



Collectif National des Citoyens Itinérants

Human Rights Council Universal Periodic Review

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The *Collectif National des Citoyens Itinérants* submission concerning France

I. EXECUTIVE SUMMARY AND RECOMMENDATIONS

The *Collectif National des Citoyens Itinérants* (CNACI) submits this stakeholder report in preparation for France's Universal Periodic Review by the Human Rights Council in January 2018. This submission takes stock of recent developments relating to itinerant citizens in France and highlights a failure by the French authorities to adopt effective measures to address widespread racial discrimination experienced by France's itinerant citizens.

The CNACI brings together 15 associations that defend the rights of itinerant citizens, especially the widespread discrimination that they face on a daily basis. The member associations of the CNACI include: France Liberté Voyage, Association de Défense des Cirques de Familles, « Différence » Gens du voyage, Les Gens du voyage de Gièvres, l'Union Défence Active Foraine, Les Filles et Fils des internés du camp de Saliers, Espoir et Fraternité Tsiganes, Le Mouvement Intellectuel Tsiganes, AMPRALA, Nomades de France, (Association des Gens du Voyage d'Ile-de-France), La Roulotte de la Solidarité, Les Voyageurs des Hauts de France, Les Français du Voyage-Association Tzigane, Association Défense Manouche des Hautes Pyrénées

A majority of itinerant citizens in France are members of or in contact with our organizations. The information about the situation of itinerant citizens in this report is therefore either based on our own first-hand experiences or the regular information provided to us by itinerant citizens, including thousands of accounts each year.

Itinerant citizens/Travellers have for decades experienced severe violations of a wide range of basic political, civil, economic, social and cultural rights. They experience discrimination in fields as diverse as political participation, access to personal identity documents, voting rights, access to justice, housing, education, employment, access to public places, services and social assistance. This situation leads to high levels of marginalization and exclusion.

Violations of their rights in the housing sector are of particular concern. Difficulties for families to find places to live in decent conditions, whether they travel more or less frequently, are closely linked to violations of rights in other sectors, such as health, education, employment, and political participation.

Racially motivated acts of violence and harassment are also alarmingly commonplace, with the authorities failing to take sufficient measures to prevent, investigate and protect itinerant citizens and Travellers against these practices.

The CNACI urges members of the Working Group to make the following specific recommendations to the French authorities:

- Take positive steps to ensure that the diverse voices of itinerant citizens are duly represented at all levels of French political life and that their voices carry real weight on national and departmental consultative mechanisms.
- Ensure that activities, measures and programmes aimed at improving the situation of itinerant citizens involve their full participation at all levels of decision-making and implementation, and that financial support for these activities is channelled to actors that fully reflect this approach.
- Take positive steps to create conditions that ensure that itinerant citizens may pursue their way of life, according to their free choice, in conformity with the principles of equality, non-discrimination and the right to adequate housing, including protection against forced evictions.
- Immediately undertake genuine and widespread grassroots consultations with itinerant citizens/Travellers so that appropriate responses might be developed to their housing needs, including responses complementary to halting areas, such as family sites, adapted housing, and facilitating possibilities to live in caravans on private land in decent conditions throughout the country.
- Ensure that the many laws and policies regulating land use, urban planning, and access to the public infrastructure make appropriate provision for the way of life and particular needs of itinerant citizens/Travellers, including living on their land in a caravan, and that they do not result in discrimination against members of these communities.
- Implement a diversity of measures to ensure that itinerant citizens/Travellers may live in conditions meeting basic standards of decency, whether for shorter or longer-term residence. In all parts of French territory, these measures should include: obligatory implementation of legal provisions relating to family sites, adapted social housing (house + caravan), possibilities to live in caravans on private land, halting areas for shorter or longer-term residence and short-term halting areas for large groups.
- Ensure that a sufficient number of halting areas are established across the country and that all halting areas conform to basic standards of decency, especially concerning the availability of basic services, infrastructure, location and habitability. Also ensure that these halting areas are not in locations where residents are exposed to health, environmental, and safety hazards or to the severe harm of racial segregation.
- Ensure that caravans are recognized as a form of housing and itinerant citizens are able to access different forms of social support relating to housing.
- Carry out thorough, timely and independent investigations into all alleged instances of abusive police behaviour towards itinerant citizens, and promptly bring to justice perpetrators and provide due compensation to victims.

