

**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX**



2 May 2006

Case document No. 1

**International Movement ATD Fourth World
v. France**
Collective complaint n° 33/2006

COMPLAINT

registered at the Secretariat on 1 February 2006

Paris, 26 January 2006

Secretariat of the European Social Charter
Directorate General of Human Rights – DG II
Council of Europe
67075 Strasbourg Cedex

Collective complaint
International Movement ATD Fourth World v. France

Admissibility

Defendant state

France: Party to the 1996 revised Social Charter that has accepted the collective complaints procedure by signing the 1995 additional protocol (ratified 7 May 1999).

Articles concerned:

Article 16: Right of the family to social, legal and economic protection

Article 30: Right to protection against poverty and social exclusion.

Article 31: Right to housing.

Articles read in conjunction with Article E, Part V: non-discrimination .

Status of the International Movement ATD Fourth World

The main subject matter of this complaint – extreme poverty as a barrier to access to housing - reflects ATD Fourth World's social objective.

ATD Fourth World is an INGO that invites individuals and institutions to associate themselves with the very poor in their daily fight to free themselves of the burden of poverty. It strives for a future society that recognises the equal dignity of every human being and from which extreme poverty and social exclusion have disappeared. The International Movement ATD Fourth World¹ was founded in 1974 as an association linking up twelve national associations, one of which is the French ATD Fourth World², established in 1957 in Paris by Joseph Wresinski (1917-1988). The movement is represented in thirty countries and has correspondents in more than a hundred. It works with the most disadvantaged members of the community with the aim of securing universal access to a decent and dignified standard of living, including the right to family life, and access to social rights such as the rights to housing, work and medical care. It also undertakes research and other investigations into the underlying causes of extreme poverty and social exclusion. Finally, it puts pressure on governments and other authorities at national and international level to secure representation for the most deprived and ensure that their right to a decent life is respected. Its objectives and activities aimed at combating poverty and securing the fundamental rights of its victims make the International Movement ATD particularly qualified to lodge a complaint concerning the denial of certain social rights to those concerned.

ATD Fourth World is one of the organisations authorised to lodge collective complaints under the revised Charter.

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Purpose of the complaint.

I. **The International Movement ATD asks the European Committee of Social Rights to find that France has failed to fulfil its obligations under the revised Social Charter concerning the right to housing of persons in extreme poverty.**

Under Article 16, France undertakes "to promote the economic, legal and social protection of family life by such means as social and family benefits,, provision of family housing".

Similarly, in ratifying Articles 30 and 31, it undertakes:

"with a view to ensuring the effective exercise of the right to protection against poverty and social exclusion ... to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance; to review these measures with a view to their adaptation if necessary."

"with a view to ensuring the effective exercise of the right to housing ... to take measures designed to promote access to housing of an adequate standard; to prevent and reduce homelessness with a view to its gradual elimination; to make the price of housing accessible to those without adequate resources."

Finally, these articles must be read in conjunction with Article E, Part V, according to which: *"the enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, colour ... social origin ... or other status."*

The right to housing is an essential component of the enjoyment of fundamental rights. A study carried out by ATD Fourth World of the experience of families in extreme poverty in the so-called *cit  de promotion familiale* in Noisy le Grand, near Paris³, shows how lack of decent housing affects the individuals and families concerned and their access to other rights, and illustrates the indivisibility of human rights.

According to the study report, housing is a precondition of access to fundamental rights, particularly the right to a decent and dignified family life. It enables the most deprived members of the community to re-establish control over their own lives and increase their autonomy. Without a roof over their heads, they cannot be full citizens, or have their proper status as human beings acknowledged by others. Failure to enforce the right to housing has serious, multiple and mutually reinforcing consequences in terms of growing exclusion.

The indivisibility of human rights was again emphasised recently by the French national human rights consultative commission, in an opinion dated 23 June 2005, entitled the indivisibility of rights in a context of insecurity and exclusion.

It is clear from the experience of families living in extreme poverty that France is not in compliance with its undertakings.

