



European
Social
Charter

Charte
sociale
européenne



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

24 May 2024

Case Document No. 9

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

**ERRC ANSWERS
TO ECSR ADDITIONAL
QUESTIONS**

Registered at the Secretariat on 22 March 2024

European Committee of Social Rights

Council of Europe

By email only:

DGI-ESC-Collective-Complaints@coe.int

social.charter@coe.int

22 March 2024

EUROPEAN COMMITTEE OF SOCIAL RIGHTS

COLLECTIVE COMPLAINT NUMBER 195/2020

EUROPEAN ROMA RIGHTS CENTRE (ERRC)

V

BELGIUM

Answers to the Committee's additional questions to the parties

Number of pages: 7

I. Preliminary Remarks

The European Roma Rights Centre ('the ERRC') submits these answers in response to the Committee's additional questions to the parties dated 6 February 2024.

For the purpose of the examination of the merits in European Roma Rights Centre (ERRC) v. Belgium, Complaint No. 195/2020, the European Committee of Social Rights invited the parties (no later than 29 March 2024) to reply to the following questions:

1. Please provide information on the procedure followed in cases of seizure of Travellers' caravans, and in particular on the modalities for providing alternative accommodation to the persons affected in such cases. More specifically, please indicate, whether it is a legal obligation for the authorities to provide the persons affected with a formal offer of alternative accommodation or whether the persons affected must themselves take the initiative to apply to the competent authorities for alternative accommodation.

If the latter is true, please indicate whether the persons affected by the police operations at stake in the above-mentioned complaint effectively submitted an application to the competent authorities for alternative accommodation.

2. On 2 April 2020, the Walloon Government issued the Decree of Special Powers No. 12 amending the Decree of Special Powers No. 4 of 18 March 2020, so as to temporarily suspend the execution of administrative and judicial decisions on eviction from homes because of the existence of confinement measures related to Covid-19. Please indicate: - whether the amended Decree of 2 April 2020 was complied with by the authorities in the context of the police operations conducted on 4 and 5 April 2020 in Jumet and Couillet, which are the object of the above-mentioned complaint; - if the amended Decree of 2 April 2020 was not complied with, please explain the reasons.

II. Answers to the Committee's questions

First of all, the ERRC would like to note that the decree mentioned in question no. 2 (Decree of Special Powers No. 12 amending the Decree of Special Powers No. 4 of 18 March 2020) establishes an eviction ban. The response to question no. 1, regarding the alternative accommodation arrangements following an eviction, must therefore take this ban into account. Therefore, we will first address the question of the eviction ban under the Walloon Decree of April 2, 2020 (A), and then the question of the alternative accommodation (B).

A. Eviction Ban

During the Covid-19 confinement measures, a government decree banning evictions in the Walloon Region was put in place - Decree of March 18, 2020, of the Walloon Government with special powers No. 4 temporarily suspending the execution of administrative and judicial eviction decisions,¹ extended by the Government Decree of April 4, 2020.²

¹ Walloon Government, Decree of Special Powers No. 4 of 18 March 2020, Available on: https://etaamb.openjustice.be/fr/arrete-du-gouvernement-wallon-du-18-mars-2020_n2020040723.html.

² Walloon Government, Decree of Special Powers No. 12 from April 2, 2020 amending the Decree of special powers No. 4 of March 18, 2020.

This decree stated that:

Article 1

The execution of all judicial and administrative decisions ordering eviction from a home is suspended until April 5, 2020, inclusive.

*The deadline set in paragraph 1 may be extended if the situation arising from the Covid-19 pandemic so requires.*³

Article 2

During the period referred to in Article 1, the police forces are responsible for ensuring the prohibition of physical domiciliary evictions, if necessary, by coercion and/or force."⁴

The explanatory memorandum of this decree mentioned that:

"Considering that during this health crisis, it is necessary to take all measures to prevent evictions from leading households to become homeless or to urgently find accommodation with relatives, and thus to gather in the same dwelling;

That it is therefore necessary to temporarily prohibit all administrative or judicial evictions.

Considering that for domiciliary evictions carried out without right or title, it is important to give the police forces the means to end them without delay."⁵

The Decree thus prohibits evictions during the relevant period (the challenged evictions were carried out on April 4 and 5, 2020). **In accordance with the legislation in force, there could not have been any evictions in Wallonia at that time.** Other

³ « Article 1er.L'exécution de toutes les décisions judiciaires et administratives ordonnant une expulsion de domicile est suspendue jusqu'au 5 avril 2020 inclus.