II. BRIEF BACKGROUND: TODAY'S WIDESPREAD DISCRIMINATION IS ROOTED IN A HISTORY OF EXCLUSION, CONTROL AND REPRESSION

The term "itinerant citizens"/"Travellers" in this submission refers to individuals and groups who are French citizens, descended from groups that have long been citizens of France, and who have for many generations played a key role in French society and history. The category

“itinerant citizens” includes persons of diverse cultures, frequently self-identifying as “Sinti”, “Manouche”, “Kale”, “Gitan”, “Roma”, “Yenish”, “Traveller” or other. Such persons share the stigma of the long-standing racist stereotypes associated with “Gypsies” and “Gens du Voyage” (Travellers) in France, and therefore are frequently subjected to hostility and to racially discriminatory harms. Itinerant citizens seek protection of their human rights in full respect of their diversity and choices to lead a Travelling lifestyle.

The experience of hundreds and thousands of itinerant citizens/Travellers in France today continues to be characterized by anti-Gypsyism, rejection, exclusion, marginalization, segregation, surveillance and other forms of discrimination. During World War II, over 6,000 “nomads”, itinerant or not, were interned in an estimated 30 internment camps, 5 located in unoccupied France. Many of those interned died due to the extreme conditions and in particular a lack of sanitary facilities as well as due to starvation¹. In October 2016 former French President François Hollande officially recognized France’s responsibility for these tragic events. We hope this augers in a new era where this responsibility will be officially recognized by law, places of internment indicated and commemorated, information about these events included in school curricula and archives about this period made accessible to researchers.

The internment was facilitated by a law of 16 July, 1912, that required all nomads to carry an anthropometric booklet with them at all times, including personal information and physical details. The head of each family also had to carry a collective booklet including all persons travelling with the group. This booklet had to be stamped by the police chief, commander of the gendarmery, or mayor in each town in which the group stopped, upon its arrival and departure². After World War II, these booklets were replaced by “circulation documents” under “Law no. 69-3 of 3 January 1969 relating to the exercise of ambulant activities and the regime applicable to persons circulating in France without a fixed domicile or residence.” In addition to police control, these documents affected numerous other rights, including the right to political participation through a quota of 3% of persons possessing circulation documents that could officially be ‘attached’ to a given municipality. After a decision by France’s Constitutional Council on the fifth of October, 2012³, finding parts of this law to be unconstitutional, the law was officially abrogated in January 2017. The new Government will now need to ensure that all itinerant citizens are able to fully exercise their right to vote without discrimination.

Today, widespread racism and discrimination persists against itinerant citizens/Travellers, who continue to experience severe violations of a wide range of basic political, civil, economic, social and cultural rights. They experience discrimination in most key sectors of life leading to high levels of marginalization and exclusion. Despite numerous international, European and national reports drawing attention to this dramatic situation over decades, the French government has failed to respect the many recommendations for immediate action⁴. The French authorities have

¹ See Filhol, Emmanuel. “La mémoire et l’oubli: L’internement des tsiganes en France. 1940-1946”. Paris: Conference presentation, 2 June 2004. Available at: <http://aphgcaen.free.fr/cercle/tsiganes.htm#filhol>.

² Adopting a method created by Mr Alphonse Bertillon during the 1880s in order to track criminals, each anthropometric booklet included personal information about the holder, such as his or her full name, nicknames, place of birth, and other information relevant to establishing his or her identity. It also included physical details such as the height of the waist and the chest; the length and width of the head; the length of the right ear, the left elbow and the left foot; and eye colour. In addition, the booklet included spaces for the holder’s fingerprints and two photographs (profile and portrait). Article 8, Law of 16 July 1912. Bulletin officiel du ministère de l’intérieur. February 1913, pp. 79 – 82. ; See European Roma Right Centre. *Always Somewhere Else: Anti-Gypsyism in France*, November 2005, pp. 50 - 52 for a discussion of the racist nature of this law. Available at :<http://www.errc.org/reports-and-advocacy-submissions/always-somewhere-else-anti-gypsyism-in-france/2421>

³ <http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/les-decisions/acces-par-date/decisions-depuis-1959/2012/2012-279-qpc/decision-n-2012-279-qpc-du-5-octobre-2012.115699.html>

⁴ See for example : United Nations Committee on Economic, Social and Cultural Rights, Concluding observations on the fourth periodic report of France, 13 July 2016, at para 38; Human Rights Committee, Concluding observations on the fifth periodic report on France, 17 August 2015, at para 14; Committee on the Elimination of Racial Discrimination, Concluding Observations, France, 23 September 2010, at para 16; Report by Nils Muiznieks, Council of Europe

failed to put in place policies that effectively prevent and remedy the widespread discrimination faced by itinerant citizens and continue to tolerate practices that on a daily basis violate their basic rights.