³ Alexis Rouque, Mouvement ATD Quart Monde : *"Rapport logement – Les familles pauvres et le logement: un droit, une chance, un d fi"* (poor families and housing, a right, an opportunity, a challenge), based on the experience of the ATD-supported project *cit  de promotion familiale* in Noisy-le-Grand, 2005

For example, the experience of the Noisy-Le-Grand *cit  de promotion familiale* project shows that many applications for admission come from families affected by uncertain employment, health and family circumstances, as well as potential or actual homelessness. Some of these families may have been moving from place to place for many years.

A good illustration of unstable housing is provided by the experience of twenty-six families of French nationality, most of them originally travelling people but now settled for ten, twenty or thirty years in the so-called Trou Poulet wood, in the municipality of Herblay in the Paris region⁴. A few of them rent the land on which they are parked while the remainder have no right of occupation. Despite numerous requests to the local authority for a satisfactory solution to their housing situation, they have never been taken into consideration in the local land use plan. Just three of these families were among the 75 or so local families of traveller origin originally (early 1990s) scheduled for inclusion in a draft municipal special social and housing plan (MOUS)⁵. From the outset, these proposals were insufficient to meet the municipality's needs for decent dwellings, in the form of family-type plots. They failed to take account of settled families, who were living in the worst housing conditions and according to French law should have been given high priority⁶. Moreover, the plans have been considerably scaled down over the years, since they currently only provide for eight families from the municipality to be rehoused by the end of 2006.

The local authority's only response to the need for rehousing of the other 23 Trou Poulet families was to apply for and secure their eviction (decision of the Versailles appeal court of 13 October 2005⁷) and even to refuse the request for judicial mediation that might have helped to find alternative housing.

This is also the situation of eighty-four persons living in run-down huts or dilapidated caravans, with no running water, sanitation or electricity, on the edge of an airfield in the municipality of Kaltenhouse (Bas-Rhin)⁸. These persons of gypsy origin who have never travelled have been asking the local authority for housing since 1964. They have had the support of ATD Fourth World since 1994 and of a committee made up of local citizens and associations since 2000. Yet it was only in December 2000 that a drinking water tap was installed, followed in December 2001 by a proper electricity supply. It was not until September 2003, and then following pressure from the sub-prefect (local representative of the state), that the municipality offered land on which accommodation could be built. However, the site concerned was unacceptable to the families. Of the three sites under consideration, they were only offered the one on which they had always said they did not wish to live. They were worried that joining another 150 persons of gypsy origin, who had already been rehoused there outside the town in 1993, would result in too great a concentration in the same place and a resurgence of ancient rivalries. The rehousing proposals are currently frozen.

⁴ See *Rapport moral*, ATD Quart Monde France 2004 pages 39-43.

⁵ The MOUS (*Missions de Ma trise d'Oeuvre Urbaine and Sociale*) were established in 1989 (circular 34-65 of 22 May) to help individuals and families in difficulty to find housing, with a view to their long-term integration. Under another circular (95-63 of 2 August 1995), these plans comprise a technical and a social element. The technical side is concerned with finding suitable accommodation for persons needing to be rehoused, including family plots for persons of traveller origin who have become or are becoming settled. The social aspect involves the identification of household needs and the formulation with them of a housing plan.

⁶ Act No. 90-449 of 31 May 1990, Section 4.

⁷ An appeal on points of law has been lodged against this decision.

⁸ See *Rapport moral* ATD Quart Monde France 2004 pages 43-45.

I.A. Existing laws and regulations meet the requirements of the revised Social Charter

In particular, the Anti-Exclusion Act, No. 98-657 of 29 July 1998, represented considerable progress. Section 1 stated that combating exclusion was a challenge for the nation, based on the principle of the equal dignity of all human beings, and was a national policy priority. It continues (unofficial translation): *"This Act seeks to ensure universal access to fundamental rights in the fields of employment, housing, health, justice, education, training and culture, and family and child protection"*⁹.

Section 1 of Act No. 90-449 of 31 May 1990 establishes a national duty of solidarity to safeguard the right to housing¹⁰.

Section 4 of the Act requires each *département* to draw up a housing action plan for disadvantaged persons and give priority in this plan to persons and families who are homeless, threatened with eviction without rehousing or living in slums or unsuitable or makeshift housing.

