



COMMISSIONER FOR HUMAN RIGHTS
COMMISSAIRE AUX DROITS DE L'HOMME



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The Rt Hon Eric PICKLES

Secretary of State for Communities and Local Government

Strasbourg, 13 February 2012

Dear Mr Pickles,

Following the meetings I had in the United Kingdom, including with the All-Party Parliamentary Groups for Gypsy Roma Travellers and Human Rights in December 2011, I would like to pursue my dialogue with your authorities by raising with you a number of issues regarding the protection of the human rights of Gypsies and Travellers, and in particular their right to adequate housing.

Ensuring the effective enjoyment of this right is particularly important. It is the pre-condition for the enjoyment of other human rights, including the rights to education and health, in respect of which, as you know, Gypsies and Travellers are also at present seriously disadvantaged throughout the United Kingdom. However, a number of serious shortcomings have been highlighted in the field of guaranteeing the right to adequate housing for this part of the country's population. Although the Strasbourg Court found that Article 8 of the European Convention on Human Rights imposed a positive obligation on the United Kingdom to "facilitate the Gypsy way of life",¹ access to culturally acceptable accommodation is still out of reach for a considerable number of Gypsies and Travellers. The January 2012 Conclusions of the Committee of Social Rights, which found that the situation in the United Kingdom was not in line with Article 16 of the Charter (Right of the family to social, legal and economic protection) on the ground that the right of Gypsy and Traveller families to housing was not effectively guaranteed,² also point to a pressing need to make progress in this area.

Clearly, the continuing shortage of adequate permanent and transit sites for Gypsies and Travellers living in caravans is a priority area to address. By and large, local authorities have failed to provide new sites or refurbish existing sites in accordance with identified needs. In many cases, such resistance by local authorities has mirrored negative attitudes among the local population towards these plans. While civil society organisations are understandably dissatisfied with this situation, they have underlined that until recently, they could at least rely on a system which required local authorities to carry out assessments concerning the accommodation needs of Gypsies and Travellers and to present a strategy to meet these needs. Crucially, this system also enabled, through Regional Strategies (RSs), the setting of targets concerning the number of pitches that each local authority must provide. However, this system has now been essentially dismantled through the Localism Act 2011, which revokes the RSs and essentially leaves it entirely up to local authorities to make decisions concerning the accommodation needs of Gypsies and Travellers.

¹ *Connors v. United Kingdom*, Appl. No. 66746/01, judgment of 27 May 2004, para. 84.

² European Social Charter, European Committee of Social Rights, Conclusions XIX-4 (2011) (United Kingdom) Articles 7, 8, 16, 17 and 19 of the Charter, January 2012.

In December 2011, the Advisory Committee on the Framework Convention for the Protection of National Minorities expressed concern that this policy “might result in local authorities deciding arbitrarily on whether there is a need for more sites and, in the longer term, in an even greater shortage of sites and possibly more tensions between local communities”.³ Unfortunately, research carried out by the Irish Traveller Movement in Britain in early 2011 appears to lend a concrete dimension to these concerns.⁴ On the basis of the responses given by 100 local authorities in England, the research indicates that the number of residential pitches for which planning would be granted under the RSs fell by more than a half in the plans of local authorities, with an indication of forthcoming further reductions.

Involving local authorities in decision-making on policies that have an impact on the enjoyment of human rights is obviously important. However, the authorities of the United Kingdom must ensure that the hostility towards the Gypsy and Traveller communities which has been known to affect many local communities does not prevent the United Kingdom from meeting its obligations with respect to guaranteeing the human right to adequate housing.

A further issue of concern regards the difficulties Gypsies and Travellers encounter in obtaining planning permission to develop land owned by them. Indeed, the lack of publicly-run sites mentioned above has left many of these persons with hardly any options for culturally acceptable accommodation other than developing their own property. I have been struck by the very high percentage of negative first instance decisions on their applications for planning permission. While the grounds for refusing planning permission may vary, one aspect that has been highlighted by representatives of the populations concerned as a significant hurdle concerns the requirement that the applicant establish “Gypsy status” for such a permission to be granted. In particular, for this status to be established applicants must demonstrate certain working patterns that require them to travel regularly or provide reasons relating to education or health that prevent them from travelling. I hope that it will be possible to dissociate the granting of planning permission from these criteria and that Gypsies and Travellers who intend to pursue their traditional living arrangements on their land are allowed to do so without unnecessary obstacles.

As a result of the combination of a lack of publicly-run sites and difficulties experienced in obtaining planning permission, Gypsies and Travellers are often pushed towards unauthorised encampment. I understand this to be the case for approximately one quarter of the 60-70,000 Gypsies and Travellers living in caravans in the United Kingdom as a whole. This situation exposes the persons concerned to a permanent risk of eviction and the violations of rights, which have been known to often accompany such evictions.

The events of October 2011 at Dale Farm in Basildon, Essex, where over eighty Traveller families, including children, elderly people and persons with health conditions, were evicted from the site where they had lived for many years, powerfully illustrate these concerns. It is highly regrettable that in spite of positive efforts by the Homes and Communities Agency and the fact that the Traveller community was willing to be relocated locally in culturally adequate alternative accommodation, it was not possible for the relevant local authority to agree to a solution that would be acceptable to and respect the rights of all parties involved. These rights, it should be recalled, include the right of over 100 evicted children to have their best interest treated as a primary consideration in all actions of administrative and judicial authorities, in accordance with Article 3 of the United Nations Convention on the Rights of the Child.

³ Advisory Committee on the Framework Convention for the Protection of National Minorities, *Third Opinion on the United Kingdom* (adopted on 30 June 2011), Strasbourg, 22 December 2011.

⁴ Irish Traveller Movement in Britain, *Planning for Gypsies and Travellers: The Impact of Localism*, June 2011.

I understand that considerable resources were mobilised for this eviction. However, many of those who have been evicted or who left shortly before the eviction took place, i.e. approximately 400 persons, have returned to the area. They have either moved in with families established in the authorised part of the site or parked their trailers and caravans along the roads leading up to Dale Farm. As a result, Traveller families are currently exposed to health and safety hazards that are not being addressed. I notice that Basildon Council has indicated that there is a possibility of further action to remove these persons from the area.

I call on you to ensure that an end be put to violations of the right to adequate housing of Travellers in Basildon and that local authorities in England are made aware of the United Kingdom's obligation to respect the right to adequate housing of Gypsies and Travellers. It is paramount that all efforts be deployed to identify sustainable solutions, which are acceptable to both local communities, Traveller and non-Traveller, which local authorities are supposed to serve. These efforts must include genuine consultation on how to provide culturally acceptable accommodation to Gypsies and Travellers. I hope that it will still be possible to ensure that Dale Farm is not left to set a negative example for other local authorities around the country on how to provide for the accommodation needs of Gypsies and Travellers.

I look forward to continuing a constructive dialogue with you and your Government.

Yours sincerely,

Thomas Hammarberg