



12 December 2019

EUROPEAN SOCIAL CHARTER

Comments by the
Association Sociale Nationale Internationale Tzigane
on the 18th National Report
on the implementation of
the European Social Charter
submitted by

THE GOVERNMENT OF FRANCE

Article 7, 8, 16, 17, 19, 27 and 31
for the period 01/01/2014 - 31/12/2017

Report registered by the Secretariat on

14 June 2019

CYCLE 2019

A.S.N.I.T
Association loi 1901
Association Sociale Nationale Internationale Tzigane
8, rue Narcisse Guilbert – 76570 PAVILLY

**DECODING THE FRENCH HALTING AND
HOUSING POLICY AND LEGISLATION**

RELATING

**TO TRAVELLER NOMADIC WAY OF LIFE
AND MOBILE ACCOMODATION**

A.S.N.I.T
ASSOCIATION SOCIALE NATIONALE
INTERNATIONALE TZIGANE
2019

SUMMARY

I - INTRODUCTION	3
<i>Traveller nomadic way of life</i>	
<i>French legislation related to nomadic way of life and mobile accomodation</i>	
II – THE LEGISLATION- Besson Act	4
<i>Halting sites - Family Plots – Grand passage sites</i>	
III – LIMITATIONS, CONTROL, AND REPRESSIVE LAWS AND MEASURES OFF-LIMIT POLICY	5
A – Art.9 of the Besson Act	
B – Interior Security Act.....	6
C – Police harrasement, fines and evictions.....	7
IV – HALTING SITES	7
A – Halting sites: behind the scene reality, constraint and constricted living conditions, cultural inadequacy	7
B – Sites for <i>grand passage</i> groups.....	9
V – HOUSING : MOBILE ACCOMODATION, URBAN PLANNING AND DISCRIMINATION	9
A – Freehold property: an impossible quest	10
<i>Urban planning: mobile accomodation prohibited</i>	
<i>Regularization and zoning changes are never made in benefit of Travellers</i>	
<i>Travellers are relegated to public facilities and social housing</i>	11
B – Mobile accomodation: refused a housing status.....	12
VI – AN INVISIBLE MINORITY – CONSEQUENCES OF NON- RECOGNITION OF NOMADIC WAY OF LIFE AND MOBILE ACCOMODATION	13
A – Failure of Besson Act to establish equality of rights	
B – Forced sedentarization	13
C – Neutral laws fosters indirect discrimination	14
VII – CONCLUSIONS AND PROPOSITIONS	15
A – Freedom of movement and freedom to choose one's residence is denied to nomadic and semi-nomadic Travellers.....	15
B – Mobile accomodation is not recognized as housing	15
C – A policy which leads to sedentarization.....	15
D – To Travel is to be exposed to constant police harrasement, eviction procedures and penalties	16
E – Neutral laws	16
F – Anti-gypsyism and anti-nomadism.....	16
GOOD PRACTICES	16
PROPOSITIONS	17

DECODING THE FRENCH HALTING AND HOUSING POLICY AND LEGISLATION RELATING TO TRAVELLER NOMADIC WAY OF LIFE AND MOBILE ACCOMODATION

1) INTRODUCTION

Miscellaneous misfonctionnings, the advancement of compliance and general condition of halting sites, the delay or progress in the full implementation of the law relating to halting sites for travellers (Law n°2000-614 of the 5th of July relating to the Halting and Housing of Travellers) have been regularly exposed in reports. The following document aim to look beyond these technical assessments, and consider the policy which underlies the legislations and regulations regarding nomadic and semi-nomadic way of life in France and its consequences on the fondamentale rights of the Travellers.

Travellers and nomadic way of life

Travellers (Gens du Voyage) in France (among which Manouches, Sinti, Roma, Yenishs, Catalan and Spanish Gypsies) represent about 400,000 people who are attached to nomadic way of life, culture, and heritage. Traveller family life organisation and occupational activity is centered around the mobile accomodation as main residence (caravane), and alternating periods of mobility and periods of seasonal «anchorage» in a fixe base, in a usual territorial family residence.

The period of mobility is the most active period for occupational activities and also promotes strong dynamic family and social cohesion.

Through family mobility as practiced for generations, Travellers engage in a variety of occupational activities. The type of activities evolve according to the market opportunities and needs of customers: fairground businesses, agriculture, construction, public works, services, crafts, temporary jobs in industry. Nomadic/semi-nomadic traveller occupational activity is based on versatility, flexibility and independence. The mobile accomodation is a powerful asset both for working activities and for familly cohesion: the family is free to move according to the working opportunities and family obligations and activities.