Section 5 of decree 99-897 of 22 October 1999 on *département* housing action plans for the disadvantaged and housing solidarity funds, as clarified in the circular of 7 June 2001, requires a qualitative and quantitative assessment to be carried out of the needs of persons and families experiencing difficulty obtaining or retaining suitable independent housing and a review of the measures introduced to safeguard the right to housing.

In addition, Article L 110 of the Town Planning Code makes it a duty of each public authority, in accordance with its specific powers and responsibilities, to develop the local environment to ensure that existing and future residents benefit, without discrimination, from housing and employment conditions, general services and transport that reflect their differing needs and resources.

Under Article L.121-1, regional, local and municipal land use and development plans must establish suitable conditions for a diversity of urban functions and social mix within both urban and rural environments, including sufficient provision for new build and refurbishment to satisfy present and future housing needs without discrimination.

I.B. However, there are shortcomings in practice

The inadequacy of the resources made available under French law to satisfy the requirements of Articles 16, 30 and 31 of the revised Social Charter is borne out by the

⁹ Section 1 also requires central government, local and regional authorities and other public bodies such as municipal and inter-municipal social services centres, social security bodies and other social and medical institutions to contribute to implementing these principles. They should implement policies designed to identify, prevent and remove situations that might lead to exclusion.

¹⁰ The section continues (unofficial translation): "Any person or family experiencing particular difficulties on account of inadequate resources or unsuitable living conditions shall be entitled to public assistance, in accordance with the provisions of this Act, in obtaining or retaining adequate and independent housing and the supply of water and energy supplies and telephone services."

Section 5 of decree 99-897 of 22 October 1999 on *département* housing action plans for disadvantaged members of the community and housing solidarity funds requires an assessment to be carried out of the needs of persons and families in difficulty. It also requires councils to carry out annual reviews of results obtained in relation to plans' quantitative objectives and the extent to which those results were a direct consequence of the plans.

experience of families living in extreme poverty, in various official reports and by the European Committee of Social Rights itself.

I.B.1. Inadequacies reflected in the experience of families

I.B.1.a. The weaknesses of local town plans

To take one example, families who have lived in the municipality of Herblay for decades are not covered by the local plan that was lodged on 20 May 2003 and published two days later, even though they should have been under Articles L110 and L121-1 of the Town Planning Code. Yet the existence of these families and their housing problems has been known since the 1980s, as numerous documents show.

I.B.1.b. The weaknesses of housing action plans for the disadvantaged

Information on the clientele and on housing demands and needs

Some *départements* make little effort to establish priorities in this area. For example, successive official appraisals of the Bas Rhin (Strasbourg area) housing action plan have drawn attention to inadequate information on needs¹¹, unawareness of the interrelated problems of substandard and inappropriate housing in the *département*¹², and the need for more information on those concerned, by means of a planned survey that was subsequently abandoned¹³. The 2005 assessment of the Bas Rhin housing action plan makes no reference to any progress on the plan's "information on clientele" objective.

Elsewhere, as in the Pas de Calais plan¹⁴, information on needs is empirically based. The lack of statistics on priority and real needs and the inadequate or non-existent timetables for achieving these objectives reflect these plans' lack of ambition regarding a group of persons whom the law has identified as a priority¹⁵.

In other *départements*, such as Val d'Oise in the Paris region, the housing action plan correctly identifies those concerned and their needs, but includes no real proposals and establishes no priorities for meeting these families' housing needs. Thus, the 2004-2007 plan states that a working group was set up in 2000 to consider the needs of travelling families that have settled¹⁶. In fact, it simply repeats the objectives of establishing family plots, but fails to take the necessary steps to give effect to them. For example, the plan estimates that there are 1700 settled caravan households in Val d'Oise but only makes provision for 14 family plots.

In addition, its appendix 8, on annual budget forecasts, makes no financial provision for such family plots¹⁷.

¹¹ Housing action plan for the disadvantaged, Bas Rhin (2000-2002). Summary of first plan 1991-95, page 7.

