



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

21 September 2020

**Case Document No. 3**

**European Roma Rights Centre (ERRC) v. Belgium**  
Complaint No. 195/2020

**RESPONSE BY THE ERRC TO THE GOVERNMENT'S  
OBSERVATIONS ON ADMISSIBILITY AND REQUEST FOR  
IMMEDIATE MEASURES**

**Registered at the Secretariat on 11 September 2020**



European Committee of Social Rights

Council of Europe

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11 September 2020

EUROPEAN COMMITTEE OF SOCIAL RIGHTS

COLLECTIVE COMPLAINT NUMBER 195/2020

EUROPEAN ROMA RIGHTS CENTRE (ERRC)

V

BELGIUM

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Observations on the Government's Observations on Admissibility and the Request  
for Immediate Measures

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Number of pages: 7

### **I. Preliminary Remarks**

1. The European Roma Rights Centre ("the ERRC") submits these observations in response to the observations of the Belgian Government ("the Government") dated 22 July 2020. Following some preliminary remarks, these observations follow the format of the Government's Observations.
2. We note that the Government has not numbered the pages nor the paragraph numbers of their submission. We refer to page numbers, considering page 1 to be the first page of the Government's submission (for a total of three pages).
3. At this stage, the Committee is concerned with admissibility and the request for immediate measures.

### **II. Admissibility**

4. As far as admissibility is concerned, the Government considers that the complaint meets the formal admissibility criteria: *“Selon la Belgique, les critères formels de recevabilité sont remplis”*. The ERRC has nothing further to add on this point and urges the Committee to declare the complaint admissible.

### **III. Immediate measures**

5. With regards to the Government's position to oppose all immediate measures having regard to the existing social assistance system in Belgium and the imperative to prosecute criminal offenses, the European Roma Rights Centre (ERRC) submits the following observations:

#### **a. Measure to stop the seizure of caravans from Travellers in the context of police operations described above, especially during the period of the COVID-19 world pandemic;**

6. The Government opposes the requested interim measure by stating that the police checks on April 4 and 5 were carried out as part of the verification of compliance with the confinement measures. The 4 caravans were reported stolen. As a result, 4 separate notices of concealment were opened by the Charleroi Police. These files are still under treatment. (*“Les contrôles de police des 4 et 5 avril se sont faits dans le cadre de la vérification du respect des mesures de confinement. Les 4 caravanes étaient signalées volées. En conséquence 4 notices de recel ont été ouverts par la police de Charleroi. Ces dossiers sont toujours à l'information”*).
7. By stating the above, the Government directly admits at least one violation of the Charter in their reply: they admit that Belgian law allows the seizure of people's homes (Travellers' caravans), leaving them homeless in a time of global pandemic, on the basis that they are part of a criminal investigation. This, we claim, is contrary to the Charter: *“prevent and reduce homelessness with a view to its gradual elimination (Article 31, item 2)*. People's homes must not be treated as goods (“biens”), allowing the Government to freely dispose of them and consciously leaving them homeless without offering any alternative. Moreover, the affected persons have ownership documents and bills confirming that the seized caravans were legally purchased from another private person. We already provided such

documents to the Committee. Clearly, the affected persons were not aware that the caravans were stolen property when purchasing them. To date, no criminal charges for theft were brought against the affected persons.

8. The seizure of the caravans is also contrary to the official communication of the Walloon Minister of Housing, Local Authorities, and the City, Mr. Pierre Yves-DERMAGNE, who invited all municipal authorities in Wallonia (the region of Belgium where the facts occurred) to conform to the following recommendations: 1) Travellers who are currently living on official or unofficial sites must be able to remain there without hindrance to the exercising of their rights, nor fulfilment of their obligations; 2) Travellers should not move, either within Wallonia or from outside; **3) municipal authorities are requested to suspend the execution of eviction procedures which are in progress or are to come;** 4) municipal authorities should be asked to organise access to water and electricity. The Committee will have no difficulty in concluding that the recommendations of the Walloon Minister of Housing, Local Authorities, and the City were not respected by the Charleroi municipal authorities and police in this instance.<sup>1</sup>

**b. To return all caravans which were seized on 4 and 5 April 2020 from Travellers in Couillet and Jumet sites, or to provide adequate alternative accommodation which is family-appropriate for the people who have been left homeless as a result;**

9. The Government opposes the requested interim measure by stating that the seizure of the stolen caravans was justified and necessary and that the affected persons accepted that the caravans would be returned to their original owners. Hence, there was no justification to give them back. Moreover, the Government argues that Belgian law allows a request for lifting the seizure (*recours en levée de saisie*), but no one from the affected families made such request (*“Les 4 caravanes saisies étant signalées comme volées, leur saisie était justifiée et nécessaire. Les personnes qui avaient acquis ces 4 caravanes ont d’ailleurs toutes accepté qu’elles soient rendues à leurs propriétaires. Rien ne justifie donc que les véhicules saisis*

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<sup>1</sup> An official sample of the written response is available at: <https://cmgv.be/habitatmobile/gerer-le-sejour-temporaire-des-gens-du-voyage/546-sejour-temporaire-et-communes>.