French legislation related to nomadic way of life and mobile accomodation

The French legislation concerning halting and housing of Travellers—the basic principles of which are enshrined in the Besson law of the 5th of July 2000—has often been presented as a traveller friendly model to be encouraged and followed by other countries (CAHROM report 2013¹)

However as early as 2005, the European Roma Rights Center issued a country report on the situation of Travellers and Roma in France. Concerning the conditions of the Travellers, the author of the report, lawyer Lana HOLLO, writes :

*“French laws, policies, and practices related to travelling, stopping, and urban planning and regulation not only do not facilitate the Gypsy and Traveller way of life, but in fact directly infringe upon it”.*² She qualifies French policy as “ *assault on the [nomadic]way of life.*”

¹ *Rapport thematique sur les aires d'accueil et autres questions relatives aux gens duvoyage*
CAHROM(2013)6

² Lana Hollo *Always Somewhere Else- Anti-gypsyism in France* ERRC -Country report series n°15 – november 2005

Fourteen years and a few subsequent added legislations later, Ms Hollo's observations still hold even more forcefully so.

II) THE LEGISLATION

The Besson Act issued in 2000 (Law n°2000-614 of the 5th of July relating to the Halting and Housing of Travellers) (Accueil et habitat des Gens du Voyage) modified in 2007, 2017, and 2018, represents the core as well as the limits of the halting and housing policy for Travellers.

Halting and residing areas authorized to Traveller mobile accommodation are exclusively :

- a) halting sites for temporary stay,
- b) halting sites for “grand passages”(groups of 50 to 200 caravanes) short temporary stay,
- c) year round rented family plots exclusively for low income families.

- a) The Besson Act institutes that a Departemental Planning Framework determines the number of Traveller mobile residences for which to provide pitches, defines the number of pitches on each halting site and the location of the site or sites on the territory. Municipalities of over 5000 inhabitants create or participate to the creation of ***halting sites for temporary stay***. But this does not mean that every municipalities over 5000 inhabitants are equipped with a halting site. The general rule is that several municipalities create an administrative grouping (EPCI). A (or a set number of) site(s) is created on the territory of one (or several) of the municipalities of the EPCI. The other municipalities contribute financially. The number of pitches and corresponding financial contribution provided by each municipality is calculated through a complex formula based on the number of inhabitants per municipalities. Once the site is built the municipality/EPCI can prohibit halting on the rest of the territory.

A recent amendement³ (2018) now allows an EPCI to decide not to built a site on its territory, but to choose to contribute financially for a site on a neighboring EPCI.

Exemptions: The Borloo Act(Law n° 2003-210 of the 1st of August 2003 on the Orientation and Planning of Municipalities and Urban Renovation): municipalities under 20 000 inhabitants which have 50% social housing are exempted from the obligation to provide halting places or sites for Travellers. These cities became totally off-limit to Travellers.

- b) Also included in the Framework Planning is the obligation to plan the ***halting of “grand passage” groups*** (50 to 200 caravanes) which usually have a planned circuit announced several months ahead of time through written requests sent to the municipalities. The sojourns last from 1 to 2 weeks per halt mainly between april and august/september.

³ Loi n° 2018-957 du 7 novembre 2018 relative à l'accueil des gens du voyage et à la lutte contre les installations illicites – art.1

- c) Provisions in the Equality and Citizenship Act of January 27th 2017, (loi n°2017-86 du 27 janvier 2017 relative à l'égalité et la citoyenneté) institutes the obligation of including in the Departemental Framework the planning of rented family plots for low income families. (Terrains familiaux locatifs)

The legal provisions allow Traveller mobile accommodation only on municipal/EPCI halting sites and specifically addressed rented plots. (To be eligible to a rented plot the family must fulfill a number of financial and social prerequisites.)

The designated areas are extremely limited in number and constraining as far as the choice of living and activity area for the Travellers is concerned.

Moreover, the number of mobile residence halting on the territory is usually underestimated, and the population increase of Travellers is neglected .

On the whole, even if all the municipalities fulfilled their obligations the available legal areas would remain insufficient.

III) LIMITATIONS, CONTROL AND REPRESSIVE LAWS AND MEASURES OFF-LIMIT POLICY

In spite of important lackings, and still far from properly responding to halting and housing needs for nomadic/semi-nomadic way of life, the Besson law could have been a step forward towards the recognition of nomadic way of life and accommodation. However, the positive aspect of the law was skewed and nullified from the start by article 9 of the Besson Act which institutes a legal general off limit policy against mobile accommodation, and art 53 of the Interior Security Act of 18th of March 2003 which criminalizes nomadic way of life.

Both these articles have been repeatedly amended (2007, 2017, 2019) so as to increase repressive measures against illicite halting outside designated sites, by aggravating penalties (art. 53), and facilitating evictions through police procedures bypassing the need of a court decision (art.9)

These restrictive measures which prohibit Travellers from halting outside designated areas, lead to severe violations of the freedom of movement and the right to adequate housing.

A) Article 9 of the Besson Act

Article 9 of the Besson Act, institutes a **far reaching ban on the whole French territory to Traveller mobile accommodation** except in specifically designated areas. When a municipality has fulfilled its legal obligations, it can ban halting on the rest of its territory to mobile residence.