¹² Housing action plan for the disadvantaged (revised), Bas Rhin (2003-2004), pages 21 and 22.

¹³ Assessment of the housing action plan for the disadvantaged (revised), Bas Rhin (2003-2004), 2 September 2004.

¹⁴ Pas de Calais housing action plan, first part, pages 14 and 15: "improving needs assessments and identification of the clientele to improve the response to persons in difficulty". Page 24: "a quantified objective for rehousing the most vulnerable households through a joint *département* agreement". Page 133: "basis for calculating the *département* rehousing objective". Appendix 10: "2001-2003 joint *département* agreement – Article VI: waiting times".

¹⁵ See section 4 of the Besson Act of 31 May 1990 and section 1 of the Anti-Exclusion Act, No. 98-657, of 29 July 1998

¹⁶ Page 68.

¹⁷ Page 133 of the Val d'Oise housing plan.

As a result, housing action plans for the disadvantaged are mandatory, come one after the other, are assessed and all highlight the inadequacy of resources and outcomes, but have no binding force. In other words, in France there is no obligation to show results and no penalties if plans are not properly implemented.

- Weaknesses in other statutory activities

The so-called MOUS (*maîtrise d'œuvre urbaine et social*) projects establish multidisciplinary social work and housing teams to promote access to housing, but over time the most disadvantaged have received less and less attention. For example, the MOUS project in the municipality of Herblay only includes eight individual sites. This is practically nothing compared to the 82 households in need originally identified by the ADVOG¹⁸ organisation, not to mention the 26 in Trou Poulet who were not counted at the time despite being present in the municipality.

Nor were the families missed by the MOUS project covered by other aspects of the housing action plan for the disadvantaged for the purposes of rehousing.

- Prefectoral right of reservation/allocation not always properly used

In theory, prefects (the local officials representing central government) have a right to reserve a certain quota of social housing for allocation to the most deprived members of the community. However, in cases where social landlords refuse to offer tenancies, it is not always possible for prefects to enforce allocation according to what they consider to be legal and humanitarian priorities.

In Bas Rhin, it is clear from the assessment, dated 2 September 2004, of the revised 2000-2004 housing action plan that those involved in the plan are highly dissatisfied in general with the changes made to the way the prefectoral right of reservation is applied and the likely consequences. They emphasise the seriousness of the situation, particularly concerning the allocation by certain social landlords of housing covered by the prefectoral right of reservation.

- *Département* collective agreements fail to meet the housing needs of the most disadvantaged

Département collective agreements lay down for each social landlord - local authority housing departments and semi-public social housing associations – annual quantified commitments to allocate accommodation to persons with multiple financial and social problems identified in the local housing action plan. These place commitments on landlords and the state.

The 2002 assessment for Bas Rhin again showed that once the relevant housing was completed it would be impossible to ensure that priority was given to families registered in the collective agreement¹⁹. Each year there is an overall shortfall in the number of households rehoused.

Among other things, the 2000-2002 agreement identified two years as the maximum waiting time for social housing beyond which any application would be deemed a priority. Yet ATD Fourth World is aware of families that are still waiting even though their

¹⁸ *Département* travellers and gypsies association.

¹⁹ See the Bas Rhin housing action plan, pages 62-65.

applications are at least six years old. It appears that there is a general failure to apply the two-year priority criterion to the worst affected families.

- **The mediation committees established under Article L441-2-3 of the Building and Housing Code have no decision making powers**

Their operating methods act as a disincentive to highly disadvantaged families facing emergencies. The assessment of the Bas Rhin housing action plan acknowledges that applicants consider that they are ineffective and offer no possibility of rehousing²⁰.

I.B.1.c. Problems with the allocation of social housing²¹.

Rising housing prices mean that persons who, a few years ago, would have left rented housing fairly rapidly are forced to remain in social housing. This decline in the rate of movement out of the sector effectively excludes the most vulnerable potential tenants, since social landlords can find sufficient applicants from the ranks of more comfortably-off families to fill any vacancies that arise, with no financial risk.

