

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



6 October 2009

Case document No. 4

European Roma Rights Centre v. France
Complaint No. 51/2008

**FURTHER RESPONSE BY THE GOVERNMENT
ON THE MERITS**

Registered at the Secretariat on 25 September 2009



**MINISTRY
OF
FOREIGN AND EUROPEAN AFFAIRS**

Paris, 25 September 2009

**DIRECTORATE
OF LEGAL AFFAIRS**

Sub-directorate of human rights

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No. DJ/MS

The Ministry of Foreign and European Affairs

to

The Chair of the European Committee of Social Rights

**Subject: Complaint no. 51/2008
European Roma Rights Centre (ERRC) v. France**

I would like to thank you for bringing to my notice the reply submitted by the European Roma Rights Centre (ERRC) to our observations on the above complaint and giving me more time to submit further observations, up to a fresh deadline of 25 September 2009.

In this connection, the Government would like to add the following comments to its initial submissions of 9 January 2009.

I. Firstly, the ERRC argues that, in its submissions, the Government failed to address the matter of circulation documents and electoral rights. The Government's main argument would be that these issues relate to civil and political rights, which seem to it to be unconnected with those enshrined in the European Social Charter. In particular, these matters cannot be linked in any way to the articles referred to by the ERRC and cited in the decision on admissibility of 23 September, namely Articles 16

(the right of the family to social, legal and economic protection), 19 (the right of migrant workers and their families to protection and assistance), 30 (the right to protection against poverty and social exclusion) and 31 (the right to housing).

Unless it interprets these articles in a way which overlooks the very substance of the rights they enshrine, the Committee can only do what the Government attempted to do in its initial submissions, which was to focus on the economic and social aspects of the ECCR's argument, particularly its submissions regarding housing. Consequently, the parts of the ECCR's complaint relating to civil and political rights, such as electoral rights and the right to circulation documents, should be regarded as inoperative and cannot be used as a basis for the Committee's decision.

In the alternative, so that the Committee is fully informed, the Government can provide the following clarifications on these subjects.

First of all, regarding the right to vote, it should be pointed out that in addition to the arrangements for registration on the electoral roll laid down in section 10 of the Act of 3 January 1969, Travellers are also covered by Article L 15-1 of the Electoral Code¹. These measures, which were the result of a reform introduced by Act No. 2007-290 of 5 March 2007 in consultation with associations representing Travellers, now enable them to register in the municipality in which a municipal or joint municipal social welfare centre or a body certified for this purpose is located, provided that they have been registered there for at least six months. These measures, which are explained by the circular NOR:INT/A/07/00122/C of 20 December 2007 on revising and maintaining electoral rolls and supplementary rolls, enable most of the persons concerned to exercise their right to vote in accordance with the law. The time limit set by section 10 cited above does not therefore constitute an obstacle to the political participation of these citizens.

With regard to circulation documents, it should be emphasised that the freedoms of residence and of movement, which are essential in any state governed by the rule of law, must nonetheless be circumscribed so that they do not infringe other individual freedoms or undermine the public interest. In this connection, the logical consequence of Travellers' lack of any geographical ties and freedom of movement is a system of administrative assignment to a municipality, which means that travellers hold a circulation document - a document to which some associations representing Travellers seem moreover to have developed a very strong attachment. These documents, which vary according to whether or not applicants can produce evidence of a regular income or are engaged in an itinerant activity, must be regularly checked and stamped by the authorities. Under the Act of 3 January 1969 these stamps are

¹ This article provides: "Citizens who cannot provide evidence of a home or residence and who have not been assigned to a particular municipality by the law shall be registered at their request on the electoral roll of the municipality in which the reception facility certified in accordance with Articles L. 264-6 and L. 264-7 of the Social Welfare and Family Code is located provided that:

- this body's address has been on their national identity card for at least six months, or;
- the body has provided them with the certificate referred to in Article L. 264-2 of the Code, establishing a link with it for at least six months".

valid for three months. This time limit reflects a desire on the part of those who drafted the law to maintain the link between the authorities and persons without a home or residence. The system guarantees that the persons concerned can exercise their civic rights and enables the authorities to carry out basic controls in conditions that take account of their itinerant lifestyle. This requirement does not just apply to Travellers; it also covers fairground people and *caravaniers* (workers employed on large construction projects).

A review of the procedure for checking and stamping documents is currently under way. Changes are being made to some of the implementing measures of the Act of 3 January 1969, which will take account, in particular, of the amendments introduced by the Modernisation of the Economy Act of 4 August 2008 to the checking system for special circulation documents, the arrangements for which will now have to be changed. This may also be an opportunity to review the 3% limit on the number of such document holders in the electorate referred to by the ERRC in its complaint.

II. Secondly, we would like to elaborate on some of the points raised in our initial submissions.

The Government would like to begin by highlighting the ongoing efforts to encourage municipalities to set up stopping areas and make it easy for Travellers to occupy them. The instructions contained in the circulars of 3 August 2006 on the implementation of the *département* plans for the reception of Travellers and of 15 February 2007, 20 March 2008 and 27 April 2009 on the repair of the summer stopping sites for large groups of Travellers' caravans form part of this process. Clarifications will shortly be sent to prefects in the form of a circular about the revision of *département* plans. This will contain reminders about the duty of municipalities to set up the stopping places for which they are responsible and focus on measures to evaluate existing facilities and assess needs. It recommends in particular that account be taken of the changes in the relative shares of itinerant groups and people in the process of settling somewhere (who are increasing in number, as the ERRC points).

As to the procedure for the eviction of illegal occupants from land other than stopping areas provided for by the Act of 5 July 2000, it has already been pointed out in the submissions of 9 January 2009 that its application is strictly limited so as to ensure that the public freedoms and rights of those concerned are respected. Persons on whom notices to quit are served may appeal against the decision to the administrative court, which must give a ruling within 72 hours. Furthermore, it may only be implemented under certain conditions. In particular, it may not be implemented by municipalities which have a statutory duty to set up a stopping area unless they have actually done so. Municipalities which fail to comply with their legal obligations in this respect are indirectly penalised as a result.

Lastly, the Government regrets that the ECCR's complaint leads to confusion between the rules that apply to Travellers and those applicable to Roma whereas the situation of these two groups is generally quite different. The category referred to as Travellers is mostly made up of French citizens, whose itinerant lifestyles bring them within the scope of the Act of 3 January 1969, whereas Roma are generally settled

people, who come from eastern European countries and are allowed to reside in France under the specific arrangements that relate to them alone, usually for a period of less than three months. It is wrong to equate this population group, whose situation is often very insecure and which has particular needs in terms of facilities, with Travellers. The Act of 5 July 2000 cannot be properly applied to Roma residing legally in France for less than three months or those that settle for a longer time illegally². They may, however, be dealt with via the procedures already referred to by the Government in its submissions of 9 January 2009.

The Government therefore concludes again that there has been no violation of Articles 16, 19, 30 or 31 of the revised Social Charter, read in conjunction with Article E.

Anne-Françoise Tissier
Sub-director of human rights

cc.

- French Delegation – Strasbourg
- Ministry of Labour, Industrial Relations, Family Affairs, Solidarity and Urban Policy – Directorate of Economic and International Affairs (*DAEI*) – *Ms Maréchal*

² The same applies, moreover, to the eviction procedure described above.