Article 9 **exempts municipalities from going through a court procedure** to obtain the right to forcibly evict Traveller illicite installations from either public or private land when halting “interferes with public health, security and peace”. The municipality just needs to ask for the issue of a prefectoral decision called “mise en demeure” (issued by the departemental state representative and delivered to the illicite occupants.) This document is sufficient for the police forces to proceed with the

eviction within a very short delay . The order of “mise en demeure” is then applicable against the Travellers concerned, on the totality of territory of the EPCI during the next 7 days. **This means they are banned from the territory (which is usually quite extensive) and must move on, whatever family or professional business or engagement they have in the locality.**

When presented a “mise en demeure” the Travellers have between 24 and 48 hours to go to court to challenge the prefectural order. The court must then give a judgement within 48 hours.

B) Interior Security Act (2003) (Law n°2003-239 of March 18th 2003, art 53-58 on interior security)

This law is identical to the Irish Trespass Act of 2002 which totally inhibits Irish Travellers from leading nomadic way of life.

This law **targets Travellers, and criminalizes nomadic way of life** by disproportionately penalizing illicite stoppings. “To halt in a group with the aim of constituting a residence, even temporarily” (for example on an unused parking lot or piece of land) is classified as a criminal act. It is qualified as “act commis en réunion d’association de malfaiteurs” which is a criminal offense.

It is a criminal act and punishable by law to halt on land owned by a municipality that has conformed to its obligations under the Departemental planning framework (Besson law), on land owned by a municipality that is not included in the Departemental planning (therefore, the majority of towns with less than 5000 residents and those with more than 5000 that are not included in the Plan), or on any other land (private, State, Regional, Departemental) without being able to produce proof of permission to do so.

The penalties are extremely harsh. The law was amended last november⁴ so as to double the prison term and fine :

- 24h in police custody
- Confiscation of the towing vehicle
- One year emprisonement
- 7500€ d’amende
- Three year suppression of the driver's license

The Traveller family is thus deprived of its working means, of its revenues, and of the fundamental security of family life. This law is a deliberate assault on nomadic way of life.

At the time, the President of the NGO League for Human Rights (LDH), Mr Michel Tubiana declared “*It is the first time since the reestablishment of the Republic, that a law singles out not only a social group, but a cultural group, that it penalises for the very fact of its origins or way of life.*”⁵

Since november 2018, the law gives power to the police (or local authority) to extinguish the prosecution without going to court if the Travellers pay a tort fine (amende délictuelle) of 500€ per vehicule. (400€ if payed within 15 days, augmented fine is 1000€.)

4 - Law n°2003-239 of March 18th 2003, art 53-58 on interior sécurité modified by art-4 loi n° 2018-957 du 7 novembre 2018 relative à l'accueil des gens du voyage et à la lutte contre les installations illicites.

5 Cited by Lana Hollo – op.cite

C) Police harassment, fines, and evictions

Since the year 2000, issue of the Besson Act, amendments, subsequent laws, measures and police practices have created an incredible amount of obstacles against nomadic way of life.

More and more power is given to authorities other than the judicial, so as to bypass court orders to obtain more easily the eviction or the forced departure of the Travellers. Initiated about two years ago, a new technic is used by local authorities and police forces: parking fines are issued wherever Travellers halt. Normally parking fines are applied only on public roads. But fines are being applied systematically even on private parking, municipality owned land, etc... on a repeated daily basis or several times of day, for as long as the Travellers halt there. In some cases the persons are informed they have been fined, or are informed of the extent of the fines when they receive the order to pay a few weeks later .

The last modification of the law⁶ (nov 2018) instituting a tort fine which, in fact, adresses specifically Travellers, legalizes a practice adopted by a growing number of local authorities and police forces to drive off Travellers without having to go through tedious legal eviction procedures.

IV – HALTING SITES

Many municipalities have not fulfilled their legal obligation related to halting sites for Travellers. Today there exists about 70% of the number of halting sites legally planned, and less than 50% of the “grand passage” .

In spite of the scarceness of legal halting sites, and whilst the repressive measures and pressure against nomadic Travellers is increased, the national authorities have progressively slackened the municipalities' obligations regarding Traveller halting sites:

- Each periodic renewals of Departemental frameworks plannings **reduces the number of caravane pitches/sites** the EPCIs are obliged to furnish.
- Moreover, municipalities/EPCI are allowed to transform existing halting sites for itinerant travellers, into long term rented family plots for low income families, thereby reducing the number of available legal sites accessible during the travelling period.

Thus the number of available legal stopping places are severely reduced, exposing nomadic and semi-nomadic travellers to forced evictions and seriously impeding freedom of movement.

A) Halting sites

Behind the scene reality: constraint and constricted living conditions, cultural inadequacy

Besides generating endemic shortage of legal pitches available, **the site system as it is conceived and organized, has a definitely disruptive impact upon nomadic/semi-**

6- Ibid

nomadic way of life, family life, and culture.

The sites are generally built in excluded areas, on the outer limits of the territory. Often on land judged inappropriate for other usage and often unfit for human habitat. (next to waste treatment plants, railways, heavy traffic highways, industrial zones, etc...)