The situation has now reached a point at which the arrangements for giving priority to the most needy cases are increasingly failing to operate properly. In contrast to the situation in 2002 or 2003, families' inclusion in collective agreements no longer guarantees that they will be allocated housing. Priority groups are becoming more diverse and the number of families under threat from unemployment and other forms of instability is rising. Letting organisations are therefore submerged by priority applications and are applying the same selection criteria to this category as they would to any candidates for housing, namely occupational and financial guarantees, family stability and so on.

Families seeking to leave the *cit  de promotion familiale* in Noisy clearly number among the most disadvantaged and they bear the stigma of their past records long after work undertaken with them has enabled them to make significant progress in key areas.

I.B.1.d. Problems with the eviction procedure

When persons are evicted from non-rented accommodation or sites, as in Herblay, no authority is required to establish in advance whether the families concerned will be able to find alternative accommodation. When the Herblay families were evicted, they were not offered any financial or social support. Although carried out legally, such evictions simply force those concerned back on to the road.

I.B.1.e. Diluted responsibility for applying the law

In certain cases mayors refuse to take account of families, as in the Herblay case, on the grounds that they cannot be expected to accept sole responsibility for them. In practice though, situations in which social landlords, *d partements* and central government share responsibility often lead to political irresponsibility.

I.B.2. These deficiencies in French law have been frequently criticised in official reports

²⁰ Idem, page 69

²¹ These occur despite article L.441-2-6 of the Building and Housing Code, which lays down general criteria for determining priority in the allocation of social housing, particularly for persons who are poorly housed, disadvantaged or otherwise experiencing housing problems for financial or social reasons (section 56 of the 1998 Act).

Such reports have emanated from both public bodies and voluntary associations, including the *Haut Comité pour le Logement des personnes défavorisées* (HCLPD – high level committee on the housing of disadvantaged persons), the *Conseil économique et social* (CES – economic and social council)²², the *Observatoire national de la pauvreté et de l'exclusion sociale* (national monitoring centre on poverty and social exclusion), the *Commission Nationale Consultative des Droits de l'Homme* (national human rights consultative commission), the *Inspection Générale des Affaires Sociales* (IGAS - government social affairs inspectorate), and the *Fondation Abbé Pierre pour le Logement des défavorisés* (the Abbé Pierre foundation for housing the disadvantaged).

What these reports show is that disadvantaged persons' right to housing is still not applied in practice. They reveal a number of shortcomings in the application of French law that are incompatible with the Social Charter. These may be divided into a number of aspects:

I.B.2.a. All the reports draw attention to the shortage of social housing

Disadvantaged persons are the first to suffer from a malfunctioning housing market (HCLPD 2003 p. 15). There is a reluctance to build sufficient social housing to meet needs. The economic and social council has criticised the fact that fines for non-compliance with section 55 of the Solidarity and Urban Renewal Act²³ are not a sufficient disincentive.

I.B.2.b. The weaknesses of the housing action plans for the disadvantaged

Few resources have been mobilised to establish priorities in this area (IGAS 2004 File11 p. 50). The 1990 Act requires *départements* to assess the needs of priority groups but only a quarter of them have undertaken needs assessments (*idem* p. 21).

The housing action plans are partly, but not sufficiently, effective (IGAS, May 2004²⁴, p.52, File 11). The plans' impact on the supply of social housing is limited to setting objectives for specific programmes. They are impotent when faced with inadequate financing, a shortage of social housing and local hostility to such housing (HCLPD 2003 p.15 & 16).

I.B.2.c. Incompatibility between different eligibility criteria for social housing

Two-thirds of the French population meet the criteria for entitlement to social housing. The objectives of achieving a social mix and of providing for priority groups often clash in a way that conflicts with the spirit of the law (IGAS p.52 & 16; first triennial assessment on this issue to be published, IGAS p. 48). The objective of achieving a social mix is frequently incompatible with providing accommodation for the very poor. Applications for social housing are increasingly being turned down on the grounds that a social balance must be maintained in particular neighbourhoods.

But according to the HCLPD (2002, p. 32), when the supply of social housing makes it impossible to reconcile the social mix and right to housing objectives, the latter must take precedence.