*soient restitués. En outre, la loi belge prévoit un recours en levée de saisie. A notre connaissance, aucune requête en ce sens n'a été déposée auprès du parquet de Charleroi conformément à l'article 28 sexies du code d'instruction criminelle").*

10. The ERRC reiterates that it is incompatible with the Charter to seize someone's home on the basis that it is a personal possession implicated in a criminal investigation. The seizure of the caravans without consideration of the proportionality of the measure and without offering an immediate alternative solution in return, such as provision of alternative accommodation, access to water, sanitation, electricity, food, or medical services, has placed the affected families in direct exposure to hardships and health risks especially associated with the novel coronavirus. This resulted in Traveller families currently living in insecure conditions, being homeless, and at a higher risk of ill-health. The affected members of the Traveller community whose rights are the subject of the complaint find themselves at risk of irreparable injury or harm, and even if such a situation arises from a police operation aimed at criminal investigation of theft, the State retains an obligation to adopt all possible measures to avoid irreparable injury or harm to persons and to their rights under the Charter.
11. As explained in the complaint, adult Travellers that were arrested and taken for interrogation at the Charleroi police station (without the presence of a lawyer), were made to sign documents and declarations which they did not fully understand, and were released without any charges being brought against them. For instance, a young Traveller woman who only spoke Dutch signed documents in French, without being provided with a translation of their content.
12. Some of the affected persons already approached a Belgian pro bono lawyer with the aim of filing a request for lifting of the seizure (*recours en levée de saisie*). The lawyer advised them that submitting such a request after already signing the documents for the return of the caravans is useless. Moreover, it is clear that this procedure does not take into account the proportionality of seizing someone's home.
13. The Government's assertion on page 2 that all the people who were staying in the seized caravans were offered social assistance for rehousing, but that they all preferred to be hosted by other people in the camp ("*Enfin, toutes les personnes qui logeaient dans ces caravanes se sont vu proposer une aide sociale en vue d'un relogement mais ont toutes préféré être hébergées par d'autres personnes se*

*trouvant dans le camp*") is false and unsubstantiated with material evidence. We are asking the Government: when and which institution offered such rehousing assistance to the affected families? Even if that indeed happened (which is not the case), no material evidence showing that the affected persons rejected such an offer was provided (for instance, signed forms for rejecting alternative accommodation).

14. The ERRC reiterates that none of the persons whose caravans were seized were offered alternative accommodation by the Charleroi police or CPAS. When families asked the police where they would live after the confiscation of their homes, the police told them: *"You gypsies can arrange it among yourselves"*.

15. This institutional failure was also implicitly confirmed by the Chief of the Charleroi Police, Mr. Philippe GOFFAUX, in a Permanent Police Note circulated among Police Operational Cadre, dated 16 June 2020 (over a month after the police operation). The note provides directions to the police cadres that: *"In consequence, when police services are called upon administratively, judicially or in matters of driving a vehicle effectively serving as accommodation, such as a caravan, and therefore depriving its occupants of the protection due to them, **the police services will systematically offer an alternative accommodation, in particular via the CPAS**"* ("Par conséquent, lorsque nos services sont amenés à saisir administrativement, judiciairement ou en matière de roulage un véhicule servant effectivement de logement, comme une caravane, et de ce fait priver ses occupants de la protection qui leur est due, nos services proposeront systématiquement une alternative notamment via le CPAS"). The note is based on Article 23 of the Belgian Constitution: *"Everyone has the right to lead a life in accordance with human dignity. (...). These rights include in particular (...) the right to decent housing (...). The protection that is granted to the home is also granted to "certain movable property likely to be inhabited: thus a boat (used as accommodation) or a caravan". See Annex 1, Permanent Police Note by Chef of Charleroi Police.*

16. It is blatantly untrue that the affected families preferred to stay in the overcrowded caravans of other people in the camp, because if that were indeed the case they would have never contacted the ERRC asking for support. As a reminder, we reiterate a fragment of the collective complaint drafted according to interview testimonies of Mr. James Anderson, a member of the Traveller community directly affected by the police operation in Couillet area, Charleroi municipality: *"...For the*

*moment we are staying with Traveller friends but there are too many people living in one caravan. The caravan is so overcrowded that there is no possibility to exercise social distancing as recommended to prevent infection and spread of the new coronavirus. The situation regarding water, electricity, food and medicines is desperate. We are completely dependent on the individual support of a friend. The police told us to “stay outside with other gypsies”. We were not offered any accommodation or assistance...”.*

- c. To ensure that all affected families have access to water, sanitation, electricity, medical services, enough food and medicine, and social aid;**
- d. to provide access to free-of-charge gynaecological care for pregnant women affected by the police operation;**
- e. to ensure that Traveller children have access to online education tools and materials during the COVID-19 pandemic.**

17. The Government opposes the requested interim measures by stating that in Belgium the CPAS of each municipality have the task of guaranteeing the right to social integration to people who do not have sufficient income and who meet the legal conditions. This existing system is on a voluntary basis: a request must be made to the relevant CPAS so that it can examine the applicants' file to verify whether the legal conditions are met.
18. The ERRC is well-aware of the work of the CPAS in previous similar cases and agrees with the Government's point that to be able to benefit from the right to social integration, the person must submit a request to the CPAS and meet six legal conditions (among others having a permanent residence in Belgium, and a registered address). We note that even in normal times the set conditions are simply impossible to be fulfilled by many members of the Traveller community, having in mind the Traveller lifestyle. Travellers concerned are required to collect the necessary documents, go to the CPAS to register, and wait for a decision. This is a lengthy bureaucratic process which has proved difficult for many. Clearly, this is not a convenient procedure in urgent cases when people are made homeless overnight by the local authorities (not their own fault), in the time of a global pandemic. Therefore, the authorities as duty bearers are obliged to urgently address the consequences of their actions by making an ex-officio offer for housing



and social assistance to the affected persons. We reiterate again that such an offer was never made by any of the competent authorities.

19. There is enough information here to justify the indication of immediate measures to put an end to serious violations of Charter rights against people who have been affected on the basis of their ethnicity, and there is certainly a case to be answered on the merits, requiring the Government to produce far more justification than it has to date. We therefore renew our request for immediate measures and ask the Committee to make a decision as quickly as possible.

Yours faithfully,



Đorđe Jovanović

President

European Roma Rights Centre

