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# REPORT

## On the Situation of Roma Migrants in France



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*[slogans on demonstrators' placards in photograph]*

*Stop transitional measures*

*The right to work for ALL Europeans*

Romeurope National Human Rights Collective



September 2010



## Collectif National Droits de l'Homme Romeurope (Romeurope National Human Rights Collective)

**ABCR** (*Association Biterroise Contre le Racisme*) (The Béziers Association Against Racism) – **ALPIL** (*Action pour l'insertion sociale par le logement*) (Action for Social Integration Through Housing) – **AMPIL** (*Action Méditerranéenne Pour l'Insertion sociale par le Logement*) (Mediterranean Action for Social Integration Through Housing) – **ASAV** (*Association pour l'accueil des voyageurs*) (Association to Welcome Travellers) – **ASET** (*Aide à la scolarisation des enfants tsiganes*) (Educational Assistance for Gypsy Children) – **ASEFRR** (*Association de Solidarité en Essonne avec Les familles roumaines et rroms*) (Essonne Association for Solidarity with Romanian and Roma Families) – **Association Solidarité Roms de Saint-Etienne** (Roma Solidarity Association of Saint-Etienne) – **CAM** (Comité d'Aide Médicale) (Medical Assistance Committee) – **CCFD** (Comité Catholique contre la Faim et pour le Développement) (Catholic Committee against Hunger and for Development) – **CIMADE** (*Comité intermouvements auprès des évacués*) (Intermovement Committee for Evacuees) – **CLASSES** (*Collectif Lyonnais pour l'Accès à la Scolarisation et le Soutien des Enfants - des Squat*) (Lyonnais Collective for School Enrolment Access and Support for Children of Squatters) – **FNASAT- Gens du voyage** (National Federation of Associations in Solidarity with Action with Gypsies and Travellers) – **Hors la Rue** (Off the Streets) – **Imediat** – **LDH** (*Ligue des Droits de l'Homme*) (Human Rights League) – **Liens Tsiganes** (Gypsy Ties) – **MDM** (*Médecins du Monde*) (Doctors of the World) – **MRAP** (*Mouvement contre le racisme et pour l'amitié entre les peuples*) (Movement against Racism and for Friendship Among Peoples) – **Mouvement catholique des gens du voyage** (Catholic Movement of Travellers) – **PARADA** – **PROCOM** – **Rencontres tsiganes** (Gypsy Encounters) – **RomActions** – **Romeurope Val-de-Marne** – **Secours catholique (Caritas France)** – **SICHEM** (*Service de Coopération Humanitaire pour les Etrangers et les Migrants*) (Humanitarian Cooperation Service for Foreigners and Migrants) – **Une famille un toit 44** (One Family, One Roof 44) – **URAVIF** (*Union régionale des associations voyageurs d'Ile-de-France*) (Regional Union of Travellers' Associations of Ile-de-France).

And the Support Committees of Montreuil, northwest Paris, St Michel-sur-Orge and Meudon, le Collectif nantais Romeurope (the Nantes Romeurope Collective), le Collectif Roms des associations de l'agglomération lyonnaise (the Roma Collective of Associations of Greater Lyons), le Collectif de soutien aux familles roms de Roumanie (the Collective for Support to Roma Families from Romania), le Collectif des sans papiers de Melun (the Melun Collective for those without Documentation) and le Collectif dijonnais de soutien aux Roms (the Dijon Roma Support Collective).



Avec le soutien de :



Collectif National Droits de l'Homme Romeurope

### **Late-breaking news-July/August 2010**

*As Romeurope sends this report to press, very serious charges leveled against Roma people emanating from the highest levels of Government have garnered France the harsh criticism of experts from CERD (United Nations Committee to Eliminate Racial Discrimination). Statements by the President of France in the aftermath of the tragic events in Saint Aignan (Loir-et-Cher) blur distinctions between Travelers, the Roma and crime, stigmatizing these two communities and thereby providing justification for the current crackdown against them in France. These policies, which constitute de jure ethnic profiling, include an increase in expulsions from lands occupied by Roma, or, in the absence of encampment areas, by Travelers, and intensified police harassment.*

*These policies have been regularly condemned as "disgraceful" by elected officials on both ends of the political spectrum, who point out that families are ending up in the street and being prevented from settling anywhere. Meanwhile, "Obligations to Leave France" and "humanitarian" transfers to countries of origin have increased. The ineffectiveness of these approaches as methods to combat unacceptable housing conditions and the harmful consequences for families have been demonstrated over the last three years. Those consequences are discussed at length in this report.*

*These developments in terms of policy and attitudes are alarming, as they increase insecurity while promoting racist and xenophobic behavior, for which the Roma are now paying the price.*

*Thanks a lot to voluntaries from Traducteurs Sans Frontières (Translators Without Borders) who made the publication of an English version of this report possible and also to the “Qualité Traduction” (Translation quality) service from the International network Direction of Médecins du Monde (Doctors of the World). Thanks to M Peter Cummings of PLC Translation and Educational Services for the harmonization of this report.*

## The Demands of the Romeurope Collective

Before going through its demands item by item, the Romeurope National Human Rights Collective reaffirms the principles which guide its decisions:

- Roma originating from Eastern Europe and the Balkans and staying or residing in France are in charge of their destiny and this essential right should be fully recognised.
- As European citizens, citizens of Romania and Bulgaria, asylum seekers or undocumented immigrants, as people without shelter, job seekers, or people who are sick, as children of school age, parents in an insecure situation or unaccompanied minors, they enjoy inalienable rights and freedoms that are to be respected as they would be for any other individual in France.
- There are no specific "Roma" problems which would deserve demeaning provisions or special measures, the common law should remain the rule. Those who manage to find employment, obtain housing, and get their children in to school melt into the background like other migrants.
- The specifics of the situation are those created by representatives of the State when they describe them as intrinsically mafiosi and delinquent, when they target the slums where Roma families live so as to issue huge quantities of OQTF<sup>1</sup>, resurrecting the little-used provision of insufficient resources as the reason for the illegality of stay, when they create measures for humanitarian repatriation whose statistics prove that such measures are being taken mainly against Roma...
- There is however a Roma culture and memory which is so well ingrained and perpetuated that Roma people are not prevented from expressing it nor is their history to be denied.

### 1) Demands concerning the right to stay

#### Removal measures

1. Stopping the collective issue of removal orders, thereby respecting Article 4 of the Protocol n° 4 of the European Convention on Human Rights which prohibits the collective expulsion of foreigners and the examination of the individual cases of those concerned within the context of a contradictory procedure.
2. Abandonment of the criterion of "unreasonable burden" as justification for the issue of an OQTF and introduction of an interstate financial compensation arrangement or at least a restriction in the application of this criterion in accordance with Community law, which is based on a number of criteria and not only insufficient resources or the sole fact that the person had to resort to the social security system.
3. Application of the concept of "threat to public order" thereby justifying the issue of an APRF<sup>2</sup> in accordance with Community law which targets actual and serious threats (acts of terrorism for example).
4. Withdrawal of presumed illegal working as the basis of an APRF.
  - Respect for protection against expulsion which certain foreign nationals enjoy, notably relating to the length of their stay in France and the circulation of a note to administrative jurisdictions pointing out the specific protection for those who are EU citizens.
  - Stopping the detention and expulsion of Roma coming from former-Yugoslavia, particularly Kosovo.

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<sup>1</sup> *Obligation de quitter le territoire français - Obligation to leave French territory*

<sup>2</sup> *APRF - Arrêté préfectoral de reconduite à la frontière - Prefectorial order for a return to the border*

### Requests for permission to stay

- Juridical analysis of requests for permission to stay made by EU citizens on the basis of common law for foreigners in France when this is more favourable to their situation than the provisions of Community legislation (residence in France since the age of 13, spouse of a French person or parent of a French child, medical reasons, victims of trafficking...).

### Asylum

- Individual and thorough examination of requests for asylum made by people from Roma minorities with a waiver of the rules applicable to safe countries of origin and of the “Aznar protocol” which aims at preventing nationals of a Member State of the European Union from asking asylum in other Member States.
- The issue of permits to stay with permission to work for Roma from the former Yugoslavia whose requests for asylum are rejected, in particular having regard for ties established in France and their personal safety which is not guaranteed in their country of origin.

### Humanitarian repatriation

- A re-adjustment of arrangements to assist humanitarian repatriation with a strict respect of the principles of its being voluntary and a person's individual choice, involving the development of repatriation plans assessed in a realistic way following upon departure, social support and help with putting the plans into action once there, provision of financial support in a tailored and relevant way.
- Abandonment of the allocation of statistical targets for expulsions to the Ministry of Immigration and clear and public treatment of statistics on help for repatriation including details by the nationality of those involved.
- Reminders to representatives of the public authorities involved with those benefiting from assistance with repatriation, of the principle of freedom of movement within the European Union, taking particular care to prevent unfounded threats concerning the impossibility of a return to France or an exit from Romania or Bulgaria.
- Repeal of arrangements for the filing of biometric data on recipients of assistance for humanitarian repatriation envisaged by the law of 20 November 2007 and the Decree n° 2009-1310 of 26 October 2009, with in the meantime control over strict confidentiality of the information stored in the “OSCAR” system and no passing on of such to Social Security.

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## 2) Demands concerning the right to work

- Immediate lifting of the transitional period imposed on Romanian and Bulgarian nationals, so as to give equal treatment with the nationals of the other countries newly entrant to the Community and in a practical way which prevents clandestine working.
- In the meantime, in the event of a transitional period being retained for these nationals:
  - Cessation of the tax raised by the *Office français de l'immigration et de l'intégration* OFII (French Immigration and Integration Office) on employers of Romanian and Bulgarian nationals
  - Accelerated processing of requests for work permits made directly to the *Directions Départementales du Travail, de l'Emploi et de la Formation Professionnelle* DDTEFP (local employment offices)
  - Issue of a temporary work permit within 48 hours, allowing prompt recruiting, followed by a permanent permit after thorough examination of the files

- Easing of the criteria relating to length of contract and levels of remuneration
- The opportunity to apply to Job Centres as job seekers in order to gain access to support services and offers available
- Access to vocational training
- Access to apprenticeships and training on the job.

### 3) Demands as regards housing

#### EMERGENCY MEASURES

- Cessation of expulsions from living areas which, in the absence of alternative solutions and proposals for dignified and permanent re-housing, do no more than move the problem on. Brutal expulsions make family existence even more insecure, and cause interruptions to care, social support and schooling.
- Cessation and punishment of police harassment and violence within the living areas of Roma migrants and when expulsions are being carried out.
- Construction of living quarters with a view to preventing health hazards and fire. These basic installations should at least include toilet blocks, permanent water and electricity supply, regular municipal collection of household garbage.
- Accommodation on specific prepared areas, as emergency responses to undignified living conditions in squats or shanty towns can only have as a justification (when the health and the safety of the occupants are threatened where they currently live), the difficulty of quickly making available accommodation suited to the needs of each family. This justification is inseparable from a clear political will to reintegrate people into a traditional residential setting within a short time delay. It must be implemented through a lifting of administrative barriers to entry into the labour market and by putting common law housing and lodging plans into action.

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*The Romeurope Collective warns against the possible slide of a humanitarian response into the development of specific projects of a kind which tend to promote housing “tailored” to the needs, arbitrarily assumed, of an ethnically determined population, sometimes confused with Travellers, responding with the provision of caravans for a population which is sedentary in its country of origin. The powers that be should avoid the automatic delegation of their role, for thereby they would participate in the alienation of many people and this would create living conditions where not even the most elementary individual liberties are guaranteed. Experiments of the type called integration village, set up in Seine-Saint-Denis, which are tending to become THE State solution for the Roma families in France and are being imposed as “good practise” in Europe, illustrate this pitfall. It is essential that, as soon as possible, an assessment of these experimental initiatives is carried out and put in the public domain and that there is effective access to any document concerning the matter.*

## FUNDAMENTAL MEASURES

We request

- Full consideration of the needs for lodging and housing of all occupants of squats and shanty towns through plans at Department level for the reception, lodging and integration of homeless people (PDAHI)<sup>3</sup>, which are included in Department action plans on housing for the underprivileged (PDALPD).
- Thorough analysis of the individual situation and plans of each family in order to evaluate solutions meeting their needs. Many plans are obviously based on the idea of settling in France and gaining access to employment and housing. Some families are capable of achieving this quickly, others need to go through various stages. In some cases, their plans remain uncertain, only foreseeing short and repeated stays in the immediate future.
- Training and involvement of social services in the support of judicial referrals by the occupants of squats and shanty towns to DALO (*Droit au Logement Opposable* - statutory right to housing) commissions so that they can be considered amongst those with priority needs.
- Lifting the blockade on the introduction of common law arrangements for lodging and housing, particularly for EU citizens living in squats and shanty towns:
  - Respect for the principle of unconditional provision of emergency lodging and non-selection of those being accommodated,
  - Respect of the principle of continuity of lodging, introduced in the DALO statute, which prohibits people being thrown on to the street, including those given accommodation following a 115 telephone call to the emergency accommodation service in France
  - Opening up to the inhabitants of squats and shanty towns lodging arrangements like those offered by CHRS<sup>4</sup>, hostels and social housing, and registered places to stay within the framework of temporary lodging allowances (ALT),
  - Compulsory purchase of vacant housing and making it available to community associations and the State through temporary accommodation agreements.
  - Non-discriminatory access to application procedures for social housing for any person whose situation is legal in relation to stay, particularly for those Community citizens exempted from requiring permission to stay.