²² Access to housing: the law and realities, Nicole Prud'homme report, 14/01/2004

²³ Reference in French only

²⁴ Summary of the assessments of the Anti-Exclusion Act of 29/07/1998, Maryse Fourcade, Valérie Jeske, Pierre Naves.

I.B.2.d. Problems with procedures for allocating social housing to priority groups²⁵

There are problems attached to the arrangements for allocating social housing to priority groups, including lack of transparency in the selection of applicants for consideration by letting committees and the way registration numbers are managed. The November 2002 ALERTE report, cited by IGAS, p. 46, refers to the difficulties experienced by the most vulnerable families in renewing their applications within the deadline of a year from the lodging of their original applications.

I.B.2.e. Risks for the least well off in the management of the prefectural housing reservation/allocation

The housing set aside for prefects to allocate to priority groups, in particular the poorly housed and disadvantaged families, may constitute up to 25% of the available stock. There are several ways in which the central government representatives can use these powers, involving various degrees of direct involvement and supervision. Section 60 of the Act of 13 August 2004 authorises prefects to transfer their allocation to mayors. The “municipal protectionism” that is such a characteristic of local letting committees’ practice makes it quite unacceptable to leave it entirely to mayors to apply the right to housing (HCLPD 2004 pp.78 & 79, CES 2004 p.136).

I.B.2.f. Defects in the eviction prevention procedure

The number of tenancy disputes, as well as the number of eviction orders, including ones in which law enforcement agencies become involved, has increased significantly since 1999. The 1998 Anti-Exclusion Act established guidelines for preventing evictions but the existing machinery presents a number of defects (HCLPD 2002 pp.53 ff; Abbé Pierre Foundation 2004 p. 232).

No particular priority is given to helping those concerned to secure less expensive housing following eviction. Efforts must be made locally to ensure closer co-ordination between the eviction prevention policy and the policy on disadvantaged persons’ access to housing (HCLPD p.59).

I.B.2.g. Inadequate remedies

There are no judicial remedies through which priority households can secure access to social housing. Even if they are in difficulty, applicants who are not registered on the lists submitted to letting committees have no right of appeal (CES 2004 I-16 and II-14&15; HCLPD 2003 pp.22 to 24).

The only appeals procedure, which was introduced by the 1998 Act, concerns cases where the normal allocation period, based on the single *département* registration number, has been exceeded. The mediation committees that have been established have been slow to come into operation and are little known to the general public (CES report – 18/06/2003²⁶). Their opinions have no binding force.

²⁵ Article L.441-2-6 of the Building and Housing Code lays down general criteria for determining priority in the allocation of social housing, particularly for persons who are poorly housed, disadvantaged or otherwise experiencing housing problems for financial or social reasons (section 56 of the 1998 Act).

²⁶ *L'accès de tous aux droits de tous par la mobilisation de tous* (universal access to universal rights through universal mobilisation) – report by Didier Robert.

In most *départements*, families referring themselves to the mediation committee must first provide evidence that they have applied for housing two years in a row and then wait for the committee to rule on their application. If their application is accepted, they will be recommended to a letting committee for allocation. This is no guarantee that their case will then be accepted.

I.B.2.h. Diluted responsibility for applying the law

Several published reports draw attention to this dilution of political responsibility, which encourages unwillingness to accept liability.

Citizens who have difficulties finding suitable housing are frequently shunted from one department to another. Since no single body is responsible for enforcing the right to housing, no one can be held responsible for its non-enforcement. Collective responsibility is a notional, non-operational, concept. In practice, it is used to justify irresponsibility (HCLPD 2003 p.20).

- The state is unable to force local authorities to implement the necessary policies when these inadequate (HCLPD 2003 p.17).
- The right to housing cannot be applied because there is no legally defined responsible authority (CES 2004 II-25).
- Local authorities are not obliged to respond to all the demand facing them. Pressure from existing residents reluctant to accept social housing carries more weight than the needs of the poor (HCLPD 2003 p.20).

This dilution of responsibilities has an impact on the most vulnerable. Those who ought to be given priority under the Besson Act are ignored, and the mediation and social support arrangements are adversely affected. This also has a negative affect on other rights, such as their rights to family life, to work and to education. Their health is also compromised.

