

NO ONE LEFT BEHIND

MISSION REPORT ON THE RIGHT TO
HOUSING AND RELATED HUMAN
RIGHTS OF ROMA IN FRANCE



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

Regional Office for Europe

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June 2018



EXECUTIVE SUMMARY

France reportedly has some 570 slums, inhabited by circa 16,000 persons. Roma¹ from Romania and Bulgaria reportedly make up the majority of persons living in slums, with other inhabitants comprising some French nationals, other European Union (EU) citizens and persons from countries outside the EU. In January 2018, France reinvigorated its policy to eradicate informal slums or squats ("*bidonvilles*") by issuing a new Instruction which complements the existing policy framework provided by a 2012 Circular.²

The Office of the United Nations High Commissioner for Human Rights (OHCHR) undertook a mission from 25 to 29 March 2018 to gain an in-depth understanding of the progress, challenges and opportunities in the enjoyment of the right to adequate housing and related rights by Roma, particularly in light of the Instruction of January 2018.

On the basis of a detailed analysis of the information collected, and France's obligations under international human rights law, several human rights protection gaps were identified. In this report, OHCHR details a number of findings and recommendations with a view to offering practical guidance and technical assistance to enhance France's implementation of its obligations under international human rights law.

OHCHR makes the following general recommendations:

1. **Sustainable, safe, non-segregated housing should be at the centre of France's interventions to ensure dignity for all.** France should focus its interventions to end informal slums on fulfilling the right to adequate housing, in a manner that avoids segregation and that ensures the right of all persons to live in security, peace and dignity. Persons living in squat or slum conditions face high obstacles in accessing their rights to work, attending school on the basis of equal dignity with others, or enjoying the right to the highest attainable standards of physical and mental health. These obstacles are magnified when coupled with eviction or threat of forced eviction. Social workers estimate that such evictions from housing in practice cost, on average, six months in the schooling of every child. As such, the denial of the right to adequate housing jeopardizes the realization of a broad range of human rights. It is therefore recommended that the cycle of slum housing coupled with periodic forced eviction be replaced by inclusion in mainstream, integrated housing with appropriate support.
2. **Authorities at all levels should redouble efforts to ensure that all children are enrolled in and regularly attending school, in safe and non-segregated environments.** The enrollment and attendance of children in schools is uneven across the country for a variety of reasons. These include the refusal of some mayors to accept registration (e.g. due to the purported lack of documents, such as proof of residence), schools being full, and the effects of displacement due to

¹ In this report, the term "Roma" is used to refer to heterogeneous groups and reflects the terms of self-identification of a plurality of the persons concerned. The population of Roma living in informal slums or squats represents only a small proportion of the total Roma population in France, which is estimated at between 300,000 and 500,000: Council of Europe, Estimates of Roma population in European countries. Available at www.coe.int/en/web/portal/roma.

² Respectively, the Instruction du Gouvernement « visant à donner une nouvelle impulsion à la résorption des campements illicites et des bidonvilles », NOR : TERL1736127J, 25 January 2018 (the "Instruction"); and the Circulaire interministerielle « relative à l'anticipation et à l'accompagnement des opérations d'évacuation des campements illicites », NOR INTK12333053C, 26 August 2012 (the "Circular").

eviction. In particular, special efforts must be paid to the situation of girls and of children – especially older children – who have never before attended school. Despite the efforts of civil society and educators, serious gaps remain, which are incompatible with the minimum core requirements of the right to education.

3. **France should ensure that its measures to end informal slums are based on human rights and provide mechanisms for appeal, access to justice, and genuine participation in decision-making and accountability.** While the language of the Instruction of 2018 appears to foster social inclusion, it contains very few human rights-based provisions. It lacks justiciability, meaning that rights-holders lack access to an effective remedy in the event that their rights are violated. There is no evident accountability or consequences for non-compliance or inaction by the authorities. No legal standing is provided for civil society organisations to challenge aspects of the policy, although since 2016 certain non-governmental organisations have legal standing to challenge discrimination.³ Furthermore, it contains only limited provision for the participation of Roma themselves in decisions taken under the policy.

In addition, the report highlights specific concerns and recommendations regarding: (1) housing, (2) education, (3) employment and health, and (4) collective or arbitrary expulsion from French territory. These recommendations are included in the thematic chapters below.

³ Loi de modernisation de la justice du XXI^e siècle du 18 novembre 2016.

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INTRODUCTION AND METHODOLOGY

The United Nations (UN) human rights system has expressed extensive concern over the exclusion of Roma worldwide.⁴ This exclusion is driven by stigma against Roma, often referred to as “anti-Gypsyism”.⁵ The human rights situation of Roma in European States is regularly the subject of concern and recommendations by the UN human rights mechanisms.

As a result of efforts carried out since 2012, the French authorities have succeeded in bringing thousands of persons previously living in slums into mainstream housing. According to information provided by the French Government, since 2013, 5132 persons living in slums have gained access to mainstream housing, and 6438 children have been enrolled in school.⁶ These are important achievements. Nevertheless, in France today, according to official data, approximately 16,000 people live in some 570 informal slums or squats (“bidonvilles”).⁷ The majority of these people are reportedly Roma from Romania and Bulgaria. Persons living in slums in France often live in extreme states of social exclusion on the margins of generally affluent communities and society.

There are high levels of stigma in France against Roma, Travellers and others regarded as “Gypsies”. According to the National Consultative Committee for Human Rights (CNCDH), negative public attitudes against Roma and Travellers⁸ are the highest, compared to other groups in France.⁹ The stigma attached to being Romani profoundly impacts the enjoyment by Roma of their human rights. Substandard housing conditions and repeated eviction impact seriously on other rights, resulting in a cycle of marginalization and precariousness. Extensive evictions of Roma have been carried out in recent years, with civil society organisations reporting that over 10,000 persons have been evicted every year since 2014.¹⁰

France has been found in violation of the European Convention on Human Rights and of the Revised European Social Charter in relation to its housing policy and the forced eviction of Roma and Travellers.¹¹ Notably, the European Committee of Social Rights found that a series of forced evictions and expulsions from France in 2010 was racially discriminatory and “aggravated”.¹² On 4 December 2015, in reviewing implementation

⁴ See especially Durban Declaration and Plan of Action, adopted at the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Violence, 2001; UN Committee on the Elimination of Racial Discrimination, General recommendation XXVII on discrimination against Roma; A/HRC/26/L.11; A/HRC/29/24.

⁵ The Alliance against Antigypsyism uses the spelling “antigypsyism”. This report uses the spelling “Anti-Gypsyism”, in accordance with Human Rights Council Resolution A/HRC/26/L.11.

⁶ Communication, Permanent Mission of France, HP/cda/20181386071, 18 June 2018.

⁷ Instruction, p. 2.

⁸ In keeping with the Independent Expert on minority issues, this report recognizes the debate regarding appropriate terminology in France, and conforms to the European Roma Rights Centre’s use of the term “Travellers” to refer to individuals and groups who are descended from groups that have long been citizens of France and played a role in French society and history. This includes persons of diverse cultures, frequently self-identifying as “Sinti”, “Manouche”, “Kale”, “Gitan”, “Roma”, “Yenish”, “Traveller” or other: see A/HRC/7/23/Add.2, p. 12.