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## 4) Demands related to respect for the Rights of the Child

1) Schooling for all children of compulsory school age and respect for the right to education at those ages when school attendance is no longer compulsory (up to the age of 6 and after the age of 16):

- Application of the principle of immediate admission to school of children for whom an application has been made, even if all the necessary paperwork is not yet in order,

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<sup>3</sup> *Planning tool introduced by the law to improve and extend accommodation and combat exclusion dated 25th March 2009 which includes all lodging places, day centres, centres for asylum seekers, temporary accommodation, support from social services as well as the various elements of procedures to support the homeless.*

<sup>4</sup> Centre d'hébergement et de réinsertion sociale - Centre for emergency housing and social integration

- Provision of a designated address care of an official body (*domiciliation administrative*) within the local area, notably via the CCAS<sup>5</sup>, for the children of families living there without proper accommodation,
- Active steps by Council services for the census and registration of children living locally and of school age.

2) The reception of the non French speaking pupils in schools:

- Development of a reception and support policy for these children and their families within the educational establishment: assessment of levels of ability, development of links and tools for better mutual understanding between families and schools,
- Making use of methods (CLIN<sup>6</sup>, CLA-NSA<sup>7</sup>...or any other specifically designed approach) when a child enrolls with insufficient mastery of French and / or has not been to school in its own country.

3) Provision of the physical conditions necessary to ensure effective long-term schooling:

- To succeed at school, the children should be able to take advantage of extra-curricular activities.
  - Tapered charges for school meals capable of being completely waived below a certain level of income.
  - Provision of specific transport or benefits currently available to defray travelling expenses so as to facilitate access to school when living quarters are at a distance.
  - Provision or access to arrangements for school insurance.
  - Facilitated access to help with homework and to activities offered by holiday and leisure centres, and to sports and cultural activities.
- A commitment by local authorities within the scope of their capacity and responsibility for child welfare to:
  - The allocation of monthly allowances to ensure the level of subsistence of families;
  - Exceptional support and help to cover costs related to schooling (transport, canteen, supplies, school insurance, extra-curricular activities...);
  - Social support for families which request it and, when this is necessary, proposing measures for *action éducative en milieu ouvert "administrative"* (AEMO administrative) - assignment of a social worker to families with children in difficulty);
  - Accommodation proposals suited for the families that request it.

4) Access to professional training financed by regional councils or the CNASEA (Centre national pour l'aménagement des structures des exploitations agricoles - French National Centre for Farm Planning) and support for young people between 16 and 25 by *Missions locales* (local branches of a state organisation that helps young people have the skills to enter the work force effectively) .

5) Concerning the protection of the foreign minors:

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<sup>5</sup> Centre communal d'action sociale - Local social welfare centre

<sup>6</sup> Classe d'initiation pour les non francophones - Special reception and integration classes for non French speakers

<sup>7</sup> Classe d'accueil pour élèves non scolarisés antérieurement - Reception classes for children who have not previously attended school

The increasingly precarious situation of Roma people has, since 2007, brought to light instances of trafficking, delinquency or prostitution. Arrangements for child protection are not necessarily adapted to this population grouping but this should not, in their case, lead by default to a preference for a system based on immigration control policies to the detriment of protection of children in danger. Some progress has to be noted in 2009. In particular the fact that, for the first time, the vast majority of those engaged in child protection have taken into consideration - within the context of their actions – the phenomenon of trafficking involving foreign minors. This progress is nevertheless far from satisfactory.

We reaffirm that systematic repatriation reduced to a simple logistical operation runs a serious risk for exploited children and it is moreover totally counter-productive and we will remain on our guard to prevent the ratification of any new Franco- Romanian agreements. In spite of our repeated requests, no assessment of the initial agreements in 2002 has been carried out and no new investigation has been made.

## 5) Demands concerning the right to social welfare

### Health insurance cover

1. Grant the CMU<sup>8</sup> to all those residing in French territory, the AME<sup>9</sup> being a measure which leaves outside common law a whole section of population living in France.
2. Revise the circular dated 23 November 2007 which adopts the maximum restrictions authorized by directive 2004-38 dated 29 April 2004 so that, in practice, access to CMU by inactive EU citizens becomes impossible. These provisions entrust to CPAM<sup>10</sup> the responsibility of evaluating the right to stay of EU citizens in France, which daily forces them to make decisions on a very complex matter.
3. Failing this, set up the conditions for fast track access to AME rights and remove the three months' presence deadline which is a cause of delay in care. This arrangement should exclude the principle of a patient's contribution and guarantee the confidentiality of information about the recipients. In the case of EU citizens, procedures for checking absence of health cover in the country of origin should not delay for more than a few days access to rights under AME.

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### Family Benefits

Make available the right to family benefits, lodging allowances and the minimum social benefits that all EU citizens residing in France have. The receipt of family benefits and lodging allowances is in fact the minimal condition often applied by associations and organisations wishing to provide Roma with fitting housing solutions; they are a precondition to any integration process that would, in a word, make it possible these families to achieve independently the resource conditions which are currently opposed out of hand by the CAF<sup>11</sup>.

### Designated Address (*Domiciliation*)

1. Recognise a designated address as a right (to have an address when living in precarious housing conditions) and not as an obligation necessary for access to social security benefits. When someone can provide a postal address, whether or not it corresponds to where they live, it is unjustifiable to refuse their application on the grounds that they must present written proof of address issued by an approved organisation.
2. In the case of sites and settlements that are relatively stable, the occupants' addresses should be recognised by the organisation which distributes mail direct to these sites.

<sup>8</sup> Couverture maladie universelle - universal medical cover

<sup>9</sup> Aide médicale d'Etat - State medical assistance

<sup>10</sup> Caisse primaire d'assurance maladie - local branches of French state medical insurance organisation

<sup>11</sup> Caisse d'allocation familiale - family benefits office

3. In other cases, the legal opportunity to register an address with CCAS should be effective, without systematic transfer of this duty to approved organisations in order to allow access, without discrimination based on the legality of the stay, to rights other than AME and legal aid (schooling, opening a bank account, right to vote in European elections, marriage...).

## 6) Demands for the right to health protection

*As a matter of urgency, to improve the sanitary arrangements at places where people are currently living: access to water, hygiene, management of waste, electrical installations up to the required standards.*

- 1- **Recruitment and training of health mediators** with a duty to improve the sharing of knowledge and the bringing together of care arrangements and the people living in squats and shanty towns.
- 2- **Use of professional interpreters** within those structures of the health system dealing with the reception of Roma patients of foreign origin
- 3- **Regular visits by those responsible for health to areas where people are living**
- 4- **Before any expulsion, carry out an appraisal on health issues** in order to bring into action those structures set in place to take charge of health problems and - as a minimum - provide shelter for the frail.
- 5- **Efforts to track down infectious disease** including tuberculosis, hepatitis, STD... and prohibition of expulsion during the course of effective treatment, for example, when cases of tuberculosis are discovered
- 6- **Access to health education** within the framework of common law in association with health mediators.

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## INTRODUCTION

### Who do we mean?

**The generically used term “Roma”** (see the Council of Europe glossary below) was chosen by the International Romani Union in 1971, and officially adopted by the European Union and the Council of Europe. It describes different groups whose histories, ways of life, cultures and traditions strongly differ from each other and who self-identify under various names, in particular:

- ◆ So-called “eastern” Roma (Romania, Bulgaria, Hungary, Slovakia, Serbia, Kosovo): 85%
- ◆ Sinti and Manush (France, Italy): 4%
- ◆ Gypsy and Kale (Spain, France): about 10%

In this report, the term “Roma” is not used in its generic sense, but refers to the group present in the Balkans and Central Europe, some of whom have migrated more or less recently into the countries of Western Europe. These no longer form a homogenous population, but are subdivided into several groups, whose names frequently reflect their trades or kinship and area of origin.

**The term “migrant Roma” in France is taken to mean persons living within the national territory, mainly coming from Central and Eastern European countries (Romania, Bulgaria, ex-Yugoslavian countries) and self-identifying as Roma.**

The vast majority of these come from Romania (probably over 90%). In some urban areas (Bordeaux in particular), small groups of Bulgarian Roma have also settled. Finally, Roma families from former Yugoslavian countries are scattered over several Departments (Nord, Bouches-du-Rhône, Rhône, Loire, Indre-et-Loire, Alsace). In Ile de France, the various groups are represented, as they are in other large cities (for example Marseille).

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#### **Extracts from the Council of Europe glossary on Roma and travellers – Sept. 2006<sup>12</sup>**

##### **ROMA**

Roma (“men of the Roma ethnic group”, “husbands” or “artists”, depending on the variant of Romani or the authors) are – with the Sinti and Kale – one of the three main branches of the Roma (generic term), a people originally from northern India. The first written traces of their arrival in Europe date from the XIVth century.

There are approximately 10 million Roma in Europe (estimates vary from 8 to 15 million; “approximately 10 million” seems best to us). They are mainly found in the Balkans and in Central and Eastern Europe. Most of them speak Romani (romani chib) – see below. They are divided into sub-groups (“endaia”): the Kelderash, the Lovari, the Gurbeti, the Churari, the Ursari, etc.

In the Balkans, there are also groups who regard themselves as Roma, but do not speak Romani. These include the Boyash (Beash, Bayash, Banyash, Baiesi ou Rudari, depending

<sup>12</sup> This glossary reflects the current consensus. Some of the decisions on terminology are based on the conclusions of a seminar held at the Council of Europe in September 2003 on “The cultural identities of Roma, Gypsies, Travellers and related groups in Europe”, which was attended by representatives of the various groups in Europe (Roma, Sinti, Kale, Romanichals, Boyash, Ashkali, Egyptians, Yenish, Travellers, etc.) and of various international organisation (OSCE-ODIHR, European Commission, UNHCR, and others).

on the country) whose language derives from Romanian, and some Ashkali who speak Albanian. Other groups, who resemble the Roma in certain respects, such as the Egyptians (so-called because they reputedly came from Egypt, and who also speak Albanian) and some Ashkali, insist on their ethnic difference.

Originally, the French term stayed the same in the plural "les Rom". Now that it is in common use, it takes an "s".

Some variants of Romani double the "r" in "Rrom". This spelling is also used for political reasons in certain countries, e.g. Roma is (to distinguish Roma from Romanians).

"Rom" is the recommended adjective in French, agreeing in number but not gender: "le peuple rom", "des femmes roms", etc. "Romani" (invariable) should be kept for the language and culture: "la langue romani", "la culture romani".

In English, both "Roma" and "Romani" are used: "Roma(ni) woman", "Roma(ni) communities", but "Romani" is definitely preferred for the language and culture: "Romani language", "Romani culture".

#### **GENS DU VOYAGE (Travellers)**

"Gens du voyage", used in France, is an administrative term which also applies to non-Roma groups with itinerant lifestyles. It thus covers the various branches of Roma (Roma, Sinti/Manush, Kale/Gypsies, whose ancestors came from northern India), but other communities as well.

"Voyageurs" (closer to the English "Travellers") is used in Belgium and Switzerland. It is sometimes used by associations in France, but not in official texts. Like "Gens du voyage", it can cover various ethnic groups.

"Voyageurs" was the French term originally used at the Council of Europe (cf. the title of the MG-S-ROM from 2002-2006: "Groupe de Spécialistes sur les Roms, Tsiganes et Voyageurs") increasingly "Gens du voyage" (upper case "G" for "Gens", lower case "v" for "voyage") is now being used to harmonise texts and structures.

#### **GYPSIES**

The traditional French usage at the Council of Europe is "Tsigane" with "s" not "z".