I.B.3. Weaknesses also identified by the European Committee of Social Rights in its 2005 conclusions

The Committee's 2005 Conclusions stated that "*the aim and purpose of the Charter, being a human rights protection instrument, is to protect rights not merely theoretically, but also in fact*"²⁷.

It asked France what steps it had taken to deal with substandard dwellings and evictions. It noted that "*in the field of housing, the gap between needs and results is particularly wide*"²⁸, and concluded that the situation in France was incompatible with Article 31§3 of the revised Charter because the availability of social housing was manifestly inadequate.

I.B.4. Conclusion

French legislation and administrative practice require government policies to be properly followed up and assessed. Yet it is clear from the attached official reports that the corrective measures taken by the authorities in response to their warnings about the

²⁷ See collective complaint No. 1/1998, International Commission of Jurists against Portugal, decision on the merits § 32.

²⁸ Page 283.

difficulties faced are either inadequate or non-existent. Moreover, certain situations are ignored and therefore not taken into account at all.

This means that those concerned are denied the right to protection against poverty and social exclusion (Article 30 of the revised Charter), either because, as in the Kaltenhouse case, the authorities' failure to take action perpetuates an already unbearable situation or because, as in Herblay, their action makes the situation worse.

II. The complaint also seeks to demonstrate that far from securing the objectives laid down in law certain practices have the effect of driving low-income families still further into poverty and illegality.

II.A. Eviction leaves families in a still more vulnerable situation.

For example, the eviction ordered on 13 October 2005 by the Versailles court of appeal resulted in the dislodging of families occupying the so-called Trou Poulet site. It threw a group of families who had lived in the municipality for several decades and whose children had been educated there entirely on their own resources. The eviction was ordered without any offer of rehousing, which was quite in breach of the Besson Act²⁹. They have no place to go to and are now in an even more precarious situation than before. They were evicted because they were breaking the law and have now been driven onto the road and into further illegality.

Such measures inevitably have repercussions for the entire family, particularly for the children's education and young persons' and adults' prospects of finding employment.

II.B. Certain discriminatory practices deny families their rights

The failure of the 2003 local town plan to take account of families in caravans and huts who had been living in the same place for several decades constitutes discrimination against Herblay families, in breach of articles L110 and L121-1 of the Town Planning Code.

Moreover, these French families settled in Herblay suffer further discrimination from the fact that they do not have national identity cards. They do hold travel permits (of which there are two sorts) recording the municipality to which they are officially assigned but have been refused identity cards. The reason given for this refusal is that they do not have an address. Yet the families concerned receive post, electricity bills and tax demands. This practice is discriminatory and is clear evidence of a refusal to treat these families as citizens of this municipality. It makes it even more difficult for them to exercise their entitlement to other social rights, which require possession of an identity card.

These same Herblay families suffer further discrimination as a result of the town hall's refusal to grant them various forms of assistance. One example is the refusal to grant one family's request for a holiday allowance to enable it to visit ATD Fourth World's holiday home.

The decision to initiate multiple eviction proceedings with no attempt to find alternative housing is a logical follow up to these successive and widespread acts of discrimination. It reflects a commitment to exclude a group of families who have been settled in the municipality for many years. The result will be to leave them permanently outside the law.

²⁹ Section 4 §2 of Act No. 90-449 of 31 May 1990 requires housing action plans to give priority to persons and families threatened with eviction without rehousing.

Moreover, the municipality is quite prepared to intimidate and harass the owners of the land these families rent³⁰, or even the families themselves³¹.

II.C. The housing shortage has an impact on families and their access to rights

The Charter considers housing from the standpoint of the family. For example, public building and social housing programmes should include dwellings of a suitable size for families. Families must be able to apply to the relevant social services, particularly when they are in difficulty.