⁹ For example, in 2017, 66% of the French public surveyed considered that Roma and Travellers were not fully part of French society, compared to 36% for Muslims, the next most disfavoured group (CNCDH, *La Lutte Contre le Racisme, L’Antisemitisme et la Xenophobie*, 2017, pp. 110-124).

¹⁰ See European Roma Rights Centre, Written comments concerning France for consideration by the Human Rights Council, within its Universal Periodic Review, at its 29th Session (January-February 2018). Available at www.errc.org/cms/upload/file/france-hrc-submission-27-june-2017.pdf. France does not gather official data on evictions.

¹¹ European Court of Human Rights, *Winterstein and Others v. France*, Judgment, 17 October 2013; European Committee of Social Rights, *European Roma Rights Centre (ERRC) v. France*, Complaint No. 51/2008, Decision on the Merits, 19 October 2009; European Committee of Social Rights, *Centre on Housing Rights and Evictions (COHRE) v. France*, Complaint No. 63/2010, Decision on the Merits, 28 June 2011.

¹² European Committee of Social Rights, *Centre on Housing Rights and Evictions (COHRE) v. France*, Complaint No. 63/2010, Decision on the Merits, 28 June 2011.

of the 2011 decision, the Committee found that the situation had not yet been brought into conformity with the Revised European Social Charter.¹³ Following his 2014 visit to France, the Council of Europe Commissioner for Human Rights has also highlighted persistent discrimination against Roma, and the urgent need to guarantee Roma access to housing, health care, education and employment. He again raised concerns about forced evictions of Roma, by letter to France in January 2016.¹⁴

The UN High Commissioner for Human Rights is mandated to promote and protect the effective enjoyment by all people of their human rights. On the basis of the core international human rights treaties and recommendations issued by the international human rights mechanisms, the Office of the High Commissioner (OHCHR) offers practical guidance to States for the design and implementation of human rights-based laws, policies and programmes. In doing so, OHCHR pays particular attention to the most excluded and marginalized, and to persons in situations of particular vulnerability.

France is a State party to most core international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); and the Convention on the Rights of the Child (CRC).

The UN Treaty Bodies are international human rights mechanisms that oversee the implementation of these conventions. When reviewing the human rights situation in France, the UN Treaty Bodies have repeatedly expressed concern regarding discrimination, violence and hate speech, including “the rise of racist and discriminatory discourse and behaviour” against Roma and Travellers;¹⁵ as well as, concerns related to the lack of effective exercise of the right to adequate housing, and patterns and practices of forced evictions. Other concerns expressed by UN Treaty Bodies as relates to Roma and Travellers in France include other economic, social and cultural rights including education, health, work and work-related rights and social security; the rights of the child, discrimination against Romani women and girls, as well as – where Travellers are concerned – the right to vote.¹⁶

The overarching goal of the 2030 Agenda for Sustainable Development is to ensure that “no one is left behind.” Sustainable Development Goal (SDG) 5 and 10 highlight particular measures to close gaps on social and economic inequalities, to end discriminatory policies and practices, and to empower populations for the inclusion of all irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status. SDG 1 aims to combat poverty, including through national social protection systems that ensure adequate living standards for all sectors of the population. SDG 11 commits to eliminating disparities in the field of housing. These commitments urge a redoubling of action for the inclusion of persons in extreme states of exclusion, such as the communities described in this report.

¹³ European Committee of Social Rights, *Centre on Housing Rights and Evictions (COHRE) v. France*, Complaint No. 63/2010, Assessment of the Follow-Up, 4 December 2015.

¹⁴ Council for Europe Commissioner for Human Rights: Report by Nils Muižnieks following his visit to France from 22 to 26 September 2014, CommDH(2015)1, 17 February 2015; letter to the Minister of Interior of France. Available at [https://rm.coe.int/ref/CommDH\(2016\)10](https://rm.coe.int/ref/CommDH(2016)10).

¹⁵ CCPR/C/FRA/CO/5, para. 13.

¹⁶ See E/C.12/FRA/CO/4; CERD/C/FRA/CO/20-21; CCPR/C/FRA/CO/5; CRC/C/FRA/CO/5; CEDAW/C/FRA/CO/7-8.

Based on the above, OHCHR sent a team to France in March 2018. The team sought to understand the challenges, developments, and opportunities in relation to the right to housing and related rights of Roma and Travellers in France – particularly in light of the recent strengthening of the French Government’s policy for the eradication of informal slums. The mission team sought to examine progress in the implementation of recommendations of UN human rights mechanisms addressed to France in this area. The March 2018 mission built on the experience of OHCHR’s Regional Office for Europe, which has engaged on these issues since its establishment in 2009.

The mission visited Paris and Île-de-France, Marseille and Toulouse, where the team met with national and local government authorities, staff of the ombudsperson and the national human rights institution, civil society, service providers and rights-holders. With the support of various stakeholders, the team visited several informal slums, squats and temporary lodging arrangements. The mission members also had the opportunity to take part in a seminar convened by DIHAL, the inter-ministerial body with coordinating responsibilities for slum eradication policy, which involved a broad range of stakeholders from different parts of the country.¹⁷ In addition, OHCHR received written material before, during and after the mission, from a variety of sources.

In addition to matters related to Roma, the OHCHR mission also sought to examine policies related to Travellers, which are distinct, yet connected to policies concerning Roma. The mission team received credible allegations regarding the lack of halting sites (“aires d’accueil”), their location of existing sites in areas that are far from urban centres or inappropriate for human habitation, and frequent lack of human rights including privacy.¹⁸ In particular, the team received detailed information from a community of Travellers in Lille regarding serious health concerns resulting from the location of their halting site between two construction zones.¹⁹ However, in light of complexities in addressing the human rights situation of both Roma and Travellers in France, the team was unable to address both topics, and the situation of Roma became the primary focus of the mission.²⁰

The findings and recommendations in this report are offered with a view to offering practical guidance and technical assistance to enhance the State’s implementation of its obligations under international human rights law.

¹⁷ Délégation interministérielle à l’hébergement et à l’accès au logement (DIHAL): see www.gouvernement.fr/delegation-interministerielle-a-l-hebergement-et-a-l-acces-au-logement-dihal.

¹⁸ See also A/HRC/7/23/Add.2, paras. 31-36.

¹⁹ For a study on health issues faced by Travellers, see Lise Foisneau, “Dedicated Caravan Sites for French Gens du Voyage: Public Health Policy or Construction of Health and Environmental Inequalities?” *Health and Human Rights*. 2017 Dec; 19(2): 89-98.

²⁰ Despite the existence of overlapping negative discourses about Roma and Travellers, based on Anti-Gypsyism, as well as due to the presence of Roma among the heterogenous groups regarded and administered as Travellers, policies on Roma and Travellers are separate domains in France.