The binome "Roma/Gypsies" was used for many years at the Council of Europe, since it covered most fields and situations in Europe. In fact, the term "Roma" is fairly widely used in Central and Eastern Europe, while "Gypsies" has a pejorative ring for many European Roma and Sinti, who reject it as an alien term, linked with negative and paternalistic stereotypes which still pursue them in Europe.

In Western Europe (United Kingdom, Spain, France, etc.), Hungary and some parts of Russia, "Gypsy", or its national equivalent ("Gypsy", "Gitanos", "Cigány", "Tsyganye", etc.) is better accepted and sometimes more appropriate.

## **A mainly economic migration**

This migration effectively began around the start of the 1990s, after the fall of communism in Eastern Europe. Under the communist regimes, Roma people had access to jobs, albeit the least desirable - garbage collection, town cleansing, heavy labour, work in agricultural cooperatives and factories. Their children went to school. The collapse of these regimes and conversion to a market economy meant job losses for many, reduced living conditions and lack of prospects for the young. In the East it also led to a resurgence of resentment and discrimination towards this minority, who in Romania had been kept in slavery up until the 19<sup>th</sup> century. Some, just like some other non-Roma Romanians, then chose to emigrate towards Western Europe.

Thus these new arrivals effectively represent an economic migration, linked to very great differences in living conditions in Eastern European countries, accentuated in the case of

Roma people by the effects of segregation. In the case of Roma from ex-Yugoslavia, exile more particularly follows persecutions suffered since the war. It must be stressed that this is a complex and diverse migratory phenomenon. Each of these families' migratory ventures should always be considered individually, whether they be somewhat short term measures to gain resources for improving daily life in the country or the start of a process of settlement in France while still retaining relatively strong attachments to their country of origin.

At least two common misconceptions must be addressed:

These families' migrations should in no way be taken as an itinerant lifestyle. If they travel around in France, it is usually under the pressure of evictions. If they return periodically to their countries, it is as with other migrants to maintain kinship ties (family visits, celebrations etc.), to temporarily withdraw from police harassment in France, after eviction from their place of abode or following the implementation of a deportation order.

More seriously, the media and part of the political class deliberately spread the idea that Romanian Roma migration into France is linked with mafia activity, in particular human trafficking which targets children and the elderly. These are false and dangerous assertions. They imply widespread activity which the organisations of the human rights network "Romeurope" – some specialised in protecting victims of trafficking - know to be extremely rare amongst the whole of the Rom population in France, just like in any other population. It cannot be denied that some people are forced to resort to begging to meet their families' daily needs, but the idea of begging organised by criminal gangs is more a product of fantasy and xenophobic depictions of Roma and Gypsies than reality.

## In no way a massive migration

In France, the first Romanian Roma arrived in Nanterre, where 900 people set up on wasteland, without water, without electricity and in appalling living conditions. The total number of migrant Roma in France today cannot be ascertained and would in any case be meaningless. There is no justification in distinguishing those who have managed to access housing or accommodation provided under common law from other migrant populations in the process of integrating into the French social landscape. Estimates by support organisations and groups lead us to believe that the number of those who remain in a highly visible situation because of their precarious living conditions in squats or shanty-towns (and who, furthermore, do not all self-identify as Roma), has remained stable for several years, standing at around 10 to 15 thousand people throughout the whole of France.

Since 2002, Romanian and Bulgarian nationals may enter France without a visa. Therefore, more than five years after the borders were opened, the feared influx has not really taken place. If we consider **the entire Romanian and Bulgarian population** who have immigrated into other EU countries, only 36,000 of them lived in France in 2007, compared with 843,000 in Spain or 659,000 in Italy.<sup>13</sup> The reality therefore lags very far *behind* the political discourses which raise the spectre of an "invasion".

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<sup>13</sup> *European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - The impact of free movement of workers in the context of EU enlargement – Report on the first phase (1 January 2007 – 31 December 2008) of the transitional arrangements set out in the 2005 accession treaty and as requested according to the transitional arrangement set out in the 2003 accession treaty. Brussels, 18th November 2008*

## I) SOME MORE EQUAL THAN OTHERS REGARDING THE RIGHT TO RESIDE AND TO MOVE FREELY WITHIN THE EUROPEAN UNION

### Freedom of movement, a basic right of EU citizens that has been undermined by national legislation

The accession of Romania and Bulgaria – where the vast majority of Roma migrants in France come from – to the European Union, as provided for by the Luxembourg treaty of accession of 25th April 2005, took effect on 1st January 2007. Nationals of these two countries therefore have the same rights as other EU citizens, including freedom of movement, which constitutes one of European Union citizens' basic freedoms, as mentioned in the Charter of Fundamental Rights of the European Union (Article 45). The treaty of accession nonetheless authorises other Member States to set limitations on Romanian and Bulgarian citizens' access to the job market during a transitional period. Apart from this restriction, as European citizens they have the right to move about and reside in any EU country.

In practice, this principle of free movement means that henceforth only one form of identification is necessary to enter another Union member country – a passport or ID card. No note or stamp must be inserted in the passport at the border crossing. Schengen measures are obsolete. It is no longer necessary to state a purpose for one's visit, or to declare the amount of money in one's possession. Throughout the Schengen area, free movement is no longer limited to three months – since the Schengen accords are not applicable to EU nationals. People can thus spend three months in each country of the EU, without having to meet the same conditions as for stays longer than three months. Furthermore, as for other EU members, the residence permit merely materialises a pre-existing right that Romanians and Bulgarians now draw directly from the Rome treaty. They do not need a residency permit to have the right to residence.

While the Treaty of Rome provides for limitations and conditions in exercising this right, provisions enshrining this freedom must be broadly interpreted, while waivers to it must, conversely, be strictly interpreted.<sup>14</sup> Any legislation and legal precedent produced in this area since then has been compiled and codified in Directive 2004/38/CE<sup>15</sup>, which is now considered the reference text.

In some areas, the directive seems to lag behind the challenges posed by actual mobility of EU citizens. Freedom of movement is “an area in which European law is lagging behind a reality that is changing rapidly”.<sup>16</sup> But national laws, which must transpose the directive, are even further behind. The European Commission has now acknowledged that the transposition of this directive is still imperfect: “No Member-State has actually transposed it properly and in its entirety. No article of the directive has been actually and properly

<sup>14</sup> Rulings in cases 139/85, Kempf, point 13, and C-33/07, Jipa, point 23

<sup>15</sup> Directive 2004/38/EC of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States

<sup>16</sup> Alain LAMASSOURE, European Deputy, The citizen and the application of EU law, Report to the French President, June 2008

transposed by all Member States.”<sup>17</sup> Obviously, these instances of non-compliance harm the guarantees that protect freedom of movement.

Regarding France, one week before welcoming the two new Member Countries, a circular from the Ministry of the Interior specified the **procedures for admission to stay and expulsion** of Romanian and Bulgarian nationals, effective January 1, 2007<sup>18</sup>. In 2004, the government had not deemed it necessary to do likewise when 10 new countries joined the EU. This circular then, in December 2006, was in anticipation of the arrival of the nationals of these two countries and provided for the legal means for deporting them. The circular, whose provisions were then written into the legal part of the Entry and Residence in France and Right of Asylum Act (*CESEDA*) by an order of 21st March 2007,<sup>19</sup> makes a distinction in terms of length of residency, even though the entry date can be established only on the basis of a statement, because passports cannot be stamped at the border.

**For stays in France of less than three months**<sup>20</sup>, freedom of movement and residence can only be restricted in cases in which the persons concerned violate labour legislation, present a threat to law and order or are an “unreasonable burden on the French social welfare system”<sup>21</sup>. In the first two situations, APRFs can be made against Romanian and Bulgarian nationals, with the third situation being sufficient for an OQTF<sup>22</sup>.

**For stays in France of more than three months**, the right of residence is subordinate to the condition of having (salaried or non-salaried) employment, student status or having health insurance and sufficient resources. Regarding the first condition, access to employment for Romanians and Bulgarians remains strictly controlled during the transitional period provided for by the membership treaty of these two countries. The laws relative to the right of foreign workers apply, which oblige those concerned to seek permission to work and

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<sup>17</sup> Commission Report to the Parliament and the Council on the application of Directive 2004/38/EC of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, Article 6, December 10, 2008

<sup>18</sup> NOR/INT/D/06/00115/C circular of 22nd December 2006 on procedures for admission to stay and expulsion of Romanian and Bulgarian nationals, effective 1st January 2007.

<sup>19</sup> Order no. 2007-371 of 21st March 2007 pertaining to the right of European Union citizens, nationals of other states that are party to the Economic European Space and of the Swiss Confederation as well as their family members to reside in France, made in application of the law of 24th July 2006 on immigration and integration.

<sup>20</sup> “Union citizens shall have the right of residence on the territory of another Member State for a period of up to three months without any conditions or any formalities other than the requirement to hold a valid identity card or passport.” (Directive 2004/38/EC of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, Article 6)

<sup>21</sup> Article R. 121-3 of the *CESEDA* states: “As long as they do not become an unreasonable burden on the social welfare system, particularly in healthcare and social assistance, nationals mentioned in the first paragraph of Article L. 121-1 [EU nationals], as well as their family members mentioned in Article L. 121-3 are entitled to remain in France for a period of up to three months without any conditions or any formalities other than those provided for in Article R. 121-1 for entry into France [requirement to hold a valid identity card or passport].”

<sup>22</sup> Persons concerned have forty-eight hours in the case of an APRF and one month in the case of an OQTF to file an appeal or leave France, which they may do by crossing any border and then coming back with no other restriction. By if they have not done so, they may, after one month, be arrested, placed in a detention centre and expelled immediately.

employers to pay a tax. The complexity and requirements of such procedures generally block access to the job market. If Romanian and Bulgarian nationals do not obtain permission to work they must have sufficient resources available. No amount is stipulated, except that no amount over the RMI (*Revenue Minimum d'Insertion* - minimum welfare payment), may be required.

## **A- Access to residency in France: conditions for admission to stay are less favourable for Europeans during the transitional period than under common law**

Paradoxically, access by Romanian and Bulgarian nationals to European citizenship has significantly hindered the possibilities of obtaining a residence permit.

### **1) Prefectures have refused to accept even applications for residency permits**

One reason for this is the uncertainty caused by the end of the residency permit obligation for Union citizens. This has come with the right of a citizen to obtain it upon request.<sup>23</sup> In fact, “this right is deliberately ignored by certain prefectures, particularly in the Ile-de-France [Paris] region”<sup>24</sup> who simply refuse to accept requests for residence permits from European citizens, regardless of their nationality. These refusals are the subject of most complaints reported by the EU mediation agencies, such as SOLVIT<sup>25</sup> or consulates.<sup>26</sup>

### **2) Union citizens excluded from more favourable provisions of common law governing foreigners in France**

A principle of European law has been flouted, namely the right of EU citizens to request a residence permit on the basis of common law governing foreigners in the host country, when that law is more favourable to them than EU law.<sup>27</sup>

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<sup>23</sup> CESEDA art. L121-2: “They are not required to hold a residence permit. If they ask for one, one is issued to them.”

<sup>24</sup> Alain LAMASSOURE, European Deputy, The citizen and the application of EU law, Report to the French President, June 2008

<sup>25</sup> “SOLVIT is an on-line problem solving network in which EU Member States work together to solve without legal proceedings problems caused by the misapplication of Internal Market law by public authorities. There is a SOLVIT centre in every European Union Member State (as well as in Norway, Iceland and Liechtenstein). SOLVIT Centres can help with handling complaints from both citizens and businesses. They are part of the national administration and are committed to providing real solutions to problems within ten weeks. Using SOLVIT is free of charge”: [http://ec.europa.eu/solvit/site/about/index\\_fr.htm](http://ec.europa.eu/solvit/site/about/index_fr.htm)

<sup>26</sup> Alain LAMASSOURE, European Deputy, The citizen and the application of EU law, Report to the French President, June 2008

<sup>27</sup> “The provisions of this Directive shall not affect any laws, regulations or administrative provisions laid down by a Member State which would be more favourable to the persons covered by this Directive.” (Article 37) “This Directive should not affect more favourable national provisions.” (Whereas 29) - Directive 2004/38/EC of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States

That means that, by law, they must have access to a temporary residency permit authorising them to work in various cases that are not taken into account in European law but that are open to third-country foreigners in France<sup>28</sup>, for example, if they have resided in France since no later than the age of 13 with at least one of their parents, if their spouse is French or if they are parents of a French child, if their state of health requires medical attention and if they cannot receive treatment in their country of origin, etc.