The sites are conceived and built according to the mainstream sedentary nuclear family concept and functioning. **The way the halting sites are planned and organized does not respect Traveller culture and way of life.**

- Hence, are ignored and disregarded:
 - the fact that families travel, live and eventually work as extended families.
 - the spatial organisation and relationship between members of the enlarge family and natural interrelated positioning of the caravanes among a family group, or in relation to other families or groups.
- The consequences can be quite detrimental :
 - family groups cannot find room on legal sites,
 - the small individual pitches closely set side by side, create unwanted promiscuity between unrelated families forced to live together on the same site : risk of conflicts is heightened. (could be compared to forcing different unrelated families to share the same appartement.)
 - the system of halting sites as such, breaks family structures and organisation.
 - the planning and management of the sites give the inhabitants the feeling of being locked up and controled. Barriers and mudhills close-in the site. There is just one access to the site so as to control the in and outs of the inhabitants. In certain cases incompetent, conflicting, or inadequate administrative control, rules or management on the part of the gardian or site administration causes added stress and conflicts.

For all these reasons, many families either cannot or deliberately refuse to halt on official legal sites, in spite of the permanent risk of forced eviction and police harassment.

The scarceness of authorized stopping places, the off-limit policy, and constant confrontation to forced evictions have far reaching disruptive and detrimental effects on Traveller family life and economic activities:

- Paralyzes or strongly **impedes nomadic way of life and economic activities, as both are intrinsically linked**
- Leads to forced sedentarisation or unwanted moving on, which have dire social repercussions
- The penury of legal places creates competition between the families to obtain and keep a halting place.
- **Freedom of movement is violated:** Travellers cannot freely go and stop with their caravanes where they have family, personnal, and/or economic activities.
- It has **strong impact on health conditions.** An important number of people are under medication due to constant stress.

B) Sites for Grand passage groups

Grand passage groups are large groups between 50 and 200 caravanes travelling together usually from spring to autumn on a planned itinerary throughout France. Because of the difficulty for small family groups to find available and appropriate halting pitches, because traditional informal stopping places are now made inaccessible, this manner of travelling in larger groups has become a safer, more protective way to face the increasing number of obstacles against temporary halting, police harassment and evictions. For this reason the number of “grand passage” groupes increases.

Time of stay in each halting place usually does not exceed one or two weeks. The persons or organisations responsible of the group(s) send letters to the local and regional authorities several months ahead of time to inform of their date of passage and needs. Many requests stay without answer. Only 8% of the written requests receive a positive answer, but when the groups arrive half of the sites announced as available are unfit for halting vehicles or to receive families.⁷

The Besson law makes it an obligation for the “Départements” to plan and install one or more sites for grand passage groups. Sites need be a flat grassland of at least 4 hectares, with access to water and electricity⁸.

However, these obligations are seldom followed. Groups are often put in difficulty to find appropriate sites. When the group arrives:

- the site does not exist despite its inscription in the departmental framework
- the site is unfit (impassable, inaccessible to vehicles, no water or electricity, too small, dangerous environment...)
- too expensive (excessive deposit and/or daily rate)
- the site is occupied by squatters or used by municipalities to compensate the lack of authorized halting areas which should be available for local Traveller families.

Unfit sites are often used as alibi by local authorities who can then justify an eviction procedure, or apply the new tremendously effective tort fine, if the group halts outside the “official” site.

V – HOUSING : MOBILE ACCOMODATION, URBAN PLANNING AND DISCRIMINATION

Travellers live and travel in urban areas for economic, historical and family reasons. Speculation, urban densification, urban planning rules, are claimed by local authorities to justify their opposition to temporary halting, or denial of planning to Travellers on territories where they have been circulating and living for often several generations.

Traveller way of life basically consists in periods of mobility (*voyage*) alternating with periods of residence in a fixed base mainly during the winter season (*lieu d'ancrage*). These prolonged stays in fixed base can last from a few weeks to several months in a row.

7 In 2018 the NGO *Action Grand Passage* organised 140 groupes which represents 95% of the grand passage groups. The stops concern over 1200 municipalities.

8 Decret 2019-171 du 5mars 2019 and Circulaire INTD1907074C du 25 avril 2019

Different forms of nomadic practice exist, among members of an extended family or at different periods of a life time. Some families will travel all year round, some travel part of the year, and some can be sedentary for many years and then move on again. Whatever the case or circumstances which can lead a traveller to be nomadic, semi-nomadic, or sedentary, **the basic characteristics of culturally adapted home for travellers** consists in the following :

- **the caravan as the central home element,**
- daily life with extended family,
- refusal of mainstream housing and the implications of its characteristics : confinement and isolation among an anonymous population

A) Freehold property : an impossible quest

Although maintaining a nomadic way of life, many families seek to purchase land. When the buyer is identified as a "traveller" local authorities put up all sorts of obstacles either to prevent the sale before hand (refusal to sell, pre-emption...), or to prevent the installation of mobile accommodations on freehold properties. Water and electricity facilities and planning permission are refused. Intimidation, eviction or expropriation are also resorted to by local authorities to drive off Travellers.