BACKGROUND AND POLICY CONTEXT

French law places a positive obligation on all municipalities with more than 3500 inhabitants (or 1500 inhabitants in the case of Île-de-France) that at least 25% of all housing should be social housing.²¹ Since 2007, French law has also included an “actionable right to housing”.²² In light of widespread non-compliance by municipalities with requirements to provide social housing, fines for non-compliance were increased in 2013.²³ Under French law, the right to social housing also extends beyond the line of citizenship, to include persons with a legal basis to be in France.²⁴ French law also includes certain protections in the context of forced eviction.²⁵

In January 2018, the French government issued an inter-ministerial Instruction²⁶ to give new impetus to the eradication of illegal encampments and informal slums, outlining a five-year plan for their elimination. The Instruction recognizes the ineffectiveness of the repeated evictions of previous years, which have not resulted in a significant decrease of persons living in these conditions, stating, “Despite repeated evictions during the course of recent years, the number of persons in slums has not noticeably decreased.”²⁷

The Instruction does not put in place a new policy, but rather extends and gives new impulse to the inter-ministerial Circular on preparatory and supporting measures for the evacuation of illegal camps of 2012. That Circular requires *inter alia* that evictions can only be carried out after advance planning to ensure analysis of the needs of particularly vulnerable persons.

However, subsequent assessments have found that the Circular has been insufficiently and unevenly applied, with insufficient specific financial resources dedicated to its implementation (particularly in areas with large numbers of slums), and with significant obstacles to Roma effectively exercising their human rights, due to the cumulative effects of public hostility, administrative and legal problems, and other barriers.²⁸ Moreover, the Circular’s implementation has not achieved its intended objective. To the contrary, it appears to have had the adverse effect of increasing the precariousness and exclusion of the target population. For instance, it has been noted that the Circular’s repressive aspects – providing for execution of a judicial order for eviction with the use of police force – have been systematically implemented in the absence of social accompaniment

²¹ Loi n° 2000-1208 du 13 décembre 2000 relative à la solidarité et au renouvellement urbains.

²² Loi n° 2007-290 du 5 mars 2007 instituant le droit au logement opposable et portant diverses mesures en faveur de la cohésion sociale.

²³ See www.vie-publique.fr/politiques-publiques/logement-social/construction-accession-proprete/.

²⁴ See *inter alia* Code de la construction et de l’habitation, Articles L351-2-1 and L512-2.

²⁵ For example, “During the displacement (eviction) for which a decision of justice was pronounced before the intervention of the public force, the judicial officer charged with the execution of the expulsion measure can be condemned for entering the dwellings in the absence of the occupants, as well as criminal prosecution may be initiated on the basis of the Penal Code.” Also: “the destruction, deterioration or degeneration of the property of the persons at the time of the expulsion can engage the responsibility of the prefect for assault, with obtaining damage ... in repairing damage done in the course of the eviction if this has taken case.” (Communication, Permanent Mission of France, HP/cda/20181386071, 18 June 2018, unofficial translation).

²⁶ The Instruction is signed by eight Ministers: Interior; Justice, Europe and Foreign Affairs, Territorial Cohesion, Solidarity and Health, Employment, National Education Gender Equality.

²⁷ Unofficial translation from the French-language original: “Malgré des évacuations répétées au cours de ces dernières années, le nombre de personnes occupant ces bidonvilles n’a pas sensiblement baissé.”

²⁸ Défenseur des Droits, *Bilan d’application de la Circulaire Interministérielle du 26 août 2012 relative à l’anticipation et à l’accompagnement des opérations d’évacuation des campements illicites, août 2012-mai 2013*, 25 June 2013. Available at https://juridique.defenseurdesdroits.fr/index.php?lvl=notice_display&id=2974. See also DIHAL & Cerema, *Application de la circulaire du 26 août 2012 en 4 cas et 6 questions*, November 2016. Available at www.gouvernement.fr/sites/default/files/contenu/piece-jointe/2017/01/etude_cerema-application_de_la_circulaire_du_26_aout_2012.pdf. The UN Committee on Economic, Social and Cultural Rights has recommended that France conduct an assessment of the 2012 Circular: E/C.12/FRA/CO/4, para. 40.

or proposals for alternative accommodation. In addition, some evicted families have not only lost their housing, but also had their belongings or important documents destroyed by police in the process.²⁹

The Instruction of 2018 seeks to respond to these challenges by calling for a broader public intervention that focuses on “accompanying persons toward the exit from informal slums, for the goal of their complete eradication”.³⁰ Such measures should be taken from the moment that people settle in informal slums, rather than only focusing on the time of eviction. The Instruction calls on prefects³¹ to take action according to a four-pronged framework: (1) to put in place a strategy to deal with informal slums with a view to their eradication; (2) to apply differentiated responses based on the characteristics of the settlement and of the persons concerned; (3) to fight against precariousness and ensure the respect for the laws; and (4) to mobilize State funding and seek co-funding. The Instruction announces the allocation of €3 million to DIHAL for work in this area, and calls on Prefects to seek additional funding from local collectives and EU structural funds.

A number of positive aspects have been noted regarding the Instruction of 2018. Firstly, the Government takes an important step in acknowledging that its policy on evictions has thus far been ineffective, and that greater mobilization is needed. The policy also adopts a comprehensive approach which includes access to housing, health, education and employment, as well as child protection and women’s rights. The Instruction has furthermore taken into account a number of stakeholder’s recommendations. Finally, the Instruction indicates the political will, emanating from the highest levels of Government, for an effective policy to finally end slums and to integrate persons living in them in extreme states of exclusion.

However, several concerns remain. First of all, both the Instruction of 2018 and the Circular of 2012 lack enforceability. This has resulted in the 2012 Circular being unevenly implemented, based on varying political will at the local level. Given the absence of mechanisms to compel non-compliant or inactive localities to act, it is unclear whether the new Instruction can fully achieve its intended result. Secondly, eviction from housing remains explicitly a tool of France’s policies on slum eradication.³² This fact is manifestly at odds with France’s human rights commitments (see below section on housing). Thirdly, the language in the Instruction is vague as to whether the majority of the population concerned (i.e. citizens of Bulgaria and Romania, Member States of the EU) have a legal basis to remain in France. Such vagueness creates legal uncertainty for the concerned populations as EU citizens, some of whom have received orders to leave French territory, and have been banned from re-entering France (see further the section on Expulsion from French territory below).³³

In January 2017, France adopted a new “Equality and Citizenship Law”, which for the first time recognizes informal slums as inhabited areas that therefore fall within the protection of an annual winter moratorium on evictions between 1 November and 31

²⁹ See Défenseur des Droits, *Bilan d’application de la Circulaire Interministerielle du 26 août 2012 relative à l’anticipation et à l’accompagnement des opérations d’évacuation des campements illicites, août 2012-mai 2013*, 25 June 2013, pp. 23-26 and 31.

³⁰ Instruction, p. 3, unofficial translation.

³¹ Prefects are the representative of the state at the territorial level, responsible to the Ministry of Interior.

³² See *inter alia*, Instruction, p. 5.

³³ France has been previously threatened with EU infringement proceedings for its removal of EU citizens on the basis of their Roma ethnicity. See <http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=902&furtherNews=yes>.

March.³⁴ However, evictions conducted for matters of public urgency are exempted from the winter moratorium. Indeed, in a census of evictions of Roma for 2017, civil society organizations reported that evictions continued in November and December, and actually accelerated just before the beginning of the winter moratorium (see further the section on Housing below).³⁵

³⁴ *Code des procédures civiles d'exécution*, article 412, as amended by *loi n° 2017-86 du 27 janvier 2017 relative à l'égalité et à la citoyenneté*, article 143. Other amendments brought about by Law 86/2017 on Equality and Citizenship include possibilities for judges to issue certain forms of delay on the implementation of an eviction.