By the same token, they must also be given exceptional admission to stay, like other foreigners, in response to “humanitarian considerations” or “exceptional reasons”<sup>29</sup> or if they have filed a complaint or are witnesses against perpetrators of prostitution procurement or human trafficking of which they have been victims.<sup>30</sup> Regarding the latter case, a recent circular has confirmed this principle of priority common law when it is more favourable to EU citizens. It noted that the lack of special procedures for admission to stay for EU nationals who are victims of human trafficking or prostitution procurement would create a situation “harmful to victims who are nationals of EU Member States subject to a transitional status (Bulgaria, Romania) who, when they wish to reside in France and take up gainful employment, must apply for permission to work. Hence, the fact of a country’s joining the EU must under no circumstances put that country’s nationals at a disadvantage and prefectures must consider their requests for admission to stay under the same conditions as those provided for nationals of non-EU countries.”<sup>31</sup>

At odds with this circular, the Council of State in early 2009 handed down two opinions with a broad interpretation of this principle, suggesting that Member States are authorised to maintain for EU citizens provisions that are applicable to non-EU nationals and that are more favourable than EU law, but are not required to do so.<sup>32</sup> Even so, during a meeting on 24th March 2009, the staff of the General Secretariat for European Affairs recommended to Romeurope that complaints be filed with the European Commission to report prefectures that have ignored the obligation to register residency permit requests on the grounds that no such permit is mandatory and reaffirmed that Romanians and Bulgarians must continue to be able to refer to common law when it is more favourable.

Indeed, in the vast majority of cases, prefectures refuse to register requests for residence permits presented under application of common law to EU nationals. This is systematically the case, for example, at the Bobigny prefecture. In another case, a Romanian person, who on February 13, while accompanied by a mediator from *Secours catholique* (Caritas France), tried to file for a residence permit for medical reasons, and was even refused an application form by the Paris prefecture. In reaction to such cases, a working group composed of representatives of CIMADE and *Médecins du Monde* (Doctors of the World) was formed in the Rhône Department in 2008 and a few EU nationals were able to obtain residence permits for medical reasons in Saint-Etienne and Lyon.

**Testimony of CIMADE (Lyon) after the favourable ruling of the Lyon administrative court in the case of foreigner who was sick and who is an EU national (Lyon administrative court, October 20, 2009, Covaci, n°0904808)**

We are currently assisting about 15 EU nationals in this situation. Written applications have been filed (with return receipt) with the Rhone prefecture, in order to obtain express refusals. The first application was made in July 2008. When no reply was received from the Rhône prefecture, a request for explanation was sent (in accordance with Article 5 of the law of

<sup>28</sup> CESEDA L313-11

<sup>29</sup> CESEDA L313-14

<sup>30</sup> CESEDA L316-1

<sup>31</sup> Circular n° IMIM0900054C of February 5, 2009 – Conditions for admission to stay of foreign victims of human trafficking or prostitution procurement who are cooperating with judicial authorities

<sup>32</sup> French State Council n° 323854 and n° 323855 of January 12, 2009

1979); an explicit refusal was received on 9th January 2009. An appeal was immediately filed with the Lyon administrative court and heard in September. The administrative court handed down its ruling on 20th October, overturning the Rhône prefecture's decision to refuse to consider the residence permit request and ordering it to consider this request based on the provisions of EU law.

The arguments invoked were that these foreigners were not residing in France as EU nationals but for reasons linked to their "private and family lives", under the meaning of CESEDA and the European Convention on Human Rights. The government commissioner and then the administrative court agreed with this line of argumentation.

### 3) Exclusion from right to asylum

Roma whose countries of origin joined the EU in 2004 or 2007 also lost the right to request asylum, by virtue of the Protocol on asylum rights for nationals of EU Member Countries<sup>33</sup>, the "Aznar protocol", which prevents nationals from EU Member States from requesting asylum in other EU Member States. As a result, asylum requests filed by EU citizens are generally considered inadmissible by Member States<sup>34</sup>.

However, the serious ethnic attacks against Roma, particularly in countries such as Italy, Hungary and the Czech Republic call to task the Aznar protocol which makes the basic assumption that "Given the level of protection of fundamental rights and freedoms by the Member States of the European Union, Member States shall be regarded as constituting safe countries of origin in respect of each other for all legal and practical purposes in relation to asylum matters."<sup>35</sup>

As a result, and especially since the beginning of 2008, many Roma families whose security was threatened in the Czech Republic have opted to seek safe haven in Canada, which has faced a rapid increase in the number of Roma refugees of Czech citizenship who were unable to request asylum in neighbouring countries.

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These waves of periodic ethnic attacks against Roma populations in European countries means that Member States must assume their responsibilities under the Geneva Convention by ignoring this protocol, which by law does not ban the examination of asylum requests, given that they allow Member States to decide unilaterally in individual cases to review an asylum request submitted by a national of another Member State, as long as it processes this request on the basis of a presumption that it is groundless. A very first step was taken in this area in France, in Strasbourg, where about 10 Roma families (32 persons) arrived in January 2009, following a series of ethnic attacks against Roma in Hungary. The Council of Europe and the European Forum of Roma and Travellers alerted by *Médecins du Monde* rallied around this situation, and the Strasbourg prefecture agreed to accept the filing of their asylum request in May 2009 and to give it fast-track review. However, during the procedure the French State was reluctant to fully recognise these EU citizens' status as asylum seekers. CASAS, a local organisation that defends asylum seekers, had to file an urgent summons demanding that the prefecture, based on the administrative court's ruling, provide housing (in very poor conditions, incidentally) to families, housing to which they were fully

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<sup>33</sup> Protocol on asylum for nationals of Member States of the European Union, Treaty of Amsterdam, October 1997

<sup>34</sup> With the exception of Belgium, which says that it reviews each asylum request submitted by a national of another Member State

<sup>35</sup> Protocol on asylum for nationals of Member States of the European Union, Treaty of Amsterdam, October 1997

entitled as asylum seekers.<sup>36</sup> However, they were unable to get a temporary waiting allowance. Of the eight families, four requests were rejected without a meeting with the families concerned. In January 2010 these four families were expelled from France. Since then, and after several appeals to OFPRA (*Office français de protection des réfugiés et apatrides* - French Office for the Protection of Refugees and Stateless Persons) by CASAS, nothing has happened. OFPRA seems to be avoiding taking a stance on the situation of remaining families. The normal OFPRA contact persons say they are no longer in possession of the application....

## B- Deporting EU nationals

EU accession has actually restricted access to admission to stay for Romanian and Bulgarian Roma, while the options given to prefectures to expel them from France has, on the contrary, been carefully stepped up by the 22nd December 2006 circular.<sup>37</sup>

From the start of 2007, several APRFs have been made against Romanian and Bulgarian nationals, mainly on the basis of having exercised gainful employment without authorisation or constituting a threat to law and order (a notion used outside of the precise definition of the Court of Justice of the European Communities; see below). Where appeals have been possible, most of these APRFs have been cancelled.

Since mid-June 2007, the authorities have changed “strategy” and have begun to issue OQTFs to people arrested for begging, after an eviction or a fire, etc. For example, from the end of June 2007, European charters began to be organised at a pace of once per week for collective deportation. For members of Romeurope, these moves are in flagrant violation of Article 4 of Protocol n° 4 of the European Convention on Human Rights, which bans collective expulsions of foreigners.

The terms under which these deportation measures are so extensively used by prefectures show that they are targeted against a certain ethnic group, with a goal of eradicating substandard and highly visible living areas (1). Given the extremely restricted possibilities allowed by EU law to expel EU citizens, the courts have reacted in very different ways to the many appeals that have been filed (2). But while OQTFs and APRFs are still tools of pressure for evacuating a site, it is mainly the assisted repatriation mechanism – openly called the “Roma” mechanism by public authorities - managed directly through specific co-ordination by the prefect which makes actual repatriations possible (3). And since the use of this mechanism to fulfil the Ministry of Immigration’s foreigner-expulsion quotas are now well known by the general public, the time has come to experiment with ways of discouraging the Roma from returning to France after assisted repatriation, a phenomenon that has received widespread media coverage (4).

### 1) At Prefecture level: measures targeted at groups of people defined by their ethnicity and aimed at expelling them from where they have taken up occupation

It is common knowledge among associations and lawyers that if they are asked to defend EU citizens in France subject to expulsion measures, those citizens are almost certain to be

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<sup>36</sup> Strasbourg administrative court, ordinance of May 20, 2009

<sup>37</sup> NOR/INT/D/06/00115/C circular of December 22, 2006, on procedures for admission to stay and expulsion of Romanian and Bulgarian nationals, effective January 1, 2007.

Roma. If APRFs are enforced against non-Roma nationals of countries that have recently joined the EU, this is usually because they have infringed employment legislation: and such instances remain the exception.

### a) The lack of review of individual cases

The way in which the expulsion orders are delivered is unquestionably incompatible with the statement that, to comply with the law, “officers required to take part in these procedures review each case individually”.<sup>38</sup>

In practice, expulsion measures are applied **collectively** to the place where those targeted live. The Law Enforcement Agencies first check all site occupants (so those not present when they visit are omitted), then return shortly afterwards and issue OQTFs arbitrarily to all or some of those occupants. It can happen that the OQTFs are drafted at the site on the same day.

The grounds are generally defined **following a formula**, or are even pre-printed. They do not give any information that might clarify why the residence rights are being checked, and never explain exactly what made the Authorities doubt the residence right of a third-country national. A decision from the Administrative Court at Cergy-Pontoise<sup>39</sup> says something about the care with which these documents are drafted: the Court refers to an OQTF signed by the person in question, but neither dated nor showing his or her civil status. Dozens of OQTFs collected by associations and lawyers from a particular piece of land in order to prepare an appeal, have all been dated within a few minutes of each other, demonstrating conclusively that there had been no individual review of each situation.

In 2008, the courts<sup>40</sup> threw out a number of OQTFs because the Prefectures had not **complied with the inter-partes procedure** provided by the French Law of 12 April 2000<sup>41</sup>, which requires the Authorities to gather the written comments of the person(s) involved before taking measures that affect them. Compliance was particularly important because the cases concerned decisions to turn down residence applications which had not been preceded by a request allowing those applying to present their case. However, in an Opinion in November 2008, which will be discussed more fully later, the Council of State considered that in the case of Community members, the procedure applied only if the residence application was rejected but no OQTF was issued. This is simply a defensive tactic: it is common knowledge that in such situations, residence is never refused without issuing an OQTF.<sup>42</sup>

In these cases, the number of **people protected against expulsion under EU Law**, in particular because of the length of time they have resided in France, is of course never separately distinguished. Under the proportionality principle referred to in the Directive 2004-38, citizens who have resided in the host Member country for the preceding ten years may

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<sup>38</sup> The French Ministry for Immigration, Integration, National Identity and Solidarity Development (*Ministère de l'Immigration, de l'Intégration, de l'Identité nationale et du développement solidaire*), in a letter to the National Human Rights Group CNDH Romeurope ((*Collectif National Droits de l'Homme Romeurope*) dated 19 December 2008.

<sup>39</sup> Administrative Court in Cergy-Pontoise no. 0805960 dated 6 March 2009

<sup>40</sup> One instance: Administrative Court in Lyon no. 0707310 dated 24 January 2008

<sup>41</sup> **French Law 2000-321 dated 12 April 2000 relating to the rights of citizens in their dealings with the Authorities (Art. 24)**

<sup>42</sup> EC Opinion no. 315441 dated 26 November 2008

not be expelled except on serious grounds of public security.<sup>43</sup> These are guarantees that only four Member States, of which France is not one, have correctly transposed.<sup>44</sup> Thus in August 2009, the Prefecture distributed OQTFs to persons occupying a piece of land in Strasbourg. As is so often the case, organization was entirely arbitrary, and only those present on the land at the time of the police check were targeted. Some of them had lived in France for over 15 years and the children had been born in France and knew nothing of Romania: nevertheless, the Administrative Court in Strasbourg ratified the expulsion orders on 2 December.

In the same way, these large-scale operations distribute OQTFs indiscriminately, including to people who have spent less than three months in France. In one such incident, several people who had been in France for less than a fortnight were served with an OQRF on 19 May 2009 on land adjoining the Route de la Courneuve in St Denis.

### b) Correlation with eviction proceedings from a dwelling place

These notices are very rarely served when the recipients live in a place that attracts little attention. They follow or precede repatriation proceedings at the request of the owner, or when the Prefecture wishes to disperse dwellers at a site considered to be insanitary or threatening. In practice, sometimes just serving the OQTFs is enough to force the occupants off a piece of land or out of a building, without needing to go through the normal repatriation proceedings, which take longer and cost more.

For example, in August, 2009, the Prefecture in Strasbourg attempted to force families out by serving OQTFs on those present on land at Koenigshoffen, where repatriation proceedings had failed two years previously.