(a) Urban planning: mobile accommodation prohibited

According to the law, it is illegal to strictly and absolutely prohibit installation of mobile accommodation in the urban planning of the municipality. However, 95% of local urban plans (PLU) are indeed tainted by illegality on this point. The law stipulates that mobile accommodation is authorized only on plots in areas defined as "buildable" in the local urban plan (zones constructibles). However most local urban plan (PLU) prohibit mobile accommodation even in the "buildable" areas of the municipality.

Also, mobile accommodations installed over three months on one's own property must obtain permission from the mayor. This authorisation is very rarely given.

(b) Regularizations and zoning changes are never made in the benefit of Travellers.

Although authorised by law, regularisations of even long standing installations are extremely rare. The families who are left on their own land without an official authorisation or planning permission, but sometimes more or less tolerated by the local authority are in constant insecurity and can be subjected to eviction at any time. There is no security of tenure as there is no written authorisation allowing them to install mobile accommodation on their plot.

The zoning of land where Travellers reside is transformed into an area of general interest projects. Traveller families are thus expropriated or evicted to make place for leisure parks. This procedure is a way for municipalities to drive off Travellers from entire districts.

Plots of land classified as non-buildable belonging to Travellers are reclassified as buildable after standard exchange or purchase of the land (at the price of the non-constructible land) by the municipality or by a non-traveller purchaser.

Municipalities that have provided halting sites, evict Traveller families from their own land to force them to settle on the municipality halting site.

Access to Housing and Renovated Urban Planning (ALUR) march 24th 2014 act,⁹ has not seen fit to provide the right to install mobile accommodation that constitutes the permanent habitat of their users on freehold property whereas this provision exists for demountable homes. The ALUR law provides that mobile homes that constitute the permanent habitat of their users can be authorised in constructible and non-constructible urban areas : *"Exceptionally, the public authorities may define in natural, agricultural or forest areas areas of limited size and capacity in which constructions, halting sites and family rental land intended for housing of Travellers within the meaning of the law of the 5th of July 2000 may be authorised; demountable residences constituting the permanent housing of their users"*.¹⁰ Unfortunately this concerns only halting sites and rented low income family plots, **but not privately owned land by Travellers.**

(c) Travellers are relegated to public facilities and social housing:

The law does not provide equal rights to mobile accommodation as to sedentary dwellings, so that Travellers who want to maintain culturally adequate accommodation and keep their way of life, are relegated to public equipment and social housing.

It is extremely difficult to obtain planning permission for mobile accommodation. Whether Travellers buy a plot which is buildable or one which is not buildable, in both cases they are generally denied water and electricity facilities, they face harassment, intimidations, prosecution and eviction from their own land.

More and more pressure is put on Travellers who live or halt on their own land. Departmental networks of public services and social services are organized under the direction of regional (département) and/or local authorities to track down, prevent and eliminate illegal caravane installation and building. Travellers are particularly targeted.

The space and opportunities allotted to traveller mobile accommodation in urban planning legislation and regulations are very restricted and precarious :

- inadequate halting sites and insufficient grand passage sites (see above),
- **rented family plots for low income families (terrains familiaux locatifs)** an obligation newly inscribed in the Besson Act, and entered in the decree referring to halting sites.
- **special social housing called " habitat adapté"**¹¹: This form of habitat for very low income families consists of a house with the right to have a caravane as a living element beside the house. This housing program accompanied by a social accompaniment addresses different socially handicapped populations among which Travellers. The objective is to bring traveller families to ultimately abandon their mobile accommodation and integrate mainstream social housing.

9 - Loi 2014-366 du 24 Mars 2014 pour l'Accès au Logement et Urbanisme Rénové

10 - Article L 444-1 Code de l'urbanisme and Article 121-1 du code de la ville

11 *The concept of adapted housing describe housing solutions designed to ensure a right to housing for the poor and those unable to obtain, temporarily or permanently, decent housing adapted to their needs. It was the Besson Act of 31 May 1990 which, speaking about adapted housing, for the first time attempted to define the concept, by mentioning the need to diversify the existing housing supply. (AFFIL Association Francilienne pour Favoriser l'Insertion par le Logement (Ile de France Organisation to promote integration through housing)*

B) Mobile accommodation: refused a housing status

The caravan, main residence mobile accommodation, does not have the same legal status and rights that sedentary dwellings have:

- caravans cannot open to housing aids or benefit,
- purchase of caravans does not entitle to low cost credit rates of housing loans,
- planning permission, although mandatory for the installation of caravan on one own's property, is seldom granted,
- cannot benefit from habitation insurance (assurance habitation)

The caravan is considered as a vehicle. It is not entitled to the status of main residence, which is reserved solely to sedentary housing (including demountable homes, mongol yurts, ect..). As a result, the mobile residence cannot benefit from social support measures related to housing such as housing subsidies (APL), or housing loans at preferential rates. For the purchase of their dwelling, Travellers are obliged to use consumer loans with rates as high as 15% to over 20%.

