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**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

14 November 2011

Case Document No 3

European Roma and Travellers Forum (ERTF) v. France
Complaint No 64/2011

**RESPONSE FROM ERTF
TO THE SUBMISSIONS BY THE GOVERNMENT
ON THE MERITS**

Registered at the Secretariat on 28 October 2011



EUROPEAN ROMA AND TRAVELLERS FORUM
EVROPAKO FORUMO E ROMENGO THAJ E PHIRUTNENGO
FORUM EUROPÉEN DES ROMS ET DES GENS DU VOYAGE

COMPLAINT n° 64/2011

WRITTEN RESPONSES OF ERTF TO THE GOVERNMENT'S SUBMISSIONS ON THE MERITS

October 2011

WRITTEN RESPONSE OF ERTF TO THE GOVERNMENT'S SUBMISSIONS ON THE MERITS

Introduction

The European Roma and Travellers Forum (ERTF) v. France reiterates the content of Complaint No. 64/2011 and offers the following information in response to the submission of the Government of France on the merits.

A. Violation of the right to non-discrimination of Sinti and Roma in France

General remark

1. The current status of Roma and travellers in France raises problems. They have under several aspects a different legal situation than other French citizens. This has been acknowledged by the COE Commissioner for Human rights in 2006 and 2008. Furthermore this difference can indirectly be deducted from the recent report (of 27 July 2011) drafted by the French Senator Herrisson "*Gens du voyage: vers un statut proche du droit commun*".

The different legal status of travellers leads to discriminations which can no longer be accepted under European law. Some of these inadmissible differences are identified below. They are at the same time to be considered as the ERTF's reply to the mémoire of the French Government of 16 September 2011.

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2. Although this has given rise to a clear criticism by the COE Commissioner for Human Rights more than three years ago, in May 2008, the right to vote of Roma and Travellers still is excessively restricted in France. According to Article 10 of the law of 3 January 1969 which defines the conditions for the inscription of travellers on electoral lists this is only possible after three years of uninterrupted attachment to the same local authority. There are no obvious reasons why the conditions for the inscription of travellers are so much tougher than those for other citizens.

The French Government refers in its mémoire inter alia to Article L.15 – 1 of the French electoral code which stipulates that persons without "domicile fixe" are inscribed on the electoral lists of the local authority of the reception body where they are administratively "domiciliés" since six months.

The Government holds that also travellers may benefit from the possibility of Article L.15 – 1 if only they choose “domicile” with a centre of social action or another agreed body in the sense of Article L.15. This would mean for travellers to choose in addition to a “commune de rattachement” also a centre of social action and complicate their situation disproportionately as compared with other citizens.

If all this was as simple as indicated in the mémoire of the French Government, why changing the law of 3 January 1969, as suggested by the same Government (see paragraph 85 of the mémoire).

2. Differently from other French citizens who just need to have an identity card, a traveller even holding an identity card, must have with him /her also his/her “carnet” or “livret”. If they cannot present the carnet or livret they have to pay a fine. This is another condition which discriminates travellers and complicates their life. If identity cards were “generalisés” among travellers, as would be quite normal in the 21st century, carnets or livrets should be abandoned (see also report by Senator Herrisson, proposal no.6).

3. According to an inquiry from *médecins du monde*, 53 % of Roma live in motor homes or camping cars , 21 % in squats and 20 % in cottages. Despite the thus proven importance of motor homes for travellers they are not assimilated to a housing and cannot be subsidised under “aide au logement” schemes. However, motor homes are under the 2006 finance bill (as completed by other provisions) subject to “taxe d’habitation” since January 2010. Therefore, travellers are also under this aspect less well treated than other citizens.

B. Violation of the right not to be expelled (of Article 19, paragraph 8 of the revised European Social Charter, Article 4 Protocol 4 of the ECHR)

4. The ERTF takes note of the French Government’s observations regarding the massive expulsion of Roma migrants. However, the ERTF wishes to underline that the expulsions have been conducted in a very expeditious way and have been accompanied by destructions of usual Roma camps. The French Government’s mémoire argues that the return was « voluntary», but in fact the French authorities had used unacceptable measures, namely offering the Roma some amounts of money. This current way of proceedings violates the right of all human beings to be respected and treated in a dignified way.

In that respect, the ERTF would like to underline that the Roma concerned have been sent to their countries of origin as soon as the authorities had proceeded with the destruction of Roma camps. None of persons concerned was allowed to contest the *bien fondé* of the respective administrative decisions before an independent and impartial authority.

The ERTF calls on the French authorities to put in place effective strategy and/or policies that guide all national authorities to treat all Roma/Travellers as any other human beings and that any stereotypes assimilating Roma with criminals are eradicated.

5. The ERTF calls on the Committee to recognise that Roma/travellers who are people like other European citizens have, without being offended by national authorities, the right to live in decent conditions that will create a good basis for their economic and cultural development and preserve their ethnic identity. This includes also the right to circulate freely and to choose freely the place where they find better conditions for their communities.

C. Violation of the right to housing according to the revised ESC (Art.31 par.3, combined with Article E)

6. One of the main problems of travellers is the “stationnement” of their motor homes.

As is shown regularly in the newspapers and other media of a smaller French region such as Alsace incidents are regularly occurring with regard to this aspect.

Ten years after the Besson Law just 52% percent of the target set of about 40 000 places has been achieved. The mémoire of the French Government (par.74) considers that the number of about 21 000 places (as at the end of 2010) would no longer appear to be a violation of Article 31 .3 of the revised ESC.

This is however not the opinion of the ERTF. The COE Commissioner for Human Rights in his report of 2008 had expressed the hope that about 21 0000 places would exist already at the end of 2008. Also the report by Senator Herrisson rightly proposes (proposal No.9) that the creation of places for motor homes should be rapidly pursued to attain the objective of 40 000 places.

The ERTF considers that although progress cannot be ignored this is not enough.

In conclusion, the situation of travellers with respect to their living and housing conditions is not yet satisfactory and conflicts with the obligations from the ESC.

ERTF also wish to raise the problems related to the “aires d’accueil” for travellers such as:

- absence of standard criteria for the rules governing these areas (see Herrisson report)
- different conditions existing concerning the duration of stay on the areas and lack of the necessary modernisation of the areas existing as soon as possible.

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Conclusions

The European Roma and Travellers Forum (ERTF) maintains its allegations against France and requests the European Committee of Social Rights to find France in violation of its legal obligations under the Revised European Social Charter, including in particular of Article 16, Article 19, paragraph 8, Article 30 and Article 31, paragraph 3, of the revised European Social Charter, alone or in conjunction with the non discrimination clause in Article E.

The ERTF underlines that the evolution of society and the situation of travellers call urgently for new solutions in France to make them compatible with European Law which France has accepted.

The ERTF estimates that France should put in place a real strategy that will address effectively problems that meet Roma/Travellers communities.