Similarly, in Denain in northern France, families who had occupied communal property for 15 days were targeted for a large-scale check by the border police on 16 September. Thirty-two of them were taken into custody and released with OQTFs. They then gradually started to leave the squat, some going to Belgium or the neighbouring Department of Pas-de-Calais, and others joining an assisted humanitarian return organized by the OFII, (previously the ANAEM, *Agence Nationale de l'Accueil des Etrangers et des Migrations* - French National Agency for Receiving Foreigners and Migrants ).

Lastly, at Nantes, on land where families had received support for four years under an agreement with the town council, some were deliberately excluded from the support programme, again by being served OQTFs: on 15 July 2009, four people on one of the plots subject to the agreement were served with OQTFs (dated in fact 29 April 2009!).

### c) Methods of police harassment directed at unwanted groups

Beyond being a simple administrative measure, an OQTF is a tool used to exert pressure on unwanted groups of people, forcing them either into other Departments, or even better, off national territory. Prefectures very rarely plan to carry out these measures using force, so the exercise is often staged in a way that is intended to impress those targeted.

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<sup>43</sup> EU Directive 2004/38/EC dated 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States – Art. 28

<sup>44</sup> Report from the Commission to the European Parliament and the Council on the application of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, 10 December 2008

Sometimes, where the check has been able to identify the occupants of the land, the measure used is a rogatory commission in respect of illegally occupied land, or on the pretext of minor offences. The dwelling place is surrounded, and all the adults present have their fingerprints taken and their faces and profiles photographed anthropometrically. This occurred on 16 September 2008 in Méry-sur-Oise (Val-d'Oise) at the camp at the Butte de Montarcy.

In at least one case, the police checked identities, and at the same time served around sixty OQTFs. Amazingly, they then proceeded to stamp the arms of the people they checked, a totally inappropriate procedure that they claimed avoided double counting. This incident took place on 28 August 2009, on land occupied by between 100 and 150 people at the boundary between Corbeil and Ormoy in the Essonne. The Higher Court (*Tribunal de Grande Instance*) at Evry had just turned down a request for an eviction order regarding this site. Both those involved and the associations condemned such practice as outrageous, and considered that its probable purpose was to intimidate the occupants into leaving. The only response has been a laconic statement from the Ministry stating that the practice is “particularly inappropriate for checking foreigners whose situation is irregular”.

**Pas-de-Calais – May 2009 – Statement by a member of the LDH, (*Ligue des Droits de l'Homme* - the French League of Human Rights)**

A man living at Wimille in the Pas-de-Calais was stopped on 30 April in Amiens, taken into custody and questioned. When he was released, all his identity papers were confiscated. He was served with an OQTF stating that his papers would be returned to him at the French border and that he should write to the Prefecture at least 8 days before leaving, so they could be forwarded. He had planned to return to Romania via Belgium. The Prefecture were informed by telephone and replied “not for Romania: there’s a border post (!) at Strasbourg”. Reminded that there was no longer a border, the spokesperson replied “But there are still Customs Officers: the Customs Services will give him his identity papers”. The OFII refused to allow the man an assisted humanitarian return since he had no identity papers for the aircraft, but offered to pay for an additional journey to Paris to ask the Romanian Embassy for copies of the papers.

A lawyer from the LDH lodged an appeal based on less than three months’ residence in France, since the OQTF stated that the person did not know the date he had entered the country. However, the Administrative Court rejected the appeal on 27 May, after contacting the police in Amiens, who forwarded a statement from the man saying that he had been in France for 3 or 4 months. The lawyer made another simultaneous appeal against the confiscation of papers by the Prefecture. The man was given notice to appear at a hearing but not until September, and in the intervening period, remained without an identity card.

**Seine-Saint-Denis – Sevrans – 10 June 2009 – Statement from a member of the GISTI (*Groupe d'Information et de Soutien des Immigrés*, French information and support group for immigrants)**

At Sevrans (Seine-Saint-Denis) on 10 June at 6:00am, the police broke down doors or opened them forcibly. A small girl was struck on the forehead when one of the doors was opened violently. People were roughly awoken. The police searched the premises and then gathered everyone together in a large room. They stayed in that room for two to three hours, without being allowed to go to the lavatory. Each family was summoned separately. Each in turn was separated from the others, and brought before one of the officers from the Prefecture who were installed in one of the lorries outside the squat. The officer recorded the family’s identity, then in some cases served an OQTF.

**Seine-Saint-Denis – St Denis – 10 November 2009 – Statement from a member of Parada, the French arm of a Romanian-based children’s charity**

Parada and the CAM, (*Comité d'Aide Médicale* - Medical Assistance Committee) today went to a plot of land at Ambroise Croizat, where a large number of OQTF had been served in the morning. The operation was backed up by 14 coaches from the CRS (*Compagnie*

*Républicaine de Sécurité* – Republican Security Companies), the OFII and at least two interpreters. The operation began at 7:00am. OQTFs were served on every person present, with the name of the person written in by hand. Five or six families said that they would like help to go back. Many others wanted to appeal, but were still in a state of shock. It is difficult to find out exactly what they want to do. They did, however, say how distressed they were: a good number had just built shelters and were worried about the drop in temperature.

## 2) At Court level: European Union law is ignored when the European citizen is a Roma

Whilst the administrative courts were cancelling dozens of APRFs during the first half of 2007, many lawyers and attorneys working with GISTI and CIMADE supported by Romeurope members in contact with Roma on their sites, began to get organised in mid-June of that same year using an internet discussion group called "OQTF," whose purpose was to coordinate the actions of various supporters in order to file appeals across the board against these measures. Lawyers volunteered to participate within the context of legal aid.

With their help, offices were opened in the areas where Roma lived after mass distributions of OQTFs and APRFs had taken place, holding individual interviews with the recipients and filling out standard information forms. These forms were then sent to the lawyers, who divided up the cases in order to personalize the appeals, for which a template had been developed (and regularly updated). In particular, they developed arguments concerning the interpretation of the concept of an unreasonable burden and responsibility for the burden of proof.

A mailing list is used to connect lawyers, non-profit organizations and activists working with people out in the field. This list, which was originally limited to the Ile-de-France region, was later extended to other regions. In 2008, however, after a year, it was decided that it is neither possible nor necessarily a good idea to systematically appeal against these expulsion measures. Paradoxically, the judges were criticizing the lawyers defending the Roma for clogging up the courts, forgetting that the prefectures were the ones who originally caused the many appeals.

It is not really possible to identify clear trends in the decisions handed down by the courts, since they are so disparate. Opposing rulings may be handed down by different chambers on appeals in similar situations, and sometimes within the same jurisdiction. Even decisions by the courts of appeal contradict each other directly.<sup>45</sup>

Despite this inconsistency between French jurisdictions, we can emphasize that a large number of these decisions are uninformed by European law, including in cases where

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<sup>45</sup> For example, on expelling an EU citizen for an infraction of labor laws:

Douai administrative court of appeals No. 07DA00917 on November 15, 2007: The prefect may expel an EU citizen subject to transitional measures who is working without a work permit

Douai administrative court of appeals No. 07DA01288 on December 5, 2007: Working without a permit can serve as grounds for an APRF.

Bordeaux administrative court of appeals No. 07BX00962 on February 14, 2008: Working without a permit cannot serve as grounds for expulsion because that situation is not specified in Article L121-4, which provides an exhaustive list of cases in which EU citizens may be subject to an expulsion measure.

appeals refer to the provisions of Directive 2004-38, which has been incompletely or erroneously applied in French law. A decision by the court of Cergy, for example, concluded that an EU citizen cannot usefully claim the provisions of the directive against an individual act.<sup>46</sup> This aspect was raised during a hearing with the Romeurope Collective at the Ministry of Justice on November 18, 2008, which felt that the problem was essentially in the training provided to judges and mentioned plans to require minimum standards for training judges on EU law... but until the hypothetical effects of this initiative came into play in ensuring that as European citizens, the Roma could enjoy their right of residence, Romeurope was unable to persuade the authorities of the opportunity to distribute a circular or a reminder on the application of European laws that broadly protect EU citizens from expulsion measures.

This could be because in certain cases, in addition to a lack of training, there is also a lack of perspective on how serious it can be to expel someone from the country when they should enjoy freedom of movement. For example, the conclusions of a government commissioner during a hearing in Strasbourg on November 18 and 19, 2008 are particularly cynical, since in substance he observes that expulsion is not serious since the people can return to France at will (thus ignoring the consequences of the round trip on the children's education, the loss of any acquired social rights, the job search, the destabilization due to losing the local roots and reference points formed by living in a place for up to several years, etc.).

This reminder of the correct application of Directive 2004-38 in France could have come from the Council of State. Instead, the positions adopted by the higher jurisdictions on expulsions of EU citizens have caused a great deal of disappointment on two occasions, especially since they never mention the possibility of directly applying the Directive in judicial rulings.

With regard to the circular of December 22, 2006, against which CIMADE, FASTI ( *Fédération des Associations de Solidarité avec les Travailleurs Immigrés* – Federation of Associations acting in Solidarity with Immigrant Workers), GISTI and LDH filed an appeal on June 28, 2007 along with SOS Racisme<sup>47</sup> on the grounds that it denied Romanians and Bulgarians the right to freedom of movement, the Council of State handed down two decisions on April 18, 2008, both of which fell far short of expectations. The circular was partially cancelled by one decree on a question of form, specifically the condition of not representing an unreasonable burden and references to the RMI, since those two points did not yet have any foundation in French law (the circular was dated December 2006, before the decree of March 21, 2007) and claimed to directly apply some of the provisions of the Directive of April 29, 2004. Furthermore, this first decree approved APRFs targeting EU citizens during their first three months of residency, not only if their behavior represents a threat to public order but also if they fail to respect labor laws. A second decree, meanwhile, broadly confirmed the legality of the order of March 21, 2007, including the condition of not representing an unreasonable burden during the first three months (and beyond, naturally).

Subsequently, a series of appeals against OQTFs served to Romanian and Bulgarian citizens were filed in 2007 and 2008 with the administrative court of Cergy-Pontoise (Seine-Saint-Denis and Val-d'Oise Departments). The court cancelled many of them and then, on April 15, 2008, suspended its rulings and the consideration of additional appeals to request an opinion on a contentious issue from the Council of State regarding the right of residency of European citizens. Specifically, the court asked for confirmation of the obligation to allow the person in question to present his or her observations before an OQTF was delivered (adversary procedure) when he or she had not even requested a residency card. The request also asked whether the prefecture or the person was responsible for proving the date

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<sup>46</sup> Cergy-Pontoise administrative court No. 0805961 on March 30, 2009

<sup>47</sup> The request by SOS Racisme referred to the December 2006 circular and to the March 2007 decree.

of entry into France as being more or less than three months previously, and finally questioned whether the criterion of insufficient resources could be applied to people not receiving aid from French social security.

The Council of State gave its opinion in November 2008<sup>48</sup>, and it was repeated in May 2009 by the Ministry in a circular<sup>49</sup>.

Without even commenting on the courts' option of directly invoking Directive 2004-38, the responses provided were generally unfavorable to the defense of human rights: prefectures are released from having to perform any adversary procedure before delivering an expulsion measure, the burden of proving the date of entry into France rests with the prefecture but can be turned against the person in question if convincing information is provided, and lack of resources can be cited to issue an OQTF even if the person has never requested social security benefits

### a) The various grounds cited for expulsion measures

#### a-1) Expulsion for lack of sufficient resources

The main reason cited by prefectures as grounds for OQTFs is the concept of an unreasonable burden. This concept, which had existed in European law since the 1990s, did not appear in France until the law of July 24, 2006, referring to stays longer than three months; it was reflected in regulations by the decree of March 21, 2007 on stays of less than three months. If Romanian or Bulgarian citizens do not receive a work permit, they must have sufficient resources: no amount is specified, except that the RMI represents the highest level of resources that can be required.<sup>50</sup>

In the case of Romanian and Bulgarian Roma, however, these grounds for expulsion is highly debatable in terms of its legality under European law and jurisprudence, which make it a very difficult argument for Member States who cite it as grounds to refuse the right of residency to an EU citizen. Indeed, the Directive of April 29, 2004 clearly indicates that on its own, simply making use of the social security system does not automatically call for an expulsion measure: the authorities are supposed to study the situation on a case-by-case basis and evaluate whether or not the difficulties are temporary, taking into account the length of the stay, the personal situation and the amount of assistance granted.<sup>51</sup> Moreover,

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<sup>48</sup> EC opinion, November 26, 2008 No. 315441

<sup>49</sup> Circular of May 19, 2009 on foreigners. – Orders to leave the French territory issued to citizens of other Member States of the European Union, States belonging to the European Economic Area and the Swiss Confederation. – Council of State opinion No. 315441 on November 26, 2008

<sup>50</sup> "Regarding stays of longer than three months, any EU citizen, any citizen of the EEA or the Swiss Confederation has, unless his presence is a threat to public order, a right of residence when he fulfils one of the following conditions: (...) / 2. he has health insurance and sufficient resources for himself and his family to avoid becoming a burden for the welfare system." CESEDA L. 121-1

"The sufficiency of resources is evaluated based on the personal situation of the person in question. In no event may the amount required exceed the RMI mentioned in Article L. 262-2 of the social action and family code (...)" CESEDA R. 121-4

<sup>51</sup> "As long as the beneficiaries of the right of residence do not become an unreasonable burden on the social assistance system of the host Member State they should not be expelled. Therefore, an expulsion measure should not be the automatic consequence of recourse to the social assistance

the European Commission confirmed the very limited use of these grounds made possible by the directive, stating:

on the one hand, that "only the perceptions of the social security services may be considered relevant in determining whether the person in question does represent a burden on the social security system"<sup>52</sup>;

and on the other hand, that before determining whether the lack of sufficient resources AND the perceptions of the subsistence benefits represent an unreasonable burden, the national administration has the responsibility of assessing the proportionality of that burden in light of the 3 criteria defined in the directive: the duration (for how long was the assistance granted? is the person likely to be able to do without social security services soon?), the personal situation (to what degree has the person integrated? how long has he or she been in the host Member State?) and the amount of assistance granted.