III. IMPLEMENTATION OF HUMAN RIGHTS

A. RELEVANT INTERNATIONAL NORMS ON EQUALITY AND NON-DISCRIMINATION

Widespread discrimination, together with the French authorities' failure to take the necessary steps to prohibit, eliminate and provide effective judicial protection against such practices, violates international non-discrimination standards including Articles 2 and 26 of the International Covenant on Civil and Political Rights (ICCPR) and Articles 2, 5 and 6 of the UN Convention on the Elimination of Racial Discrimination. The prohibition against racial discrimination is a peremptory and non-derogable norm of international law⁵. These practices also violate similar regional standards, such as article 14 of the European Convention on Human Rights together with article 8 and article 6.

By interfering with and failing to take positive steps to facilitate the way of life of France's Travellers, the French authorities are violating obligations relating to minority rights. Including Article 27 of the ICCPR.

B. HOUSING

The situation of itinerant citizens/Travellers in the housing sector also violates specific international and regional obligations relating to the right to an adequate standard of living and protection against forced evictions, such as article 11 of the International Covenant on Economic, Social and Cultural Rights, article 27 of the Convention on the Rights of the Child, and article 5(e) of the International Convention on the Elimination of All Forms of Racial Discrimination⁶.

Domestic laws and regulations threaten itinerant citizens' way of life

The French legislative framework adopts a limited and restrictive approach to the diverse housing needs of France's itinerant citizens. Regulations especially focus on 'halting'. They designate the territory on which Travellers may "halt" and forbid short or long-term "halting" on other parts of the territory.

Under the Law no. 2000-614 of 5 July 2000 relating to the welcome and housing of Travellers (Besson Law)⁷, municipalities with more than 5,000 inhabitants are obliged to establish a "halting area" (aire d'accueil) for Travellers to temporarily reside. Municipalities that meet their

Commissioner for Human Rights, Following his Visit to France from 22 September to 26 September 2014, 7 February 2015; National Consultative Commission for Human Rights (CNCDH), Avis sur le respect des droits des « gens du voyage » et des Roms migrants, 22/03/2012 ; European Roma Rights Centre, *op. cit. fnnt. 2*, November 2005.

⁵ UN Human Rights Committee, General Comment No. 18: Non-Discrimination:10/11/1989, UN Doc. A/45/40.

⁶ Moreover, the Committee on the Elimination of Racial Discrimination (CERD) emphasises the obligations of state-parties to develop and implement policies and projects aimed at avoiding segregation of Roma communities in housing, to act firmly against local measures denying residence to and unlawful expulsion of Roma and to refrain from placing Roma in camps outside populated areas that are isolated and without access to health care and other facilities (General Comment No. 27, (2012), CERD).

http://www.ohchr.org/Documents/Issues/Minorities/Roma_and_forced_evictions.pdf

⁷ <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT00000583573>

obligations to create halting areas are then authorized to expel itinerant citizens from halting elsewhere in their municipalities, regardless of the conditions of available halting places⁸.

If itinerant citizens nonetheless stop elsewhere, on either private or public land, they may be *forcibly evicted* after 24 hours, unless they are stopped on land which they own or are stopped on a piece of land for which special permission has been granted authorizing mobile homes. They may temporarily suspend the eviction by filing a legal recourse before an administrative judge challenging the order to leave. Under a fast-track procedure, the judge is bound to issue a decision within 48 hours. After a negative decision the Travellers may then be forcibly evicted⁹.

Before ordering an eviction, there is no binding obligation for authorities to take into account the existence and availability of alternative places for families to reside that respect legal norms relating to private and family life, decent housing, freedom of movement, education, health, children's rights, and protection of minorities' way of life. Nor are they required to take into account the specific situation and needs of itinerant families, who may in fact need to halt in a particular area for various reasons: work, proximity to a hospital, schooling of children, a religious ceremony, a marriage, funeral, etc.

Furthermore, even where the only halting site available in an area provides indecent living conditions - for instance a parking lot with collective, broken down and blocked toilets, showers that only have cold water and blocked sewage, a polluting factory as a neighbour, electric wires above and a high speed train a few meters away - this is where itinerant citizens are legally obliged to reside¹⁰.

Illegal halting is considered to be a criminal offense subject to six months imprisonment, a fine of 3,750 Euros and seizure of any vehicles used to carry out the act of illegal halting (unless the vehicles themselves constitute the person's home)¹¹.