³⁵ See European Roma Rights Centre & Ligue des droits de l'homme, *Census of forced evictions in living areas occupied by Roma (or people designated as such) in France: Annual results for 2017*, March 2018. Available at www.errc.org/cms/upload/file/france-evictions-census-2017.pdf.

KEY FINDINGS OF THE MISSION

During the mission, the team documented specific challenges faced by Roma living in informal slums and squats, as well as developments and actions taken by the authorities, in the areas of housing, education, employment and health.

I. HOUSING

International human rights law recognizes the *right of everyone to an adequate standard of living, including housing*, and obliges States to take appropriate steps to ensure the realization of that right.³⁶ States are required to take steps, to the maximum of their available resources, with a view to achieving progressively the full realization of this right.³⁷ *Minimum core obligations binding on States include immediate obligations ensure non-discrimination and non-retrogression, including forced eviction.* The right to housing should not be interpreted narrowly, but should be seen as the right to live somewhere in security, peace and dignity, since housing is integrally linked to other human rights.³⁸ The UN Committee on Economic, Social and Cultural Rights (CESCR) has set out seven criteria to determine the adequacy of housing, namely, legal security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility; location; and cultural adequacy.³⁹

Forced evictions constitute a gross violation of international human rights law.⁴⁰ States must ensure inter alia that evictions are only undertaken as a measure of last resort, and after all feasible alternatives are explored in genuine consultation with the affected persons. Evictions should not result in individuals being rendered homeless or vulnerable to other human rights violations; rather, the State must take measures to ensure adequate alternative housing.⁴¹ States must further guarantee the right of everyone to equality before the law, including in the enjoyment of the right to housing.

UN Treaty Bodies have made it clear that the right to adequate housing also applies to non-citizens, without discrimination. CESCR has set out that “the ground of nationality should not bar access to Covenant rights”, and expressly stated that such rights apply to everyone including non-nationals, regardless of legal status and documentation.⁴² The UN Committee on the Elimination of Racial Discrimination (CERD) has recommended States to remove obstacles that prevent the enjoyment of economic, social and cultural rights by non-citizens, notably in the areas of housing and to “guarantee the equal enjoyment of the right to adequate housing for citizens and non-citizens, especially by avoiding segregation in housing”.⁴³ Racial segregation is banned absolutely under international law, most explicitly as a result of Article 3 of the International Convention on the Elimination of All Forms of Racial Discrimination.⁴⁴ As such, States are obliged to develop and implement policies aimed at preventing and combatting segregation of Romani communities in housing, and to act firmly against any discriminatory practices affecting Roma’s access to housing.⁴⁵

³⁶ ICESCR, article 11(1).

³⁷ ICESCR, article 2(1).

³⁸ CESCR, General Comment No. 4: The Right to Adequate Housing (art. 11.1 of the Covenant), paras. 7-8.

³⁹ Ibid., para. 8. On the question of security of tenure, CESCR states: “all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups”.

⁴⁰ See A/HRC/4/18, p. 15; Commission on Human Rights resolution 1993/77, para. 1.

⁴¹ CESCR, General Comment No. 7: The right to adequate housing (art. 11.1 of the Covenant): forced evictions, paras. 13-16.

⁴² CESCR, General Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights (art. 2, para. 2), para. 30.

⁴³ CERD, General Recommendation 30: Discrimination against non-citizens, para. 29 and 32.

⁴⁴ ICERD, article 3, including as elaborated by CERD General Recommendation XVIII.

⁴⁵ CERD, article 5(e)(iii); CERD, General General recommendation XXVII on discrimination against Roma, paras. 30-31.

CESCR and CERD have specifically expressed concern about the repeated forced evictions of Roma in France, noting that many evictions take place without rehousing solutions and with the use of violence. France has received recommendations to reduce the number of forced evictions by working with the parties concerned to find other solutions, and to ensure that all evictions are coupled with appropriate rehousing or resettlement solutions. The UN High Commissioner for Human Rights has publicly urged France to stop the forced eviction of Roma, as have a number of independent UN experts.⁴⁶

The mission visited informal slums, including squatted buildings in urban areas and informally constructed shelters in marginal areas. The conditions at these sites ranged from rough and unsafe to humble but decent living quarters. The worst conditions observed included rat infestations, extreme levels of poor sanitation and environmental degradation, and other serious health hazards. Sites visited by the mission were excluded from most if not all municipal services including water, sanitation, electricity, and solid waste removal. Frequently, essential public services were provided *ad hoc* by civil society organizations (e.g. securing of structural elements), or limited services had been negotiated with the assistance of civil society actors (e.g. one water tap). Civil society reports that in some cases, requests for rudimentary waste disposal or water provision can trigger eviction instead. As a result of their engagement, in the locations visited, civil society organizations were able to provide the team with detailed information regarding the current profile of slums and squats. The duration that the sites had existed ranged from a few months up to ten years.

The majority of persons living in these slums were Roma from Romania and Bulgaria. No one with whom the team met was willingly living in these conditions. All sites were primarily inhabited by families, many with young children or infants. Stakeholders reported that a family spends an average of six-seven years in such conditions before being able to access better housing.

The mission was also able to see a diversity of governmental responses, ranging from places with evident political will to secure the human rights of persons living in slums, as well as places where such will was not yet fully present. While the team was only able to visit a limited number of places, it also heard accounts regarding other localities (notably Strasbourg, Bordeaux and areas of Nantes) where measures taken have been successful in eliminating slum housing. However, stakeholders emphasized that the vast majority of public authorities have not yet taken action to implement the national policy, due to a variety of factors, such as inaction, opposition, claims regarding a saturation of public services and social housing, and fear of negative public backlash. Some barriers were also identified amongst the Roma themselves, including fear and mistrust, the lack of suitable options presented, and unwillingness to enter housing where they could not practise certain economic activities, such as collecting and dealing in scrap metal.

In Toulouse, municipal authorities presented a detailed programme to eliminate slums through the “accompaniment” (support by social workers and services) of persons toward regular housing, with a preference for apartments dispersed throughout the city rather than segregated housing. The authorities preferred to refer to “relocations” rather than evictions, although they maintained that forced evictions are still necessary due to the dangerous conditions in slums. They also shared their view that persons are only in a position to make informed choices about their life once they are out of the extreme

⁴⁶ OHCHR, “Zeid urges France, Bulgaria to halt forced evictions of Roma”, 11 September 2015. Available at www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16409&LangID=e.

hardship of residence in slums. The mission was informed that about 300-500 persons were receiving accommodation and were in the process of being integrated, out of a “relatively stable” total population of approximately 1500-2000 persons in slums.