France, however, is far from offering this type of close scrutiny, since the public authorities consider the simple assumption that these people lack sufficient resources, based solely on the observation that they are living in a squat or a shanty town, sufficient grounds to establish that they are an unreasonable burden on the social security system.<sup>53</sup> Most of the courts confirm this understanding, which is a far cry from the restrictive criteria of European law, deeming that the person himself must prove that he has sufficient resources in order to dispute the expulsion measures to which he is being subjected.<sup>54</sup> As mentioned above, in its opinion in November 2008, the Council of State purely and simply confirmed, without supporting arguments, that "the prefect may cite insufficient resources as grounds for making the decision to expel an EU citizen who has been residing in France for more than three months, even if the person has not yet effectively been taken on by the social security system."<sup>55</sup> As such, the Romanian and Bulgarian Roma, who are citizens of the European Union, and the vast majority of whom do not receive any benefits, will continue to be targeted by expulsion measures simply because they are living in squats or shanty towns.

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system. The host Member State should examine whether it is a case of temporary difficulties and take into account the duration of residence, the personal circumstances and the amount of aid granted in order to consider whether the beneficiary has become an unreasonable burden on its social assistance system and to proceed to his expulsion." Judgment of the Court 2004-38/CE on April 29, 2004 on the right of EU citizens and their family members to freedom of movement and residence within the territory of Member States – Recital 16

<sup>52</sup> Communication by the Commission to the Parliament and Council on guidelines designed to improve the transposition and application of Directive 2004/38/CE on the right of EU citizens and their family members to freedom of movement and residence within the territory of the Member States, 2009

<sup>53</sup> The Ministry of Immigration, Integration, National Identity and Solidarity Development, in its letter to CNDH Romeurope on December 19, 2008, sets forth a definition of an unreasonable burden that is very different from the restrictive criteria of European law: "Regardless of their nationality, European citizens do not have the unconditional right to reside in France. They may be asked to return to their country under the conditions stipulated in European law, notably when they have no resources to allow them to live decently in France. [...] You state in your report that, with regard to expulsions, no proof is provided to support the argument of insufficient resources or an unreasonable burden on the French social system, apart from simple presence in a shantytown or squat. In reality, the approach is the opposite; it is not up to the security forces in this case, but rather it is up to the people who are affected to demonstrate that they have sufficient resources."

<sup>54</sup> Versailles administrative court No. 0807188 on November 4, 2008: The person in question must provide proof of having sufficient resources; it is not the responsibility of the administration to bring proof that the person represents an unreasonable burden. Strasbourg administrative court No. 0804157 on December 2, 2008: A person who has no professional activity and lives off of CAF assistance amounting to 293 euros a month does not have sufficient resources to avoid becoming an unreasonable burden.

<sup>55</sup> EC opinion, November 26, 2008, No. 315441

## a-2) Expulsion on the grounds of a threat to public order

In some Departments, notably Val-d'Oise, the prefecture's strategy has been to continue to also issue APRFs, which are more difficult to appeal against because of their very short deadlines (forty-eight hours) even though the grounds, particularly disruption of public order, are easier to dispute. Although disruption to public order can serve as grounds for expulsion under EU law (where the notion is much more precise and detailed than in French law), this requires that the disruption represents a serious threat (acts of terrorism, for example) and a current one (it cannot be, for example, an offense committed two years ago if there is no reason to believe that the person will re-offend). Nonetheless, the slightest infraction is being used as an excuse for prefectures to issue APRFs on grounds of a serious threat to public order.

In the few cases where people do manage to file an appeal before the 48-hour deadline, the courts generally – unless there is a repeat offense – cancel these disproportionate measures taken for shoplifting, theft of clothing<sup>56</sup>, plumbing materials<sup>57</sup>, cables from a trash can<sup>58</sup>, driving under the influence of alcohol<sup>59</sup>, soliciting<sup>60</sup> or even, quite frequently, illegal occupation of land.<sup>61</sup>

## a-3) Expulsion for an infraction of labor laws

Although illegal work is indeed mentioned in French law<sup>62</sup> as one of the circumstances that can serve as grounds for issuing an APRF, the reasoning is highly debatable if it is applied to EU citizens. The legal rulings on this point contradict one another, some of them<sup>63</sup> stating that working without a work permit can justify expulsion even for a European citizen subject to the transitional measures, while others<sup>64</sup> on the contrary point out that working without permission is not included on the exhaustive list of cases that can serve as grounds to expel citizens of the European Union.<sup>65</sup>

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<sup>56</sup> Lyon administrative court No. 0704325 on June 29, 2007

<sup>57</sup> Lyon administrative court No. 0701326 on March 6, 2007

<sup>58</sup> Lyon administrative court No. 0700541 and No. 0700542 on February 2, 2007

<sup>59</sup> Rennes administrative court No. 0803460 on August 8, 2008

<sup>60</sup> Nantes administrative court No. 073176

<sup>61</sup> Cergy Pontoise administrative court No. 0808705 on August 13, 2008 and Versailles administrative appeals court No. 08VE020982 on April 28, 2009

<sup>62</sup> CESEDA Art. L511 II 8°

<sup>63</sup> [Douai administrative court of appeals No. 07DA01288 on December 5, 2007](#); [Douai administrative court of appeals No. 07DA00917 on November 15, 2007](#); Lyon administrative court No. 0700863 on February 20, 2007; Toulouse administrative court No. 0702244 on May 15, 2007; Lyon administrative court No. 0705724 on August 31, 2007; Rennes administrative court No. 074306 on October 23, 2007; Toulouse administrative court No. 07/2150 on May 4, 2007

<sup>64</sup> [Bordeaux administrative court of appeals No. 07BX00962 on February 14, 2008](#)

<sup>65</sup> CESEDA Art. L121-4

## b) Proving the length of stay in France

Without a border, it is very difficult to prove how long a person has been in France, both for the person himself and for the prefectures.<sup>66</sup> Courts faced with this difficulty have made contradictory decisions on the nature<sup>67</sup> and burden of proof, which is sometimes placed on the person<sup>68</sup> and sometimes on the administration.<sup>69</sup>

In the end the Council of State decided the issue by acknowledging that " if there is a dispute regarding the length of stay of an EU citizen that the administration has decided to expel, it is the responsibility of the administration to bring forth the information on which it has based its decision that the person no longer meets the conditions necessary to remain in France."<sup>70</sup>

## 3) The implementation of repatriation measures

### a) Crossing the border and returning

In the vast majority of cases, Romanian and Bulgarian Roma comply with repatriation measures by spending several days to several months in their country of origin or sometimes even in a country bordering France. Repatriation measures are not a ban on residing in France - the individuals are in a legal situation and have the right to return once they have crossed the border. Both the prefectures and the courts are aware of this situation.

Several Romanian Roma, who had long been resident in St Denis and who received official orders to leave French territory (OQTFs), sought to demonstrate this by asking the media to accompany them as a group on a return bus trip to Belgium on 23 July 2008. At the Belgian border, the refusal of officials from the Police de l'Air et des Frontières (PAF), of customs officials and of the Belgian police to examine their documents or to register their departure from French territory merely served to underline the absurdity of this obligation to leave a territory whose borders are now open.

These measures are in reality no more than a tool of police harassment (as is evident from the accompanying violence and the stage-managed way in which they are carried out) as well as a well-known ruse to artificially inflate the number of repatriations. This is obvious, for example, when a prefecture serves OQTFs on a whole group of people who, as it knows

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<sup>66</sup> A ministerial decree is still pending that should allow for the application of the requirement that EU citizens who reside in France for more than three months register with the City Hall.

<sup>67</sup> Simple statements by the person being questioned (Paris administrative court No. 0713072/3/2 on November 28, 2007; Cergy-Pontoise administrative court No. 0712678 on January 8, 2008; Cergy-Pontoise administrative court No. 0805961 on March 30, 2009), a recent expulsion that was already performed ( Lyon administrative court of appeals No. 07LY00452 on December 31, 2007), the lack of record at the City Hall (Lyon administrative court No. 0803179 on July 10, 2008), education for children (Strasbourg administrative court No. 0804157 on December 2, 2008)

<sup>68</sup> Paris administrative court No. 0712249/5-2 on October 18, 2007

<sup>69</sup> Lyon administrative court No. 0802544 on February 12, 2009

<sup>70</sup> EC opinion, November 26, 2008, No. 315441

perfectly well, cross the border virtually every day in order to go and work or to beg in Luxembourg.<sup>71</sup>

## b) Forced repatriation

Since Romania and Bulgaria joined the European Union, only Roma from the ex-Yugoslavia have continued to be regularly detained (even though they could not be expelled, as they did not have a border pass issued by their countries of origin).

However, Romanians and Bulgarians have periodically continued to be detained too. One particular case worth noting is the repatriation on 24 April 2009 of 27 Romanians, including 16 children, who were living in Department of Nord. They had all been served with an OQTF in March 2009 when they were evacuated from the Porte de Valenciennes in Lille, where they had been camping. They were subsequently moved to a piece of land in Lomme on the decision of the prefect of the Department of Nord. In its haste to repatriate these individuals and to speed up the evacuation of the site, the prefecture failed to take into account an order issued by a juvenile court on 17 April assigning a social worker for nine siblings from a family in especially difficult circumstances. The designated social worker was not even permitted access to the administrative detention centre in Lille-Lesquin.

Since the summer of 2009, in a worrying development, detentions of Romanian Roma, particularly in the Department of Île-de-France, have increased significantly. The issuing of repatriation orders and arrests often take place within the shanty-towns themselves.

Staff from CIMADE, who work on behalf of foreigners in detention, agree that there are numerous procedural irregularities in the way they are treated.

In a significant number of cases (20 to 25 expulsions from detention centers at Palaiseau, the Palais de Justice, and Vincennes), individuals were repatriated on the basis of OQTFs which had already been enforced. In other words, the individuals had already left France at least once, sometimes even supported as part of a humanitarian repatriation after the issuing of the OQTF.

The prefecture also invokes public order offences as a spurious justification for issuing APRFs and for detaining individuals. An example of this is the case of two occupants of the Petit-Clamart site who were arrested with 16 others. However, they were the only two to be placed in detention after being served with an APRF on the grounds that they may have been responsible for a fire which had just destroyed the shanty-town and that, in addition, they had been crossing a main highway, 'which is very dangerous'. Fortunately, the administrative tribunal ruled that the facts had not been satisfactorily established and they nullified the APRF. Similarly, two young people from the shanty-town at Massy were arrested, served with an APRF and placed in detention in July 2009 for a minor offence, without being formally convicted. It should be noted that the recourse to detention was subsequently used in a targeted and very regular manner against occupants of the Massy camp in the Department of Essonne, particularly following the issuing of a collective OQTF in mid-August 2009.

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<sup>71</sup> Several OQTFs were served on 29 June 2009 on the occupants of the site at Mont-Saint-Martin even as the sub-prefect was actively engaged in seeking accommodation solutions for these families in the Longwy area.

### **Roms Action - Open letter of 13 February 2010**

On 27 January 2010, in the early hours of the morning, three police vans accompanied by a police car from the BAC (*Brigade anti-criminalité* – Anti Crime Squad) and an interpreter descended on the same location.