The umbrella organisation *Pour un Droit au Logement Opposable* (for an enforceable right to housing), of which ATD Fourth World is a member, estimates that there are currently 3 million people lawfully in France who are homeless or badly housed. The families in the *cit  de promotion familiale* and those who have applied for a place have all experienced this ordeal and can bear witness to the process of exclusion that follows. Loss or lack of housing creates a form of residential insecurity that reinforces their social insecurity³². Failure to enforce their right to housing has serious, multiple and mutually reinforcing consequences in terms of growing exclusion.

Lack of decent housing has numerous consequences for individuals³³. The first concern family ties, with the risk of break up between spouses or between parents and children, and of the family's relations with the world outside. It also affects the ability to find and keep a job – no employment without an address – thus reinforcing individuals' vulnerability. There are consequences for health, since badly housed families often suffer deteriorating health while lack of proper sanitation makes it difficult to maintain a satisfactory level of hygiene. There is also an educational effect, since the schooling of disadvantaged children is often disturbed, intermittent and discontinuous, and hindered by their instability as they share their parents' pain and distress. Finally there are consequences for their access to rights and to administrative procedures. "Without a home you are nothing. You cease to exist."

III. CONCLUSION

ATD Fourth World is aware of France's commitment to the right to housing, particularly that of the most disadvantaged sections of the community, as shown by its ratification of Articles 30 and 31 of the revised Social Charter.

Nevertheless:

- French housing regulations have not been properly applied in practice.
- Decentralisation has led to a dilution of responsibilities between central government and local and regional authorities and the state does not fulfil the undertakings it has entered into.
- There is no effective remedy or avenue of appeal to enforce the right to housing.
- Some legislation and regulations and certain practices are incompatible with the right to housing.

³⁰ These landowners have been urged to terminate existing tenancies or to cease issuing the corresponding rent receipts for certain families renting the land on which they are parked.

³¹ Town hall staff informed families of their forthcoming evictions, in breach of the execution procedure laid down in the Versailles appeal court decision.

³² See Alexis Rouque's report.

³³ *Idem* pages 5 to 21

- This leads to certain discriminatory practices that force the weakest members of the community, both individuals and entire families, into a state of vulnerability and lasting and growing exclusion.

Briefly, the implementation of an enforceable right to housing would enable France to put an end to these violations of the Charter. Since the high level committee on the housing of disadvantaged persons published its eighth report in 2002, there has been considerable support for the principle that the right to housing should be accompanied by an obligation to show results, from such bodies as the economic and social council³⁴, the national housing council (*Conseil national de l'habitat*), the national anti-exclusion council³⁵ and more than fifty associations organised under the umbrella of the platform for an enforceable right to housing. The only way to ensure that the right to housing is effective is to make it enforceable. This in turn requires central government, or the state, to accept final responsibility. It must appoint an appropriate political authority with the necessary powers and offer citizens effective remedies against authorities that fail to meet their responsibilities³⁶.

The following proposals would also help to fill certain gaps in French law and its application:

1. In relation to the housing action plans for the disadvantaged:
 - Take proper account of the needs, both quantitative and qualitative, expressed by individuals and families;
 - Ensure that central government monitors the preparation and implementation of these plans more effectively so that the objectives reflect real needs, particularly by giving priority to the most disadvantaged persons and families; where necessary, prefects should be empowered to require action to be taken.
2. Prohibit any evictions, from rented or other dwellings, unless appropriate rehousing has already been arranged.
3. When central government delegates the prefectural right of reservation, or housing allocation, it must ensure that this delegated power is properly and appropriately exercised.
4. The principle of social mix must not be applied if it conflicts with priority criteria.
5. Mediation committees' powers must be strengthened.
6. The process by which applications are presented to and considered by letting committees must be totally transparent.

ATD Fourth World asks the European Committee of Social Rights to consider the arguments in this collective complaint and the appended documents and to find that France is in violation of Articles 16, 30 and 31 of the revised Charter in conjunction with Article E.

³⁴ Council opinion on a report on access to housing, rights and realities, January 2004.

³⁵ At a housing conference on 1 July 2004 and then at a national anti-exclusion conference, a joint national housing council/national anti-exclusion council working group unanimously approved a report whose first proposal was to make the right to housing enforceable.

³⁶ See also the 11th report of the high level committee on the housing of disadvantaged persons: December 2005, first part.