Le délai fixé à l'alinéa 1er pourra être prolongé si la situation née de la pandémie de Covid-19 l'exige.

⁴ Article 2.Durant la période visée à l'article 1er, les forces de police sont chargées de veiller à l'interdiction des expulsions physiques domiciliaires, au besoin par la contrainte et/ou la force. »

⁵ « Considérant que durant cette crise sanitaire, il convient de prendre toutes les mesures afin d'éviter que des expulsions conduisent des ménages à se retrouver sans domicile fixe ou à se loger de manière urgente chez des relations et donc à se rassembler au sein d'un même logement ;

Qu'il convient, dès lors, d'interdire temporairement toutes expulsions administratives ou judiciaires ;

Considérant que pour les expulsions physiques domiciliaires réalisées sans droit ni titre, il est important de donner aux forces de police les moyens d'y mettre fin sans délai. »

alternatives were possible to maintain the right to housing, such as, for example, a conservatory seizure, leaving the caravans still available to their inhabitants for living.

B. Access to alternative accommodation

According to the affected Travelers, no proposal for alternative accommodation and/or similar assistance has been made to them; on the contrary (see complaint ERRC 27/4/2020, §9).

According to the Belgian State, the police officers in charge of the evictions allegedly suggested to the Travelers to seek assistance from the CPAS (Public Center for Social Welfare) to find accommodation. Excerpt from Belgian State's response 22/7/2020:

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.

However, the Belgian State provides no evidence to corroborate that such an offer was actually made. Furthermore, other elements seem to contradict the assertion of the Belgian State. Firstly, the Chief of Police of Charleroi addressed on June 16, 2020, to the operational framework of his police service, a "permanent note" (Annexed)⁶ following the collective complaint no. 195/2020 – European Roma Rights Centre v. Belgium.

This note specified that:

"The Constitution provides in its Article 23 that 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 granted to the home is also granted to "certain movable property capable of being inhabited: thus, a boat (used as housing) or a caravan can also be residences. (1.Cf. COL 02/2019 - SQUAT - Revised version 20.02.2020 - page 8).

Consequently, when our services are led to administratively, judicially or in terms of road traffic seize a vehicle effectively used as housing, such as a caravan, and thereby deprive its occupants of the protection due to them, our services will systematically propose an alternative notably via the CPAS."⁷

⁶ Annex- Permanent note by the Chief of Police of Charleroi addressed on June 16, 2020 to the operational framework of his police service.

⁷ « La Constitution prévoit en son article 23 que chacun a le droit de mener une vie conforme à la dignité humaine. (...). Ces droits comprennent notamment (...) le droit à un logement décent (...).

This note, which explicitly refers to the seizure in question, tends to confirm that no alternative had been offered by the police officers until then. This corroborates the victims' (authors) statements that when they tried to verbally oppose the seizure, they were told, "*you just have to relocate each other*".⁸

We also note that the "permanent note" specifies that the protection granted to the home is also for caravans. This is an indirect confirmation that the aforementioned decree of the Walloon Government also applied to caravans (supra, point A).

Moreover, the Belgian State claims that failing to oppose the various seizures (by requesting the lifting of the seizure), the expelled Travelers implicitly agreed to them.

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 28sexies du Code d'instruction criminelle.

This argument cannot be followed. Firstly, the non-use of rights is a problem strongly encountered within the vulnerable public and the Travelers. Furthermore, even if opposition to the seizures had been made, the individuals would have been without a home or shelter during a period anyway, which would have remained contrary to the aforementioned decree of the Walloon Government.

C. Additional Arguments: Operation of Public Services during Covid

Denying the shortcomings of Belgian public services during the COVID pandemic as well as claiming that simply going to the CPAS would have enabled these families to be rehoused is erroneous.