After a perfunctory search of the premises (of the cupboards and beneath the beds), the police arrested:

- a family of three children (aged 15 months, 14 and 16)
- a family of two children (aged 6 and 11)
- a father (whose two children have been attending school for two years)

No explanation was given for the search of the premises. To justify the arrests, the only explanation given was the 'checking of papers at the prefecture'.

At 8am, we learnt that the families were not at the prefecture but at the police station in Moirans.

At 4.30pm, we learnt that two of the three men had been transferred to the detention centre in Lyon. One of the men had already been repatriated to Romania two weeks previously (on 11 January). He had returned to France a few days later to rejoin his wife and his children, who are attending school.

We also learnt that the other three adults and five children had been released after being served with OQTFs (*Obligation de Quitter le Territoire Français*). The families who were served with an OQTF had only been in France for one week.

## **C - Humanitarian repatriation**

Although the objective of mass expulsions of migrant Roma from France has not been revised, the real new factor since the entry of Romania and Bulgaria into the EU has been the French government's need to change the arrangements used to justify these expulsion operations against EU citizens. The circular of 7 December 2006 on assisted repatriation available to foreigners without legal residence status, or who are destitute, arrived just in time. This circular distinguishes between two kinds of assisted repatriation managed by ANAEM: 'voluntary' assisted repatriation, which applies to third-country nationals whose residence application has been refused or who have been served with an APRF and who wish to return to their country of origin; and 'humanitarian' assisted repatriation, which applies to both EU citizens and those of third countries who are destitute or in very insecure circumstances. Roma who are EU citizens are thus fully eligible for the second kind.<sup>72</sup>

In August and December 2006, a similar arrangement was tested for around one hundred Roma migrants living in Réau (in the Seine-et-Marne Department). This was written into a circular dated March 30, 2006 asking prefects to extend "to the whole country the experiment with assisted repatriation conducted since September 2005 in 21 Departments" and above all to make it more effective. In its 2006 report the Romeurope Collective had already denounced the lack of preparation surrounding these two operations, which in no way guaranteed the durable integration of individuals returning to Romania. As a matter of fact, most of the families concerned have since returned to France, according to reports received from our network members in these Departments.

On the basis of the circular of December 7, it might have been hoped that genuine support would be given for planned repatriation, since it details a whole procedure to be followed: information, preparing a resettlement plan, personalized support prior to departure and, if necessary, upon arrival in the country of repatriation. But from the first repatriation operations carried out in this framework from August 2007 in Seine-et-Marne up to the present time, all the information which we have received makes it clear that, firstly, in the great majority of cases, the consent of the persons concerned to take part in repatriation operations was not

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<sup>72</sup> *Inter-ministerial circular DPM/ACI3/2006/522 of 7 December 2006 concerning provisions for the assisted repatriation of foreigners in an illegal or destitute situation.*

the result of a deliberate choice but was obtained as a result of a whole set of pressures and constraints and, secondly, that the conditions under which these repatriations take place, and the damaging effects of the procedure, totally belie the label of 'humanitarian'.

The way this system is managed remained unaltered when responsibility for it passed to the new *Office français de l'immigration et de l'intégration* (OFII), which answers exclusively to the Ministry of Immigration and which replaced the *Agence nationale de l'accueil des étrangers et des migrations* (ANAEM) as of March 2009.<sup>73</sup>

## 1 - A “Roma” action plan which is specifically coordinated

OFII records are quite explicit about the fact that assisted, humanitarian repatriations have mainly involved “individuals who are staying in collective camps”. In reality, this mechanism has been designed specifically to contribute to the eradication of Roma shanty-towns in France.<sup>74</sup>

It is specifically coordinated by all those organs of the State (and sometimes the local authorities) involved in the clearance of living areas and the repatriation of some of their occupants.

In the Department of Loire-Atlantique, for example, an “operational repatriation committee” was set up by the prefecture in October 2007 to focus specifically on unapproved sites. Within this framework, OFII officials are summoned every week by the prefecture, along with officials from DDASS (*Direction départementale des Affaires sanitaires et sociales* - Departmental Directorate of Health and Social Affairs), DDTEFP, customs, the national police and the border police. In Seine-Saint-Denis, OFII also attends weekly meetings at which the expulsions from the shanty-towns are planned. Similar coordination procedures, always at the behest of the prefect, are put into place in Departments where there is a strong presence of squats and shanty-towns.<sup>75</sup>

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## 2 - Consent obtained in pressured circumstances

The extent to which requests for assisted repatriation are genuinely “voluntary” was seriously called into question in the last Romeurope report, which drew on a significant number of witness statements which highlighted the many constraining factors (including physical ones) which weigh on people's decisions to sign these requests: when detained on the order of the police just before, or even after, getting on the bus, with no possibility of retracting, with ID confiscated, no interpreter, etc.

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<sup>73</sup> Law n° 2009-323 of 25 March 2009 on accommodation and exclusion issues and Decree n° 2009-331 of 25 March 2009 replaced the *Agence nationale de l'accueil des étrangers et des migrations* with the *Office français de l'immigration et de l'intégration*.

<sup>74</sup> *OFII report to its Board of Directors – 22 April 2009 – Assisted repatriation and the creation of economic activities – Review of 2008*

<sup>75</sup> Pascaline CHAPPART, ....

While it is true that testimonies of people being forced to get on a bus and being obliged by the police to sign assisted repatriation forms are no longer being received, it nevertheless remains the case that requests for assisted repatriation are still often made in pressured circumstances.

The proposal is often made by OFII officials, who accompany police officers to the squats or shanty-towns when they issue an expulsion order (and whose occupants therefore face finding themselves in the street in the very near future) and / or when they serve collective repatriation orders. In the latter case, the threat of detention is regularly used to push individuals into agreeing to humanitarian repatriation (this was the case with the serving of an OQTF on 10 June 2009 in Sevran - individuals who did not want to sign the request for assisted repatriation were threatened with detention and expelled, starting on 10 July).

Other testimonies speak of false promises concerning the amount of financial assistance available or the extent of social support offered in Romania. These promises are made by the prefecture or OFII in order to persuade people to opt for humanitarian repatriation. A document which accompanied OQTFs issued to Romanians in Toulouse specified the amounts of financial aid allocated within the framework of humanitarian repatriations to be: "€3,500 for a couple, €2,000 for an adult, €1,000 for a minor up to the third child and then €500 for each additional child. This assistance will be paid in several installments, starting at the moment of departure and continuing over one year in the country of repatriation". Naturally, families who returned to Romania because they believed these figures received no more than the standard €300 per adult and €100 per child.

Humanitarian repatriation is clearly a means of speeding up the departure of individuals rather than of creating the conditions necessary for elaborating a personalized, realistic and structured project for repatriation.

Examples of the correlation between humanitarian repatriations and the expulsion from living areas spaces include the departure of 120 individuals, repatriated on a charter flight from Nantes on 11 June 2009 (the third operation specifically targeting Romanian Roma in Nantes since the beginning of the year), just after the evacuation of a large shanty-town located on the site of the former abattoirs in Rezé. There is also the case involving the prefecture of the Haute-Garonne, which reserved seats on a plane bound for Romania (before the court ruling, expected on 19 June 2009, had even been delivered) following an expulsion order targeting around 50 individuals, who were living in a building in the urban community of Toulouse, close to the José-Cabanis multimedia library. Some of the individuals agreed to assisted repatriation (without financial aid, because they had previously benefited from such aid), while the rest were evacuated from the premises.

### 3 - The absence of support upon arrival

Justified on the grounds that it facilitates "the reintegration of individuals within their countries, with the hope of a better life there", the scheme's ultimate purpose is to evacuate the shanty-towns and squats in France and to meet the target quotas for repatriations. Even OFII officials, whose job it is to persuade people to agree to assisted repatriation, privately concede that they do not in fact have any information on the conditions upon arrival in Romania or on the NGOs which OFII funds to receive returned migrants and to provide them with social support. Local non-governmental organizations in the countries of origin, with which OFII has signed agreements for the provision of social support and of assistance in the setting up and running of economic projects, lack the necessary human and financial resources to carry out their mission. They work without any real coordination between themselves and OFII which sometimes does not even inform them of the number of

individuals they are supposed to receive or of the situation of those individuals. The result is that, after a single contact with a social worker upon their arrival, virtually no support is offered - no healthcare, no school for the children, no help with obtaining ID documents (documents which are essential for obtaining potential aid), etc. This work is sometimes undertaken by other organizations that have no connection with OFII.<sup>76</sup>

Arrangements for assisted repatriation could potentially offer opportunities, providing that individual dossiers are genuinely based around the volunteers' personal projects and backed up by financial assistance with reintegration which is paid to families who have a viable economic project in their country of origin. But once again, the reality is very different to the promises. As was already the case in 2006, the financial aid to get projects off the ground (up to €3,660) and the technical aid for setting up the project (operators receive an average of €1,200 in funding per project) which is supposed to be allocated to support economic projects is, in the end, hardly ever granted to the parties concerned. There are numerous testimonies from people who have returned to France having waited months for a response from ANAEM after submitting a proposal for an economic project via organizations which were supposed to provide support on the ground to Romanians who had been repatriated to their country.

Although the Ministry, citing 42 economic projects supported by OFII in Romania in various business sectors, claims that “mechanisms for supporting the creation of economic activities, which meet the needs of migrants who wish to invest in their country, are beginning to bear fruit”,<sup>77</sup> in reality the record of OFII is disastrous. Of the 409 projects accepted in 2008, representing an investment of € 2.3 million for ANAEM (OFII), Romania, with 85 projects, has benefited more than any other country with the exception of Mali. But OFII has really failed in this country: 61% of the projects involve rearing livestock and do not take into account the preferences or the skills of the beneficiaries. In addition, these projects are mainly developed for those who were voluntarily repatriated and who benefited from assisted humanitarian repatriation. But “they are not very durable and do not create many jobs (7 for 85 projects).

Certain promoters are inclined after a year to sell off the goods they have acquired thanks to the financial aid received from ANAEM and to leave Romania once again.”<sup>78</sup>

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#### 4- Returning to France after humanitarian repatriation

Regardless of the context or motivation for the departure, the vast majority of those who “benefit” from a humanitarian repatriation come back to France a few weeks later. Herein lies the absurdity of the repatriation policy; by all accounts, it has not reduced the number of Romanian and Bulgarian Roma living in shantytowns or squatting in France. Very few people stay in Romania for good following an OFII repatriation, and those who do return to France generally return to the same Department and even the same town.

**Account by RESF Nîmes (*Réseau Education Sans Frontières* - Education network without borders) concerning several Roma families in Alès – March 2009**

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<sup>76</sup> Ministry of Immigration, Integration, National Identity and Co-Development Solidarity, letter to CNDH Romeurope dated 19 December 2008.

<sup>77</sup> Ministry of Immigration, Integration, National Identity and Co-Development Solidarity, letter to CNDH Romeurope dated 19 December 2008.

<sup>78</sup> OFII report to its Board of Directors – 22 April 2009 – Assisted repatriation and the creation of economic activities – Review of 2008

The home for young workers that was evacuated in May 2008 was housing illegal immigrant Roma from the former Yugoslavia and Romania. All were receiving family allowances. This situation lasted 3 years. The dwelling had to be evacuated for renovations. RESF negotiated with the prefecture and the DDASS for regularization for everyone in order to facilitate relocation. The Roma from the former Yugoslavia and the others benefitted from it, but the Romanian Roma were issued OQTFs.

The Romanian Roma (from Timisoara), sent back through the ANAEM on May 14, 2008, are all starting to return to Alès. They find lodging through fellow Romanians settled in France for a long time who rent them hovels at very high prices. Some families look for caravans. They live essentially by selling scrap metal and begging.

In that respect, it is surprising that humanitarian repatriation can still be presented by certain local authorities as a credible alternative to policies of reception and access to rights in France. In a November 6, 2008 letter to the Human Rights League, the Assistant Director General of the Nantes CCAS put it this way: "The city of Nantes and the greater Nantes region do not wish to increase the number of registered sites. I also wish to examine how we might offer an assisted repatriation that is coordinated and enticing enough that these people return to their countries". In 2008-2009 in Nice, the ASE (*L'aide sociale à l'enfance* – Child welfare services), interpreting their mission to protect children in a surprising way, offered, in respect of families with young children evicted from their residence and unable to benefit from a humanitarian repatriation anymore because they had already done so once, not to provide shelter for them at least temporarily, but to pay for their repatriation to Romania. The new "mechanism" has also been somewhat successful and the social action organizations have now become a second version of ANAEM.

