intent to examine the treaty domestically and consider ratifying it.)

| International Human rights law | Signature and/or ratification, reservations |
|---|---|
| European Convention for the Protection of Human Rights and Fundamental Freedoms, 4 November 1950 | France signed and ratified the Convention on 4 November 1950 and 3 May 1974, respectively |
| Protocol No. 2 to the Convention for the Protection of Human Rights and Fundamental Freedoms, conferring upon the European Court of Human Rights competence to give advisory opinions, 6 May 1963 | France signed and ratified the Protocol on 6 May 1963 and 2 October 1981, respectively |
| Convention against Discrimination in Education, 14 December 1960 | France signed and ratified the Convention on 14 December 1960 and 11 September 1961, respectively |
| International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), 7 March 1966 | France acceded to the Convention on 28 July 1971 |
| International Covenant on Civil and Political Rights (ICCPR), 16 December 1966 | France acceded to the Covenant on 4 November 1980 |
| Optional Protocol to the International Covenant on Civil and Political Rights, 16 December 1966 | France acceded to the Protocol on 17 February 1984 |
| Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, 15 December 1989 | France acceded to the Protocol on 2 October 2007 |

ANNEX 1: OVERVIEW OF RELEVANT HUMAN RIGHTS TREATY RATIFICATION AND RESERVATION

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|---|--|
| International Covenant on Economic, Social and Cultural Rights New York (ICESR), 16 December 1966 | France acceded to the Covenant on 4 November 1980 <i>Reservations:</i> (2) The Government of the Republic declares that articles 6, 9, 11 and 13 are not to be interpreted as derogating from provisions governing the access of aliens to employment or as establishing residence requirements for the allocation of certain social benefits. |
| Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, 10 December 2008 | France signed the Protocol on 11 December 2012 |
| The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 18 December 1979 | France signed and ratified the Convention on 17 July 1980 and 14 December 1983, respectively |
| Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, 6 October 1999 | France signed and ratified the Protocol on 10 December 1999 and 9 June 2000, respectively |
| Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 10 December 1984 | France signed and ratified the Convention on 4 February 1985 and 18 February 1986, respectively |
| Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 18 December 2002 | France signed and ratified the Protocol on 16 September 2005 and 11 November 2008, respectively |
| Convention on the Rights of the Child (CRC), 20 November 1989 | France signed and ratified the Convention on 26 January 1990 and 7 August 1990, respectively |
| Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 25 May 2000 | France signed and ratified the Protocol on 6 September 2003 and 5 February 2003, respectively |
| International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW), 18 December 1990 | France did not sign the Convention |
| European Social Charter (revised), 3 May 1996 | France signed and ratified the Charter on 3 May 1996 and 7 May 1999, respectively |
| Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, 25 October 2007 | France signed and ratified the Convention on 25 October 2007 and 27 September 2010, respectively |
| Protocol No. 14 bis to the Convention for the Protection of Human Rights and Fundamental Freedoms, 27 May 2009 | France signed the Protocol No. 14 bis on 27 May 2009 |

CHALLENGING DISCRIMINATION PROMOTING EQUALITY