In Île-de-France, stakeholders reported that some wealthier municipalities prefer to pay fines rather than to comply with legal requirements to provide social housing, one of a number of causes of increasing segregation of indigent and minority populations into poorer municipalities such as Bobigny, La Courneuve, L'Île-Saint-Denis, Ivry-sur-Seine, Montreuil and Saint-Denis. Particularly in Île-de-France, the team heard about repeated and large-scale evictions, often affecting the same community.⁴⁷

The mission also met with rights-holders in a variety of situations. On a positive note, the team visited a family in Toulouse that had been placed in social housing and was on a path to social inclusion, through a combination of interventions relating to employment, health care, and transitional housing arrangements. This family recounted an orderly relocation process (in which they were provided with cardboard boxes, packing tape, and a date for their move) and a social assessment that had adapted the housing to their family's needs. On the other hand, the mission also met persons living in dire conditions in a slum in Toulouse for up to ten years, who reported that they had not been the subject of any effective inclusion measures by the authorities. It was unclear how the municipality took decisions about which slums or families would benefit from its programmes, although authorities in Toulouse indicated that all remaining slums would be cleared in the course of the year.

The team also observed various measures for addressing the housing needs of Roma. One strategy has been to formalize some slums, whereby authorities enter into agreements allowing for their limited upgrade and public services, such as water, electricity and waste removal. Conditions may be placed on the use of the site, such as requiring that no new residents arrive. Generally, these sites are intended to be transitional, although resources are being invested in them, and there is not always a clear exit strategy. Some of these sites have manifest health risks, such as rat infestations.

Another, more formal and generalized policy seen in a number of localities throughout France has been to create “integration villages” (“*villages d'insertion*”). These provide for segregated housing on a new site, sometimes in caravans. Frequently, these are fenced-in areas located in marginal or industrial areas, sometimes under surveillance by guards and/or video cameras, and with limited free movement. The team spoke with Government officials who stated that such segregated housing arrangements resulted, at least in part, from their perception that French people are opposed to having Roma as neighbours. Some civil society interlocutors reported that this policy was influenced by stereotypical notions of Roma as “nomads”. The mission was presented with materials indicating that in some cases – including projects in Île-de-France and Lille – EU funding has been used to develop segregated housing.⁴⁸

⁴⁷ Cases are currently pending before the European Court of Human Rights related to the eviction of Roma in France, including the repeated eviction of Roma from an informal settlement in “la porte de la Chapelle au pont des Poissonniers” or “la porte de Clignancourt” in Paris’ 18th arrondissement, which has reportedly been evicted 4 times in the past 4 years.

⁴⁸ See for example “Programme Opérationnel Régional Feder-FSE 2014-2020”, Ile-de-France et Bassin de Seine, Version adoptée du 23 décembre 2014”, p. 45, which envisions for Roma “the creation of structures of the type ‘Insertion Villages’: closed sites where the population is housed in bungalows or light dwellings ...”. Also: 16 April 2018 communications concerning housing container construction in Lille and Montreuil, on file with OHCHR.

The team also learned about a variety of programmes and arrangements being used to support or transition Roma into social housing. One such mechanism is the “sliding lease” (*bail glissant*), which provides for the lease to be held in the name of an association or other third party for a probationary period, during which the household receives social support. After a successful transition period, the lease passes into the name of the household, which becomes the tenant in title and thereby gains autonomy. In addition, the French government is in the process of beginning implementation of “Housing First” approaches for the long-term homeless, which may have a high degree of relevance for the populations residing in slums and squats.⁴⁹

Overall, the mission observed that forced evictions, and threats of forced evictions, are still widespread, with many persons being evicted multiple times. Stakeholders provided detailed information on evictions of Roma in the recent period. For example, the team heard details about five forced evictions in Marseille between July and November 2017, and learned about an ongoing eviction of about 30 families in Nantes where only 10 families were provided with alternative housing. A surge of evictions of Roma took place immediately before the winter moratorium, with a reported 29 evictions taking place during October 2017 (by comparison with 5 evictions in October 2016). Evictions also continued during the moratorium of 2017-2018, with 23 evictions reported between 1 November 2017 and 31 March 2018.⁵⁰ Justifications for evictions during the winter moratorium reportedly included judicial orders suspending the coverage of the moratorium in cases of forced entry to property; adoption by the mayor of an “evacuation order”; concerns over the possibility of fires; as well as “no legitimate motive, at least one purely illegal eviction during this winter”.⁵¹ Stakeholders informed the team about efforts to challenge evictions in court, which had not succeeded in slowing down the number of evictions in recent years.⁵² The team also spoke with Roma who expressed fears that a new wave of evictions would follow the end of the winter moratorium. In Toulouse, stakeholders informed the mission that there are approximately 500 people in slums and 1000 people in squats, of whom one third are children, who are under imminent threat of eviction.⁵³ In Île-de-France, stakeholders raised an additional concern that preparations for the 2024 Olympic Games might lead to evictions.⁵⁴

Forced evictions not only deprived persons of their basic human right to housing, rendering them homeless, they also impacted negatively on the enjoyment of other rights.⁵⁵ Stakeholders particularly noted the damaging effect of evictions on the psychological well-being and schooling of children. However, it is clear that evictions, as well as the standing threat of eviction, have much wider impact on the realization of rights, and also reinforce deeper patterns of exclusion based on insecurity. Therefore, the team found that forced evictions in France still fail to meet standards under international human rights law, as do other aspects of the rights of Roma to adequate housing in France, including segregated housing arrangements and non-action in the face of extreme housing duress.

⁴⁹ See www.gouvernement.fr/sites/default/files/contenu/piece-jointe/2017/09/plaquette_plan_quinquennal_lda_v2.pdf.

⁵⁰ Ibid.

⁵¹ Ibid., p.1.

⁵² Dossier of materials provided at civil society meetings in Île-de-France and Marseilles, on file with OHCHR.

⁵³ Médecins du Monde, “Les communautés d’origine Rom à Toulouse en 2018”, March 2018, document on file with OHCHR, pp.3-9.

⁵⁴ See A/HRC/13/20, where the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context discusses the impact of major international sport events on the realization of the right to adequate housing.

⁵⁵ These negative consequences have been noted in OHCHR, Fact Sheet No. 25, Forced Evictions.

RECOMMENDATIONS

In order to ensure the fulfilment of the right to housing, it is recommended that France:

- ✓ **Remove forced eviction and the threat of forced eviction** from processes related to the social inclusion of persons living in informal housing.
- ✓ **Ensure alternatives to eviction**, including by consulting with rights-holders and presenting options for adequate alternative housing.
- ✓ In those cases in which the effective realization of human rights depend on it, **provide integrated, mainstream housing** – including in localities which to date have avoided providing social housing -- as a first step toward the realization of a broad range of human rights, such as including education, employment and health care, and deeper inclusion rights, such as public participation.
- ✓ **Discontinue segregated housing arrangements** such as “villages d’insertion”. Persons currently living in such segregated arrangements should be integrated into mainstream housing.
- ✓ **Dedicate sufficient resources** to the realization of the right to housing. Not only will this guarantee compliance with human rights obligations, but it also be more effective in addressing the problem of informal slums.
- ✓ Ensure that all measures are taken to respect, protect and fulfil the **right to adequate housing in the context of the Paris 2024 Olympic Games**. All actions should contribute to the creation of stable housing, with special attention to those living in informal slums.