A positive provision, added to the Besson law in 2007, provides for the possibility of "family sites" that differ from the public halting sites in that they are private sites that individuals may rent or buy and on which they may reside in their caravans on a permanent or semi-permanent basis (there is no rotation of different users, but a specific group of users, generally a family)¹². Unfortunately, this is a non-obligatory provision. According to experiences of itinerant citizens, practices vary considerably in different parts of the country.

In contrast to these specific laws focused on halting, the specific situation and needs of itinerant citizens are insufficiently taken into account in mainstream urban planning and housing policies. This means that, outside of official halting areas, laws and policies fail to ensure that Travellers may live in caravans across French territory. This failure of urban and housing policy is exacerbated by municipal decrees that further restrict caravans. This results in situations where hundreds of thousands of families are unable to live in a legal, stable situation, unless they abandon their travelling lifestyle. This has severe negative impacts on the schooling of children, health and work possibilities.

⁸ See article 9, Besson Law.

⁹ See article 9, Besson Law.

¹⁰ Unless they are stopped on land which they own or are stopped on a piece of land for which special permission has been granted for the stay of mobile homes, either for camping or as the permanent housing of their users.

¹¹ Included in Article 322-4-1 of Penal Code. Available at:

<https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006070719&idArticle=LEGIARTI000006418273>

¹² Article 8 Besson Law. Integrated into article 443-3 of the Urbanism Code, now Article 444-1 (modification of 1 October 2007).

A dramatic cycle of eviction, marginalisation and instability

The situation is especially dramatic in the area of housing where itinerant citizens/Travellers encounter difficulties living in stable and decent conditions, whether on a shorter or longer-term basis. The situation is so dramatic that many feel that their identity and way of life are under direct attack by the French state. On the one hand, they find it increasingly difficult to travel as finding a place to reside short-term is extremely difficult. On the other hand, they also encounter considerable difficulties residing long-term in any one place, with security of tenure and access to water and electricity, due to the combined impact of racism and various laws, policies and practices relating to urban planning and regulation.

Difficulties for families to find places to live in decent conditions, whether they travel more or less frequently, are closely linked to violations of rights in other sectors, such as health, education and employment.

In practice, much of French territory is effectively off-limits for itinerant citizens. They are often relegated to areas that are in large part unsuitable for human habitation (either in official sites that do not meet legal norms or in areas where they are able to stay for a certain duration without being expelled): near garbage dumps, waste treatment plants, polluting factories, freeways or railroad tracks with high tension wires frequently directly overhead. These areas are frequently hidden from view and at a distance from other municipal residents. Their living conditions and related stress has had a harmful impact on the health of Travellers, whose life expectancy is estimated at 20 years less than the national average¹³.

- Travel and short-term residence

When they travel, itinerant citizens experience a reality where they are constantly at risk of forced evictions, except on official designated halting sites, as discussed above. In the territory of municipalities that have established halting areas; police are extremely active in evicting families that halt elsewhere in their caravans. In many areas, municipalities have grouped together into inter-communal cooperatives, as permitted by the Besson Law in order to together establish a halting site. Municipalities may therefore fulfil their obligations under the Besson Law by contributing to the financing of a halting site on another municipality. In these cases families are forbidden from halting on the territory of all of the municipalities that have participated in the establishment of the halting area¹⁴.

As halting areas, regardless of the living conditions, have become the only place for many Traveller families to reside in order to avoid regular forced evictions, many families therefore stay for extended periods of time on halting areas, even permanently, thus obliging them to restrict their travelling lifestyle. It also means that there are no places for 'short-term' halts, revealing the inadequacy of official policies that have been narrowly focused on "halting areas".

A majority of official halting sites do not respect basic standards of decency as concerns location, amenities, the site environment and conditions.

Segregation

Halting areas are consistently segregated from the rest of the local population. They are generally situated as far away as possible from residential areas and at very limit of municipalities – as close as possible to neighbouring municipalities.

¹³ Préfecture de la Gironde and Conseil Général de la Gironde. Schéma Départemental d'Accueil des Gens du Voyage. February 2003, p. 31.

¹⁴ Loi Besson, Article 9.

Unhealthy and Polluted Environments

Halting sites are frequently located in areas presenting significant environmental hazards posing serious risks to residents' health. They are systematically located near garbage dumps; waste treatment plants; high-risk or polluting factories; freeways or railroad tracks, with high-tension wires frequently overhead.