Even beyond the scope of COVID-19, studies show that the consequences of evictions are dramatic, and a third of households affected by evictions have not found stable housing three years after the eviction procedure. Moreover, according to field associations, homelessness is only increasing:⁹ "*a cumulation of crises that means*

La protection qui est accordée au domicile l'est également à « certains biens mobiliers susceptibles d'être habités : ainsi un bateau (utilisé comme logement) ou une caravane peuvent également être des résidences ». (1.Cf. COL 02/2019 - SQUAT - Version révisée 20.02.2020 - page 8)

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 »

⁸ « vous n'avez qu'à vous reloger les uns les autres »

⁹ "If homeless shelters don't have access to the social gas rate, hundreds of people will be sent back to the streets - La Libre; The urgent plea from the homelessness sector: "Requests made to the federal government have been repeatedly brushed aside" - La Libre". Available on:

<https://www.lalibre.be/belgique/societe/2023/01/18/si-les-centres-dhebergement-nont-pas-acces-au-tarif-social-pour-le-gaz-des-centaines-de-personnes-seront-renvoyees-a-la-rue-S7KANCLS7RBX7OJP5JQNU6AJV4/> and <https://www.lalibre.be/belgique/societe/2023/01/19/le-cri-dalarme-du-secteur-du-sans-abrisme-les-demandes-faites-au-federal-ont-ete-a-chaque-fois-bottees-en-touche-Z4D24IACORF2LHZNZ4U74ZRU2M/>.

that new audiences are constantly arriving, now the energy crisis, but before that, the housing crisis, the economic crisis, the migration crisis, this succession of crises means that indeed the ranks have never been as numerous in terms of homelessness" and also mentions an evolution of audiences, from 50 years ago of single men to currently *"whole families, sometimes with children, more and more women, more and more young people, wandering, with family breakdown, (...) increasingly diversified audiences and this is worrying because they also demand specific support."*¹⁰ The lack of sustainable solutions to exit homelessness, due to the housing crisis, is also highlighted.

These precarious situations were exacerbated during COVID-19, and their number increased. The rupture between the public and public services caused by COVID-19 was more than pointed out in the report "The "invisible" and COVID-19 Brussels and socio-health crisis"¹¹ and this, notably with the CPAS: *"At the beginning of the epidemic, most public institutions underwent a reorganization of work. Counters closed their doors (CPAS, Office of Foreigners, etc.). Administrations and services to the population developed remote work via virtual communications. Field actors affirm that between the phenomenon of digital divide affecting many migrants and undocumented people, and the reorganization of public services under a teleworking logic, the deadlines for sending requests and waiting for files explode. They are perceived as extremely violent in the face of emergency situations"*.

Even if a request for social assistance or housing had been made by the eviction victims, the processing times for files at the CPAS were particularly long, the CPAS were inaccessible or very difficult to access for a certain period, and emergency accommodations were occupied. Therefore, the CPAS were not, during this period, able to effectively rehouse evicted individuals, and it is precisely for this reason, among others, that the Walloon Government issued the Decree of March 18, 2020, which temporarily banned evictions.

Moreover, as noted by the ICESCR Committee under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, *"The right of everyone to adequate housing is a fundamental right on which depends the enjoyment of all economic, social and cultural rights; it is fully linked to other human rights, including those enshrined in the International Covenant on Civil and Political Rights. The right to housing must be ensured for all without distinction as to income or any other economic resources, and States parties must take all necessary measures and act to the maximum of their available resources to achieve the full realization of this right (emphasis added). Forced evictions are prima facie contrary to the provisions of the Covenant and can only be justified in the most exceptional situations; competent*

¹⁰ 'It's untenable, we are considering closing certain services', help for the homeless is in difficulty - RTBF News, available on: <https://www.rtb.be/article/cest-intenable-on-envisage-de-fermer-certains-services-laide-aux-sans-abri-est-en-difficulte-11141997>

¹¹ C.FORTUNIER et A.REA, available on: [VF-RAPPORTSInvisibilise.e.s-COVID-19-REAFORTUNIER2021.pdf\(feditobxl.be\)](VF-RAPPORTSInvisibilise.e.s-COVID-19-REAFORTUNIER2021.pdf(feditobxl.be))

authorities must ensure that evictions are in accordance with legislation compatible with the Covenant and with the general principles that all measures taken must be reasonable and proportionate in relation to the legitimate objective of the eviction and the consequences of the eviction on the persons concerned (...) In addition, there must be no other solutions or measures that are less damaging to the right to housing (emphasis added), there must be genuine prior consultation between the authorities and the person affected, and the person affected must not find themselves in a situation that constitutes a violation of other rights guaranteed by the Covenant or other human rights, or that exposes them to such a violation (...).¹²

Sincerely,

The European Roma Rights Centre.



¹²Views adopted by the Committee under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, regarding communication No. 61/2018, 22 October 2021, available on: [Comite-des-droits-economiques-sociaux-et-culturels-20181005.pdf \(droitpauvrete.be\)](https://www.droitpauvrete.be/Comite-des-droits-economiques-sociaux-et-culturels-20181005.pdf)