The caravan is not classified as “decent housing” by the code of Social Security for it does not meet the characteristics defined in the decret n° 2002-120 of January 30th. However, when a caravan no longer has its means of mobility (wheels removed), it is entitled to housing status and can benefit from housing subsidies.¹²

The equivocal status of the mobile residence, a real dwelling, but not a real house is problematic for social workers, particularly those in charge of child protection. They see an accommodation that objectively falls short of imposed standards, but offers equivalent comfort and safety conditions to those of standard buildings.

VI – AN INVISIBLE MINORITY: CONSEQUENCES OF NON- RECOGNITION OF NOMADIC WAY OF LIFE AND MOBILE ACCOMODATION.

Leading a minority way of life among the mainstream sedentary population, part of the French population has been practising nomadic way of life for generations. The French Republic does not recognize minorities although the Traveller specific Besson law (Act n°2000-614 of the 5th of July relating to the Halting and Housing of Travellers) and the existence of the *Commission Nationale Consultative des Gens du Voyage* (National Consultation Commission of Travellers) and the regional commissions (Commissions départementales consultative des Gens du Voyages) reveals the implicit acknowledgement of the existence of a specific minority group. However this acknowledgement does not generate a positive recognition of nomadic way of life and mobile accommodation, and consequently does not generate equal rights with the mainstream population.

A) Failure of the Besson Act to establish equality of rights

The law relating to halting and housing of Travellers which should have favored the

¹² -Article R.831-13 of the Social Security codeifies that "to qualify for housing benefit, it must meet the characteristics defined by Decree No. 2002-120 of 30 January 2002”

inclusion of Travellers, in fact reinforced discrimination, repression and exclusion. First announced as a mean of integrating mobile accommodation of Travellers in the urban and rural planning and of respecting the right to mobility, turned out to be an instrument of relegation, confinement and repression. In just a few years, since its issue in 2000, the evolution of the legislation has prohibited almost the entire national territory to mobile accommodation.

Article 9 of the Besson Act, Internal Security Act of 18 March 2003, and subsequent repressive measures, **severely affect freedom of movement by restricting the right to choose one's place of residence and limiting the number of authorized halting areas.**

The legislation former to the Besson Act allowed halting in every municipalities throughout the territory except in specifically prohibited areas. Article 9 of the Besson Act, on the contrary, establishes a general ban to mobile accommodation on the totality of the national territory except in a limited number of specifically designated areas for Traveller caravans.¹³

The lack of legal halting sites available is aggravated by the principle of intermunicipal sites as established by the Besson law. The grouping of several municipalities to form a single site while prohibiting the rest of the territory to mobile accommodations, infringes the right to choose one's place of residence and considerably increases the extent of territories prohibited to caravans, which are thus off limit to Travellers.

The result is a shortage of authorized pitches, culturally inadequate and/ or precarious halting and housing programs, an increasing number of evictions by prefectural or judicial procedures and police pressure, procedures that result in the forced departure of families.

Families are put in constant insecurity and precariousness regarding their right to live in their mobile accommodation on their own property and their right to practice nomadic and semi-nomadic way of life. **Whether travelling or residing on their own land, in both cases, Traveller families are under the constant menace of eviction.**

B) Forced sedentarisation

The increasing number of forced sedentarizations are due largely to the lack of legal halting areas, to police harassment and mayors' refusals to allow families to halt in their municipalities. Such repeated, unremitting obstructions, which are lived as assaults by the Travellers, are cause of stress and exhaustion, hinders occupational activities, children's schooling, and impair access to health services.

The French halting sites system aim at social and territorial control and confinement of nomadic Travellers. Inadequate governmental halting and housing policies, backed up by legislation which renders mobility increasingly problematic, all lead to forced sedentarisation of Travellers.

¹³ Lana Hollo in the country report for ERRC *Always Somewhere Else- Anti-gypsyism in France (2005)*, denounced the violations of the "Besson Act of 2000, [which] leads to violations of the right to free movement and decent housing, since it effectively prohibits the parking of gypsies and travellers outside the areas provided for this purpose."

Forced sedentarization incurs increased precariousness, loss of culture and reference point, deterioration of health, impoverishment, delinquency, bitterness and violence, which results in desocialization and a significant human and financial cost to society. Although forced sedentarization is the consequence of increasingly repressive measures inhibiting nomadic way of life, the governing authorities systematically, and wrongly, interpret the difficulty or impossibility to travel as a genuine desire of the travellers to sedentarize. Consequently, governmental housing policies are more forcefully oriented toward suppression of mobile accommodation as main residence, to integrate Travellers in mainstream sedentary housing. The *Derache Report* from the 1st Minister cabinet in 2013 is quite typical of this line of thought and action ¹⁴ Less radical, the last report of the *Cour des comptes*(2017)¹⁵ acknowledges the importance of mobile accommodation for Travellers families, but totally overlooks the detrimental impact of the repressive policy on nomadic way of life and its role in forced sedentarization.