Lack of Basic Infrastructure

Although water and electricity are generally available on official sites, hot showers and toilets are consistently too few for the number of residents. On some sites, facilities are also extremely dirty and in a state of disrepair. Sites also lack any equipment for children, such as a play area, and children are often placed at risk for their safety due to hazards on the site and its environment.

Surveillance and Control

Halting sites are subject to strict control. Entry is strictly controlled by municipal authorities and/or associations to whom management is delegated. On many sites, residents report police visits to collect license plate information of residents. Barriers, often-metal bars or gates that need to be opened by management, block access to the site by caravans and other large vehicles. This situation has resulted in tragedies where fire trucks and emergency vehicles have been unable to enter the site quickly enough. Furthermore, families cannot leave the site with their caravans when management is not available, for instance on weekends.

Official halting sites are also too few to meet needs. According to a report by the *Cour de Comptes*, as of December 2010 only 52% of places in halting areas and 29.4% of places for large passage (large groups) had been created as compared to official assessments of needs¹⁵. These need assessments are in themselves often inaccurate and too low as compared to real needs of itinerant citizens today. Thus, in many areas of the country, Travellers encounter considerable difficulties finding an official halting site to reside. Prefects could legally begin to make use of their powers to seize municipal land to create such sites. We are unaware of any Prefect yet having used these powers.

- *Longer-term residence on private land*

Itinerant citizens continue to encounter considerable difficulties buying land. "Pre-emptions" of the purchase by local officials, thereby blocking the purchase transaction, are frequent as soon as the officials realize that the buyers are Travellers. Once they do succeed in buying land, thousands of families continue to live with the threat of eviction due to the variety of French laws and regulations that severely limit the territory on which caravans may remain legally, even on private land, or impose arbitrary restrictions on land use. According to reports of families, expulsions are frequent and adequate alternate possibilities are not proposed.

Furthermore, tens of thousands of families are denied water and electricity on their land, even when there are critically ill individuals and children living on the site. Authorities explain this situation based on the 'illegality' of families' living situations according to urban regulations. We are unaware that any consideration has been given by the French government to remedy this widespread problem in accord with international human rights standards¹⁶.

¹⁵ Cour des Comptes, *l'Accueil et l'accompagnement des gens du voyage*, October 2012, atp g. 50.

¹⁶ See also discussion in European Roma Rights Centre, *Always Somewhere Else: Anti-Gypsyism in France*, November 2005, at pp. 124- 129; 149 – 159. While the publication is over a decade old, the description of the situation remains true today.

C. Participation of itinerant citizens in political and public affairs

Itinerant citizens are largely excluded from participating in political and public affairs, thus violating this fundamental right.

The recently abrogated Law of 1969, discussed above, had severe negative effects on possibilities for Travellers to vote and do so in a meaningful manner. However, outside of electoral periods, itinerant citizens are largely excluded from decision-making, even when this specifically concerns them. For instance, while there is a National Consultative Commission for Travellers, presented as a forum in which Traveller representatives may have such policy input, its composition (wherein itinerant citizens are a minority voice), manner of nomination (French authorities nominate representatives) and ability to have real impact on decision-making (it simply provides analysis and recommendations) limit real and effective participation by itinerant citizens. There are similar problems in Departmental Consultative Commissions relating to Application of the Besson Law, where, in practice, Travellers have a minority voice and stress that their already minority voices are often not listened to on these Commissions.

This pattern of absence of itinerant citizen participation is repeated in the development and implementation of the vast majority of policies and measures targeting itinerant citizens in France. It is also reflected in allocation of funds aimed at studies and activities targeting Travellers: these funds are largely channelled to actors and associations with no or very limited participation of Travellers.

This situation impedes improvements in their situation, in all sectors of life, as their full participation is essential to the development of appropriate policies.

CONCLUSION

This situation is very much related to the dominant position given to 'halting areas' in discourse and policy relating to the housing of itinerant citizens as the principle response. This fails to address the fundamental issue of the place of itinerant citizens in French society and French territory and, in fact, relegates them to limited, controlled, and, often, indecent spaces. As other individuals, Travellers are not a homogenous group, but in fact made up of different individuals with varied housing needs. Equal treatment therefore requires that an array of other options complement regulations on halting grounded in a needs-based approach, rather than an approach aimed at expelling, regulating and controlling them.

Furthermore, ensuring full participation of the diversity of itinerant citizens/Travellers in all aspects of policymaking, including development, implementation and evaluation, is essential to improving the situation.

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