II. EDUCATION

Education is both a fundamental human right and an indispensable means of realizing other rights. States have the obligation to achieve this right progressively and on the basis of equal opportunity, in particular, by providing for free and compulsory primary education and available and accessible secondary education. States must also take measures to encourage regular attendance at schools and reduce dropout rates.⁵⁶ Education is essential for full human development and dignity, and is the primary vehicle by which marginalized persons can lift themselves out of poverty and obtain the means to fully participate in society.⁵⁷ Education carried out in segregated environments is a violation of international human rights law, in particular of Article 3 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

The breach of Roma children's right to education in France has been the subject of concern by the UN Committee on Economic, Social and Cultural Rights (CESCR), UN Committee on the Elimination of Racial Discrimination (CERD) and the UN Human Rights Committee. The Committees have noted discrimination against Roma in accessing education and low school enrolment rates, as a result of evictions and the refusal of some municipalities to enrol Roma children in school. In particular, CESCR has requested France to defer the implementation of eviction orders regarding households with schoolchildren, and to ensure that mayors fulfil their duty to ensure that all school-age children are enrolled in school.⁵⁸

In its 2016 review of France, the UN Committee on the Rights of the Child expressed concern that "certain categories of children face difficulties in entering, continuing or re-entering education, school-related activities and facilities, especially ... children living in shantytowns ...; as well as that "some children, including Roma children, unaccompanied migrant children and children living in precarious housing, face numerous difficulties with regard to enrolling in ordinary schools or gaining access to school canteens, and in some cases have not been allowed to do so by municipalities." The Committee on the Rights of the Child further commented that progress has been slow with regard to reducing the large numbers of children dropping out of school early and without qualifications, as well as that "violence and widespread bullying among students are common and education professionals lack the capacity to prevent and address them."⁵⁹ The UN Committee on the Elimination of Discrimination against Women (CEDAW) has expressed particular concern at discrimination against Romani girls in France, "who continue to face difficulties in gaining access to high-quality education."⁶⁰

The mission team met and learned about school-age children in a variety of educational situations throughout the visit. Some children were enrolled in school, and several children were benefitting from special classes for non-French speakers (attended for a few hours per week, alongside regular classes). Such classes are made available under a specific programme for all non-francophone children arriving in France.⁶¹ The team also met with older children and young adults who were attending the "School for a second chance", which provides for them to learn French and pursue a programme for their social and professional inclusion.

⁵⁶ Universal Declaration of Human Rights, article 26, CRC, article 28(1); ICCPR, article 13.

⁵⁷ See CESCR, General Comment No. 13: The right to education (article 13 of the Covenant).

⁵⁸ E/C.12/FRA/CO/4, paras. 39 and 49; CERD/C/FRA/CO/20-21, para. 9; CCPR/C/FRA/CO/5, para. 13.

⁵⁹ CRC/C/FRA/CO/5, para. 71.

⁶⁰ CEDAW/C/FRA/CO/7-8, para. 32.

⁶¹ Code de l'entrée et du séjour des étrangers et du droit d'asile, article L311-9; Code de l'Éducation, articles L131-1, L321-4 and L332-4; Circulaire 2002-100 du 25 Avril 2002 sur l'organisation de la scolarité des élèves nouvellement arrivés en France sans maîtrise suffisante de la langue française ou des apprentissages [Circular 2002-100 of April 25, 2002, on educational provisions for students who are new to France and have an insufficient knowledge of French], Ministère de l'Éducation, Bulletin Officiel No 10, Apr. 10, 2005. Available at www.education.gouv.fr/bo/2002/special10/texte.htm.

The team also encountered school-age children who were not enrolled in or attending school. Refusal of enrolment requests is a problem, as municipalities reject school registration for reasons such as lack of official proof of residence, despite a positive obligation in law that all children be enrolled and attend regularly.⁶² In some informal slums, for example in Toulouse, an absence of social assessment or engagement by the authorities reportedly meant that parents lacked information and support to take steps toward enrolment. In Marseille, stakeholders reported that the problem was that schools (especially middle schools, or *collèges*) were full. Thus, even though the municipality accepted the enrolment of children, there were children who had been waiting for many months and could pass the entire academic year without accessing formal education and attending school.

Another challenge raised was the lack of any specific policy or programme to address older children who have never been able to exercise their right to education. Several stakeholders underscored the critical need to address this gap, which is reportedly not covered by the policy dealing with newly arrived non-francophone students.

For those children who were enrolled in school, stakeholders reported that it was overall a positive experience. Children were eager to learn, and teachers and staff took an interest in their education and well-being. Schooling also contributed to the broader social integration of the family, as children learned French and some parents became involved in school and community life. Stakeholders recounted the significant efforts made by parents and children to wake up early, take care of their appearance, and travel to school.

Some challenges were nevertheless noted. Financial difficulties meant that many families were unable to purchase school supplies or pay charges such as cafeteria fees. There is the possibility for such fees to be waived, but families were unaware and required support to complete the required administrative formalities. Some children faced isolation, insults or bullying due to factors such as discrimination or their appearance. Parents also expressed fears that their child would not be accepted. Unstable situations at home, or pressing problems requiring families to return to their country, meant that attendance was sometimes not possible. Many parents never attended school themselves, which meant that they were unable to support their children in their schoolwork.

In all cases, evictions (or the risk of eviction) were emphasized as a critical obstacle that prevent Roma children from accessing their right to education. Stakeholders reported that each eviction costs six months in the schooling of a child, with parents keeping children out of school in advance of evictions due to a fear of separation, followed by significant lengths of time required to overcome the barriers to re-start school, including recovering from the violence of the eviction (which has devastating effects on children), re-orienting the family, re-connecting children to transport at new locations, and seeking re-enrolment, where necessary.

Finally, the team met several teenage girls who were not attending school at all, and had never received any formal education. This raises concerns about the gendered aspect of the right to education and particular barriers that girls may face in accessing education. It highlights the need for targeted efforts in this regard.

⁶² French law also provides for sanctioning refusal to enroll children in school. French authorities have cited instances in which this sanction has been applied (*l'ordonnance du tribunal administratif de Lille du 27 juillet 2016* (No. 1605248), as well as *l'ordonnance du 6 septembre 2016*, No. 1606500, in the same case).

At a seminar convened by DIHAL on 29 March 2018, several Romani youths presented their experiences regarding their path to inclusion in France. They spoke about arriving as young children in France, where they experienced evictions and lived in a severe state of exclusion and insecurity with their families. They highlighted their experiences in school as a key component of their inclusion in French society, and recounted the support they had received through the engagement of their teachers and families. These youth were now in tertiary education or professional employment, and they spoke with pride and hope about their achievement and prospects, highlighting the importance of education as a human right as well as crucial for their further development.