C) Neutral laws foster indirect discrimination

The far reaching ban of mobile accommodation, beyond affecting mobility and choice of residence, impact on all other rights : family life, economic activity, health, education. Also, **the fact that mobile accommodation and nomadic way of life is refused equal rights and statuts with mainstream housing and sedentary way of life entails both far reaching direct and indirect discrimination** (prohibited by European and international law (Directive 2000/43/EC, Art. 2 -2b.)

Neutral laws are thought out for the mainstream sedentary population. Specifics related to nomadic and semi-nomadic way of life are ignored or excluded (the law must be the same for all) thus creating indirect discrimination in many domains of everyday life. Administrative regulations, convenient for mainstream sedentary population, become obstacles for Traveller families.

Administrative rules and regulations are often discriminatory due to the lack of correlation between the reduced geographical sectors covered by administrative services, particularly social services, and the much larger geographical areas of life of nomadic or semi-nomadic Traveller families. The situation of nomadic families dont fit in the set administrative format, and significant administrative complications and

14 Rapport au 1er Ministre “Appui à la définition d'une stratégie interministérielle renouvelée concernant la situation des gens du voyage” Hubert Derache, Préfet Juillet 2013. pg 23: [...] *mainly for economic reasons and schooling of Traveller children, the population of our travellers is undergoing significant changes in terms of sedentarization. All public policy responses must take into account this new situation that emerged in the early 2000s. While the question of the creation and rehabilitation of halting sites remains a central issue, the question of the sedentarisation of families should not be underestimated, with the establishment of a residential route that starts from family plot up to mainstream housing and goes through all the intermediate stages. The tools developed to provide solutions to roaming, semi-sedentarization or sedentarization are closely complementary. Some of the interlocutors interviewed estimate that, with 30,000 halting sites pitches created (out of 44,000 planned), the reception problem will be solved as soon as the issue of family plot is resolved in parallel, and there are a large number of adapted housing offered...(underlined by us)*

This extract of the report summarizes superbly both the sedentarisation policy adopted (reduction of number of pitches, and progressive integration toward mainstream housing) and the erroneous interpretation of the situation to sustain this policy: The author does not link this precisely dated change in the mode of mobility of the Travellers to the change of legislation and introduction of new repressive laws.

15 La cour des comptes : Le rapport public annuel tome II “l'accueil et l'accompagnement des Gens du voyage, des progrès lents et inégaux des objectifs à redéfinir” (2017)

blockages incur that have negative consequences on the access to rights of Traveller families (administrative procedures, domiciliation, urban regulation, health...)

VII – CONCLUSION AND PROPOSITIONS

A) In France, freedom of movement and freedom to choose one's residence is largely denied to nomadic and semi-nomadic Travellers. Though freedom of movement is not prohibited, the halting and urban planning regulations related to mobile accommodation are such that freedom of movement and nomadic way of life is severely hindered.

The legislation relative to halting and housing of Travellers establishes a far reaching ban and off limit policy to Traveller accommodation and nomadic way of life. Increasingly repressive measures¹⁶ assaults nomadic way of life and put Travellers under **constant pressure of forced eviction and aggravated penalties**. The last modifications of november 2018 is a genuine threat to nomadic and semi-nomadic travellers' rights, freedom of movement and family life.

Travellers residing in **mobile accommodations are restricted** to extremely limited areas in a constraint number of **public halting sites and social equipment** (*habitats adaptés*). These equipments, claimed to respond to specific housing needs, fill essentially a purpose of social and territorial control over Travellers and nomadic way of life.

The halting and housing framework established by the Besson law issued in 2000, installs a quota for Traveller accommodation allowed per intermunicipal sectors. This system creates **endemic lack of halting pitches**.

Halting sites are often implanted in areas unfit for human habitat.

Inadequate concept and management of the halting sites in regards to Traveller and nomadic way of life and cultural organisation, are disruptive of Traveller family life and occupational activity.

B) Mobile accommodation is not recognized as housing and cannot benefit from housing aid, preferential credit rates, planning rights, or home insurance.

Travellers are generally **refused the right to reside in mobile accommodation on freehold property**. Although the law provides the right to install caravanes on buildable plots with planning permission, local authorities generally refuse to grant permission. 95% of urban plans issue a general ban for main residence mobile accommodation; ban which implicitly targets Travellers.

C) A policy which leads to forced Sedentarisation:

Artificially created scarceness of halting areas, legislation criminalizing nomadic way of life, increasingly restrictive laws create obstacles to mobility forcing Travellers to considerably prolong their stay on the existing legal halting sites. The authorities interpret this as a will to sedentarize and reduce the number of halting sites by slackening the obligations of the municipalities to provide halting areas. Pressure is

16 Successive amendements to Article 9 of law 5 juillet 2000 relative to halting and housing of Travellers and art 53 Sécurité intérieure have aggravated the repressive measures. The last modifications were voted november 2018 (application decree is not yet issued.)

put on Travellers so that they abandon mobile accommodation and nomadic way of life and progressively adopt mainstream housing and sedentary way of life.