RECOMMENDATIONS

In ensuring the right to education, it is recommended that France:

- ✓ **Defer the eviction of households with school-age children.** Where relocation does take place, this should be done in full consultation with the family, with measures in place to ensure the continuity of the children's schooling. Relocation should take place solely in summer months, with sufficient support provided from re-enrolment, where necessary.
- ✓ **Issue national direction and guidance to municipalities** to ensure that all children are accepted for enrolment in school. This guidance should place an obligation on municipalities to accept registration and ensure placement of all children in a school, enforceable by rights-holders.
- ✓ **Ensure that information and assistance are provided to all families**, regardless of their housing status, in order to enable their children to enrol in and attend school.
- ✓ **Develop and implement specific programmes to address the right to education of children, particularly older children, who have never been able to access schooling.**
- ✓ **Particular attention is needed to enable the effective fulfilment of the right to education for Romani girls and young women.**

III. RELATED RIGHTS, INCLUDING WORK AND HEALTH

The International Covenant on Economic, Social and Cultural Rights enshrines the right to the highest attainable standards of physical and mental health (Article 12), the right to work (Article 6), as well as a range of work-related rights and social security (Articles 7-9). International human rights law enshrines the principle of equality and non-discrimination, which is echoed throughout the international covenants, thus providing for the equal protection and the enjoyment of Roma to the wide range of human rights.⁶³ Despite these guarantees, UN human rights mechanisms have recognized that discrimination against Roma is an overarching problem, which contributes to their marginalization and negatively impacts their enjoyment of other human rights.⁶⁴

A number of concerns have been raised about the situation of Roma in France, particularly regarding their enjoyment of socio-economic rights relating to work, health care and social benefits.⁶⁵ The Human Rights Committee has expressed concern at discrimination against Roma migrants in access to health care and social benefits, and urged France to strengthen the measures taken against such discrimination.⁶⁶ CERD has similarly expressed concern about discrimination against Roma, including reports regarding “the existence of extremely substandard health conditions and of a number of factors that hinder their access to health care”, as well as “factors that hinder their access to employment and to public services”. CERD urged France to facilitate access for Roma to health care and social services, and to develop training and learning opportunities for Roma with a view to facilitating their entry into the labour market.⁶⁷

Additional concerns have been raised about Roma women, who are often subject to double discrimination.⁶⁸ CEDAW has expressed particular concern at the limited access by Romani women to the labour market in France, and urged France to take into account the needs of disadvantaged groups of women, especially Roma women, and consider the use of targeted measures, including temporary special measures, to create further employment opportunities for such groups.⁶⁹

During the mission, all stakeholders stressed that access to decent and remunerated work is a critical element of inclusion. As of 1 January 2014, France opened its labour market to citizens of Romania and Bulgaria on an equal footing with French citizens and other EU citizens. Therefore, in principle there are no legal obstacles to Roma accessing the right to work in France.⁷⁰ In practice, however, barriers exist that hinder the equal treatment of Roma EU citizens on the French labour market. The mission met with unemployed Roma who stressed that their highest priority was to gain access to the labour market, so that they might provide for themselves and their families. The team spoke with rights-holders with French language skills and other qualifications, who expressed frustration that they were unable to find formal employment. In Marseille, one Romani man presented the team with a dossier of work qualifications from Romania, and expressed frustration that he and his family were surviving by informal work,

⁶³ See for example: ICCPR, articles 2 and 26; ICESCR, article 2(2); ICERD, articles 1 and 5; CRC, article 2. See also the Universal Declaration of Human Rights, articles 1 and 7.

⁶⁴ See A/HRC/29/24, para.12; CERD General recommendation XXVII on discrimination against Roma.

⁶⁵ See ICERD, article 5(e). The rights relating to employment, health care and social benefits are protected under ICESCR: see articles 6, 12 and 9, respectively.

⁶⁶ CCPR/C/FRA/CO/5, para. 13.

⁶⁷ CERD/C/FRA/CO/20-21, para. 9.

⁶⁸ See CERD, Genedarl Comment XXVII on discrimination against Roma, paragraph 1.6.

⁶⁹ CEDAW/C/FRA/CO/7-8, paras 34-35.

⁷⁰ For a detailed summary, see European Parliament, Directorate General for Internal Policies, Policy Department, Citizens' Rights and Constitutional Affairs, “Obstacles to the Right of Free Movement and Residence for EU Citizens and Their Families: Country Report for France”, Study for the LIBE and PETI Committees, 2016. Available at [www.europarl.europa.eu/RegData/etudes/STUD/2016/556955/IPOL_STU\(2016\)556955_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/556955/IPOL_STU(2016)556955_EN.pdf).

gathering scrap metal and other recycling. Another Roma man stated that he had done day-work under at times exploitative conditions for around three years, before finally securing a job, which he had held for the past six years continuously. In Toulouse, the mission team met a young Romani woman fluent in French, who expressed frustration that, despite having a long-term open dossier with the employment centre (*pôle emploi*), she remained unemployed and unable to provide for her infant son. Another Romani woman in Toulouse told the mission team that her husband had begun work as a gardener that same week, thanks to the intervention of social workers.

Stakeholders raised a few key issues regarding access to employment. Firstly, they emphasized that competence in the French language is key to accessing the labour market in France. Secondly, it was stressed that access to stable, sustainable and adequate housing is often a prerequisite to finding decent work. Thirdly, rights-holders stated that discrimination or ignorance often act as obstacles. In particular, at the seminar of DIHAL on 29 March, several young adults informed about their experiences with employers who requested evidence of a French residence permit, unaware that Bulgarians and Romanians do not need such permits as they are EU citizens. Finally, State authorities highlighted that vocational training programmes have succeeded in integrating Roma into the workforce. For example, the municipality of Toulouse reported positive results from training programmes in areas including mechanics, construction, cleaning, childcare, hospitality and culinary work, as well as gardening and agricultural work.

As concerns health, the mission observed many housing conditions that constituted an immediate health threat, and that civil society filled key gaps in health service provision in slums. For example, the mission visited an extremely poor slum on the margins of Toulouse where the only service provision consisted of periodic visits by the civil society organization *Médecins du Monde*. The mission also met persons who had gained access to treatment of serious health conditions such as cancer, although it was unclear on what basis such treatment had been provided. Generally, access to the health system appeared to be primarily linked to emergency care, with health care being provided in an ad hoc manner on the basis of solidarity and goodwill.

RECOMMENDATIONS

In order to ensure the full enjoyment by Roma of their rights without discrimination, it is recommended that France:

- ✓ **Facilitate access to gainful employment** for Roma., including through language and vocational training, referral programmes, and awareness-raising of the right to work of Roma EU citizens.
- ✓ **Pay particular attention to ensure the effective access to the formal labour market by Romani women.**
- ✓ **Undertake systematic intervention and social accompaniment to ensure access to health care** for persons living in slums, with a view to the full realization of the right to health.

IV. COLLECTIVE, ARBITRARY OR DISCRIMINATORY EXPULSION FROM FRENCH TERRITORY

*International law prohibits the arbitrary and collective expulsions of foreign nationals, and requires States to conduct an individualized assessment of all circumstances that may militate against a person's removal. A foreign national may only be expelled in pursuance of a decision reached in accordance with the law, and must be afforded due process and an effective remedy.*⁷¹ CESCR has stressed that without prejudice to the possibility for the State to order migrants who are undocumented or in an irregular situation to leave the territory, the very presence of such migrants under its jurisdiction imposes on the State certain obligations, including the primary obligation to acknowledge their presence and the fact that they can claim rights from national authorities.⁷² States have the responsibility to exercise due diligence and not to perpetuate human rights violations and abuses by returning non-nationals to harm, or to exacerbate their vulnerabilities and particular risks through their actions or inactions. International human rights law requires States to protect the human rights of all without discrimination.⁷³ In the context of the possible collective expulsion of non-nationals, international and regional tribunals have imposed stringent requirements on States *inter alia* to demonstrate that expulsions are not collective.⁷⁴

Concerns have been raised regarding the fact that during certain periods, the eviction of Bulgarian and Romanian Roma from housing has been coupled with expulsion from French territory or ban on re-entry, or both. In 2010, the EU threatened France with legal action over infringement of Directive 2004/38/EC (the "Citizens' Rights Directive"), for collective expulsions of Roma to Bulgaria and Romania.⁷⁵ The EU later decided not to pursue infringement proceedings, following France's assurances that it would ensure an effective and non-discriminatory application of EU law.⁷⁶ With respect to the same period, the European Committee of Social Rights ruled in a collective complaint that France had violated the Revised European Social Charter, that there was a Article E (ban on discrimination) taken in conjunction with Article 19(8) on ground that Roma of Romanian and Bulgarian origin consented to repatriation to their countries of origin in the summer of 2010 under constraint and against a background of racial discrimination.⁷⁷ On 4 December 2015, in reviewing

⁷¹ See ICCPR, article 13. See also Intervener Brief filed by the UN High Commissioner for Human Rights pursuant to leave granted by the European Court of Human Rights on 9 October 2015 in *N.D. and N.T. v. Spain*, Application No. 8675/15 and 8697/15. Available at www.ohchr.org/documents/issues/migration/thirdpartyintervention.pdf.

⁷² See E/C.12/2017/1, paras. 3, 5, 6 and 8. See also OHCHR, *The Economic, Social and Cultural Rights of Migrants in an Irregular Situation*, 2014, pp. 31-32.

⁷³ Based on the core principles of equality and non-discrimination, enshrined in the International Bill of Human Rights, States can only discriminate between nationals and non-nationals in two limited cases: the right to vote and take part in public affairs, and the right to freedom of movement within a country. All other human rights should be enjoyed equally and without discrimination by all people under the jurisdiction or effective control of the State, and any differential treatment between nationals and non-nationals, or between non-nationals with different migration statuses, must be lawful, proportionate and pursue a legitimate aim. See ICCPR, article 12; CERD General recommendation 30 on discrimination against non-citizens.

⁷⁴ *Ibid.*

⁷⁵ Of particular concern were a Government communication of 28 July 2010 asserting that "the Republic considers as inadmissible the lawless situation characterising Roma populations from Eastern Europe on the French territory" (www.elysee.fr/president/root/bank/pdf/president-9381.pdf); Ministry of Interior Circular No. 10kk1016329J of 24 June 2010 ordering prefectures and police authorities to "evacuate illegal camps" and "to take measures to expel their occupants where these are not French nationals and are in an irregular situation"; and Ministry of Interior Circular No. 10ck1017881J of 5 August 2010, which indicated the expulsion of Roma in the context of evicting camps.

⁷⁶ For a summary of international law proceedings concerning the systematic expulsion of Roma from France during the period 2010-2012, see European Parliament, Directorate General for Internal Policies, Policy Department, *Citizens' Rights and Constitutional Affairs*, "Obstacles to the right of free movement and residence for EU citizens and their families: Country report for France", Document PE 556.955, June 2016, pp. 24-26.

⁷⁷ European Committee of Social Rights, *Centre on Housing Rights and Evictions (COHRE) v. France*, Complaint No. 63/2010, Decision on the merits, 28 June 2011. Article 19(8) of the Revised European Social Charter secures the rights of migrant workers and their families to protection and assistance, including to secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality.

implementation of that decision, the Committee found that the situation had not yet been brought into conformity with the Revised European Social Charter.⁷⁸

These concerns have also been raised by UN human rights experts. In 2012, UN experts urged the French Government to ensure that its policies and practices regarding the dismantling of Roma settlements and the expulsion of migrant Roma “conform in all respects to European and international human rights law relating to non-discrimination”. The UN Independent Expert on minority issues stated publicly, “These reports are disturbing, especially because it is not the first time that Roma are collectively expelled from France ... Roma are European Union citizens and Europe’s most marginalized minority. Regrettably, these acts demonstrate that they do not always enjoy the same right of free movement and settlement, and continue to experience discriminatory treatment.”⁷⁹

Under international human rights law, the eradication of slums is not a legitimate aim for the purposes of assessing whether an individual is liable to be removed from the territory. The Instruction of 2018 nevertheless continues to envisage expulsion from France as a possible action within the range of measures available to authorities in the context of eradicating slums.⁸⁰

During the mission, stakeholders informed the team that, orders to depart France are no longer systematically issued to Roma from Bulgaria and Romania in the context of evictions from slums. Rather, some interlocutors stated that they may be issued in certain particular scenarios, such as to convicted persons following their having served criminal sentence. However, civil society organizations reported that orders to leave France continue to be issued during evictions, particularly in cases in which squats or slums had grown rapidly. The mission was provided with details regarding incidents in 2017 and 2018, where orders to depart France were issued to tens of persons in the course of evictions implemented in Lille, Marseille and Nantes. In particular, civil society noted that in Marseille these orders were issued without an individualized assessment, and that in Lille authorities organized at least three collective expulsions of Roma to Belgium for the purposes of stamping their orders to depart before they returned to France.⁸¹ At this time, the extent of this problem remains unclear, as the French Government did not respond to an official request for data on expulsions.

⁷⁸ Centre on Housing Rights and Evictions (COHRE) v. France, Complaint No. 63/2010, Decision on the Merits of 28 June 2011, Assessment of the Follow-Up, 4 December 2015.

⁷⁹ OHCHR, “France must comply with international non-discrimination standards”, 29 August 2012. Available at <http://newsarchive.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12466&LangID=E>.

⁸⁰ Instruction, p.3.

⁸¹ See Romeurope, *Rapport 2017: 20 Propositions pour une politique d’inclusion des personnes vivant en bidonvilles et squats*, p. 78. Available at www.romeurope.org/wp-content/uploads/2017/02/Rapport_2017_20-propositions-1.pdf.

CONCLUSION

The right to adequate housing is a fundamental human right. Without its realization, the exercise of most other human rights is placed at risk. During its visit to France, the team found that laws and policies related to housing and related human rights of Roma in France have not been implemented in a systematic manner across the French territory, and that greater efforts are needed to ensure that available resources reach the persons most in need.

The Instruction of January 2018 has the potential to set the foundation for positive developments – particularly through its recognition that past practices of forced evictions have not worked, and that a stronger engagement is needed to ensure the sustainable exit of persons from informal slums toward accessing their rights. However, the necessary resources must be dedicated, and political will and action is needed at all levels across the country. While it is still too early to assess the impact that the Instruction of 2018 will have for Roma in France, it is already imperative to highlight that efforts could be made to better ensure that affected persons are able to take action when their rights are violated.

OHCHR notes with concern the continued reports of forced evictions without alternative housing solutions for Roma in France. These evictions undermine the right to adequate housing, result in the violation of the right to education of the children living in slums, and have a range of other negative impacts on the human rights of all persons affected. OHCHR calls on France to seize this opportunity to conceive and implement its policies in a manner that protects and promotes the human rights of the most excluded, and to ensure that no one is left behind.

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