D) To travel is to be exposed to constant police harassment and evictions procedures, and penalties.

Grand passages groups (50 to 200 caravanes) offer the opportunity for families to travel in relatively more secure conditions thanks to the role of the group leaders who are in charge of negotiating halting in different territories. However the lack or blocking off of adequate sites, the hostility and move off policy of many local authorities, the **pressure of strongly aggravated repressive measures** facilitating eviction and the now generalized practice of systematically fining Traveller installations, jeopardise even this form of seasonal nomadism.

E) French neutral law is built on mainstream sedentary criteria which are in many instances unadapted for nomadic and semi-nomadic citizens. Neutral law and uncritical mainstreaming can create obstacles to access to basic rights and entail indirect discrimination in many daily life domains: administrative procedures, domiciliation, urban regulation, pregnancy follow up, ect...

F) Anti-gypsyism and anti-nomadism

The inequality of treatment between nomadic way of life and mainstream sedentary way of life, between traveller population and mainstream population, springs from misunderstanding but also from longstanding open or rampant anti-gypsyism, and particularly, anti-nomadism. Anti-nomadism speech is commonly expressed in legislative propositions, votes, and discussion related to Travellers at the National Assembly, anti nomadism spurs hostility and discriminating attitude and policies from local authorities toward Travellers.

GOOD PRACTICES

Brittany : Negotiated stopping coordination

Grand Passage in the four départements of Brittany are particularly well organized. Thanks to a well and long established coordination, started nearly 20 years ago, between specially assigned mediators, regional and local authorities and the Traveller NGO AGP who work closely together. Even without specifically attributed grand passage sites, all requests are handled so as to find a satisfying solution for all.

Mobile accommodation on freehold land: A few cases of municipalities promoted the installation of family plots of 700 or 800m² or above, for caravans and a small construction of 40 to 50m² in accordance with the model of Traveller family fixed base practice. This can be applied in a rental or ownership context.

Many mayors refuse regularization of even long standing traveller accommodation installations and constructions on non buildable land. One argument is the “unjust” speculation the families could do: The land bought at a cheap price could be sold at a higher price after a zone change. The solution would be to establish an intermediary status of the land: the plot stays unbuildable but mobile accommodations and a small building (40 to 50m²) are authorized. Building on non buildable land is legally acceptable for sedentary demountable accommodations or yurts, or for municipal halting sites. It should be acceptable to solve long term precarious situations of Travellers on land without planning permission.

PROPOSITIONS

Adequate accommodation and housing is the first condition to family protection, and conditions access to all other rights: health, education, economic activities.

Family life of Travellers and occupational activities are intrinsically linked to mobile accommodation. Travellers should not be refused freedom of movement and the right to choose one's residence because of their way of life and accommodation.

- **Halting of Traveller mobile accommodation should be authorized throughout the national territories** except on specifically forbidden areas; should be authorized access and right to halt in all municipalities with a minimum legal stay of at least 15 days.
- Laws and regulations that lead to prohibit the entire territory to mobile accommodation and nomadic way of life, and **laws which criminalize nomadic way of life should be repealed**. These laws are an assault on Travellers rights and a threat to nomadic way of life.
- **Mobile accommodations should have equal status and rights with sedentary housing:**
 - Legal protections and the notion of decent housing applied to brick and mortar dwellings is extended to mobile accommodation
 - Mobile accommodation are urban planning compatible and authorized on freehold property
 - Access to water and electricity is a fundamental right which cannot be refused.
- **The Government should actively fight discrimination and anti-nomadism: Protect and value nomadic way of life** as an element of economical dynamism, family balance and social cohesion, and an asset for the socio-economic development of the country.
Organize national information campaigns for the public and decision-makers at all levels (national, regional, local) **raising awareness against anti-Gypsyism and anti-nomadism**

Anti-nomadism

Open or rampant anti-nomadism and anti-gypsyism impact on decisions, legislations, measures and practices affecting Travellers and nomadic way of life.

French legislation related to nomadic/semi-nomadic way of life is based on constraint and repression. This policy is a negative sign sent out to mainstream population as well as to local authorities and to decision makers. It feeds, and leaves unchecked, growing hostility and suspicion toward Traveller population and nomadic way of life.

Anti-nomadism attitude is prevalent at all level of the society. The consequences are particularly detrimental on the life and the rights of Travellers.

Anti-nomadism is a form of racism which should be included among the offenses punishable by law.

A.S.N.I.T

Association Sociale Nationale
Internationale Tzigane

8, rue Narcisse Guilbert – 76570 PAVILLY

tel : 02 35 23 86 20

Fax : 02 35 23 86 24

E-mail : jacques.dupuis.asnit@icloud.com
asso.agp@gmail.com

Président : Désiré VERMEERSCH

Directeur : Jacques DUPUIS

Decoding French Halting and Housing Policy and Legislation
Relating to Traveller Nomadic way of life and mobile
accommodation

Chargée de mission : Martine SERLINGER

©ASNIT/GATIEF-2019