In other cases, no one is fooled by the fact that humanitarian repatriation can be sought for the sole purpose of taking a short trip to the country of origin. But that is not discouraging the public authorities from continuing to promote it.

#### **Account of the ALC SPRS (*Accompagnement Lieux d'Accueil Carrefour Éducatif & Social - Support and Welcome ; Educational and Social Crossroads*) – Nice – March 2009**

Pressed by the Roma who had been permanently evicted from their residences, the Association ALC SPRS yielded to their demand and undertook a partnership with the ANAEM to facilitate the departures of those wishing to leave (there were never any steps taken to have the Romanians and Bulgarians expelled). An information package was even distributed in the area in which they lived. In hindsight, the association thinks it was caught in the trap of the assisted humanitarian repatriation mechanism. Thus, the director regrets that "the ANAEM assisted repatriation has contaminated our initial plan in the health field." A community health mediator notes: "Especially during the holidays, we become a veritable travel agency. One day, I took a call from a Romanian Rom:

Hello, we want to have a voluntary return with the ANAEM in Nice, can you help us?  
Yes...How many are you?  
Fifty people.  
And where are you currently?  
In Barcelona."

Ultimately and in a minority of cases, these measures are having the perverse effect of prompting some people to come to France solely to benefit from the assisted humanitarian repatriation after a short stay.

In many Departments, the associations are approached by recently arrived families to issue French residency certificates in order to be able to request an assisted humanitarian repatriation after three months. Arrivals of families who plan to stay in France for only a few months are significant in some Departments, temporarily swelling the population of shantytowns and destabilizing their organization.

It was inevitable that sums being distributed in this way would have repercussions like these. Considering the socio-economic situation in Romania, the promised amount of assistance is very attractive. When this mechanism was introduced in 2007, the amount offered was € 153 per adult and €46 per child; it was reassessed in February 2008 and today it is up to €300 for an adult and €100 for a child. Thus, a family with four children can earn up to €1,000. Moreover, the average monthly salary nowadays in Romania is about €142, so it is awfully tempting for families living in abject poverty in Romania to come to France solely for the purpose of benefitting from assisted repatriation. If the goal of the OFII-run system is to reduce the number of people in France, it is failing miserably.

Nearly two years after establishing assisted humanitarian repatriations, the government has started to announce that it is looking for solutions to stem the almost systematic return to France of the program's beneficiaries. The Ministry of Immigration affirmed in December 2008 that the return to France of Romanians and Bulgarians who benefitted from a humanitarian repatriation could be controlled by the "gradual introduction of biometrics at border controls [sic], for which the November 20, 2007 law makes provision, [and this] will help improve them even more and thus combat this type of fraud more effectively."<sup>79</sup> In July 2009, the Secretary of State responsible for European Affairs, Pierre Lellouche, after a meeting in Bucharest with his Romanian counterpart Bogdan Mazuru, announced the creation of a Franco-Romanian working group "that takes care of the needs of people turned back at the border or expelled" and who come back to "engage in various kinds of trafficking"<sup>80</sup>. This announcement was followed by a February 11-12, 2010 visit to Romania with the main purpose of creating a common Franco-Romanian front to stem the tide of Romanian Roma making "round trips" to France. This second visit was accompanied by declarations transmitted mainly by the press aimed at stigmatizing the movement of Roma families between France and Romania.

On one hand, the Secretary of State has repeated over and over again that the migration to France of Romanian Roma is tantamount to human trafficking involving children and the elderly. The associations, some of which specialize in the protection of victims of human trafficking, see this phenomenon as exceptional in the overall Roma population in France, just as it is in any other population. It is true that a certain number of persons find themselves with no choice but to beg to meet the everyday needs of their families, but the idea of begging orchestrated by criminal networks is more a product of fantasy and of xenophobic representations of Roma and Gypsies than reality.

On the other hand, the Secretary of State has constantly claimed that these migrations are "clandestine", all the more when the people return to France after being sent away once. Such an assertion does not take a person's European citizenship into account. Indeed, it is absolutely certain that the measures taken to expel Romanian Roma in France, with or without the benefit of an assisted humanitarian repatriation, does not involve any restriction of freedom of movement, which constitutes one of the fundamental and one of the best protected rights of EU citizens under Community law. That means that they have a permanent right to leave their country carrying a single piece of identification (Directive 2004-38, article 4) and to be admitted to any European Union Member State (article 5). This right can only be limited by the Member States "for reasons of public order, public safety or public health" in cases where the individual behavior of the person in question "represents a real, present and sufficiently serious threat for the fundamental interest of the society" (article 27). Any measure taken by France or Romania to prohibit, even temporarily, Romanian nationals' access to French territory, outside of these strictly limited cases, constitutes a particularly

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<sup>79</sup> Ministry of Immigration, Integration, National Identity and Co-development, in an 18 December, 2008 letter to the CNDH Romeurope.

<sup>80</sup> AFP Bucharest - 24 July 2009

serious breach of the obligation of EU member states to respect the community law. A recent decision of the European Union Court of Justice (CJUE Jipa, 10/12/2008, C-33/07) reminds that a Member State can only impose limitations to the freedom of movement, even for reasons of “public order” or “public safety”, if it establishes in a specific way “in accordance with the principle of proportionality and on the sole basis of the personal behavior of the individual concerned, that this individual’s exercising the right to leave his or her own Member State in order to go to another Member State may constitute a genuine and sufficiently serious threat to public order, affecting one of the fundamental interests of society”.

In requesting that Romania guarantees that the Roma do not return to France after being expelled, the French government becomes party to illegal practices since Romanians sent away from France have actually already been subject to orders prohibiting them leaving their territory, in flagrant violation of European law.

Furthermore, the assisted “humanitarian” repatriations are, by definition, tied to the situation of persons at a given moment in France, who have been assessed as needing repatriation. It is in no way an assisted relocation (unless it relates to the amount, but this is well below that of the voluntary assisted repatriation available to foreigners from third countries and for whom the procedure is different).

In the end, France is out of order to complain about possible misappropriations of sums that it continues to pay with full knowledge of the facts and where the main effect is to inflate the statistics of those turned back at the border to meet objectives that France herself has set.

## 5- Recording information about the beneficiaries of the humanitarian repatriation

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The beneficiaries of humanitarian repatriation listed in a file which, as indicated by the December 7, 2006 inter-ministerial circular has no other justification than to prevent the same person from benefitting twice from assisted humanitarian repatriation<sup>81</sup>. Since January 2009, the file used by the OFII officials is called “OSCAR” (*Outil de statistique et de contrôle de l’aide au retour* - Statistical tool for controlling assisted return). It already registers a person’s identity and their photograph.

After the approval of the CNIL (*Commission Nationale Informatique et Libertés* - similar to UK Information Commissioner’s Office) and the decision of the Council of State, a judgment came down permitting the introduction of digital images of prints of the ten fingers of the beneficiaries along with their minor children beginning from the age of twelve.<sup>82</sup>

First of all, the reason given to justify this recording of information – to prevent people from benefitting from assistance twice – is dubious, since assisted repatriation has been offered (and sometimes imposed) by public authorities to several Roma who have already received

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<sup>81</sup> “The benefits of these programmes can only be granted once to the same foreigner and spouse. As a result, if a foreigner who has already benefitted from one of the two programmes [voluntary assisted repatriation or assisted humanitarian repatriation] returns to France later, in no way will this person be able to benefit from either of these programmes.”

<sup>82</sup> Décret n° 2009-1310, 26 October, 2009, supporting the creation of an automated data processing for personal information related to beneficiaries of the assisted repatriation system administered by the French Bureau of Immigration and Integration

The 20 November 2007 law (art. L611-3, CESEDA) authorizes digital fingerprinting as well as photographing of foreign national beneficiaries of assisted repatriation.

it. Moreover, although the October 2009 judgment specifies that prefectures and consulates have access to this file, but Department Councils do not, nor do social organizations, illegal access of this file already seems to be occurring and the confidentiality of the information saved in the OSCAR file cannot be guaranteed.

The CNDH Romeurope referred the matter to the CNIL on April 6, 2009, after several events that gave reason to believe that information contained in the OSCAR file was transmitted to various administrations. Indeed, there were several reported cases of social security benefits being refused for the simple reason that the person had benefitted from assisted humanitarian repatriation, without this information being communicated by the people themselves or by the community networks who supported them in their process. In Paris, at the end of 2008 and beginning of 2009, there were at least three reported cases of refusal of emergency accommodation after verification by the 115 emergency accommodation service that the person had benefitted from an assisted humanitarian repatriation. In Val-d'Oise in September and October 2008, the *Caisse d'Allocation Familiale* refused to give rights or to give rights again to two families (even though one of them had a residence permit) on the grounds that they were registered on a list of assisted humanitarian repatriation beneficiaries. A verbal response was given: "this person is barred for life from the CAF, they are on the list of people removed by the ANAEM". In March 2009 in St Etienne, the CPAM refused a family the AME on the grounds that they had returned to France after a humanitarian repatriation with the ANAEM in July 2008. Finally, still in St Etienne, a letter from the Department Council of the Loire explicitly indicated that benefitting from an assisted humanitarian repatriation by the ANAEM is a reason for refusal: the person concerned affirmed that they did not provide this information.

## **D- The special case of nationals from the former Yugoslavia**

Most of the Roma in France from the Balkans are from the former Yugoslavia (Bosnia, Croatia, Montenegro, Kosovo, and Serbia). In these countries, they constitute a numerically significant national minority, officially or unofficially recognized by the authorities, and are very vulnerable there, particularly since they are victims of well-known violence and discrimination: no access to health insurance or social assistance, infrequent schooling for Roma children even at the primary level, in particular for Roma that have been displaced or repatriated from abroad, or those who come as refugees... Although interethnic violence is less frequent and less intense, the silent intimidation continues, targeted mainly at members of minority communities where there has been resettlement. Moreover, the Roma are subjected to numerous assaults, looting and expulsions from where they live, which has the consequence of deterring them from exercising their right to repatriation.

Thus, some Roma have gone into exile fleeing war and racist attacks. Roma, Ashkali and "Egyptians" fled persecution, abductions in particular, after the Kosovo War in June 1999. Other Roma had to flee in March 2004 due to interethnic clashes between Kosovo Albanians and Serbs.

Many wandered in Italy and in Germany for a time before arriving in France. In the past, a certain number obtained refugee status, but since the law on entry and stay requirements for foreigners seeking asylum - CESEDA - came into effect on March 1, 2005, access to the right of asylum is very rare for nationals whose countries of origin are deemed "safe" and to which a relaxed and fast procedure is applied. Begun in June 2005 and since completed, a list of the countries that meet these criteria was made, chiefly including countries from which Roma emigrate: Armenia, Bosnia-Herzegovina, Ukraine, Croatia, Serbia and Macedonia. Roma from these countries therefore can no longer benefit from an in-depth individual examination of their situation, which almost always ends in a refusal of asylum.

Therefore, whether they had already tried to submit a request for asylum or not, many Roma in France from the former Yugoslavia are illegal immigrants. Additionally, there are frequent difficulties related to establishing their civil status, which constitutes a significant obstacle to asserting their rights. In some cases, these people are stateless as they find themselves without a nationality by virtue of the conditions of their birth abroad and of the absence of civil status or for legal reasons tied to the reformation of their countries of origin. In Béziers, the CIMADE supported several Roma from the former Yugoslavia in statelessness applications to the OFPRA: there were three cases where stateless status was granted and several appeals to the administrative tribunal are in progress.

The different attempts by police to expel them are most often doomed to failure since the “nations” from which they come do not recognize them and refuse to receive them. Thus, for the moment, they can be “neither regularized, nor expelled”. But this situation is likely to change: last December 2, the very day that the Commissioner for Human Rights for the Council of Europe, Thomas Hammarberg, declared in a communiqué<sup>83</sup> that it was “quite simply not the moment to undertake repatriations in general and even less forced repatriations” to Kosovo, the French minister of immigration and the Kosovo minister of the interior announced the signing of a “readmission agreement” between the two countries “for people on an illegal stay”.

Numerous recently published reports show to what extent the living conditions of the most vulnerable communities have not improved in Kosovo, in particular that of the Roma and related groups are still subjected to severe discrimination in all spheres of society, and all denounce forced repatriations<sup>84</sup>.

The matter concerns a handful of families nationwide in France, for whom in certain cases an examination (or re-examination) of the more in-depth asylum requests is absolutely necessary. When evidence of persecution and discrimination are lacking, regularization of their administrative situation is very often necessary in terms of how long they have been in France and of the disastrous consequences of sending them back to their countries of origin. A recent case (*Cour administrative d'appel de Douai*, n°08DA01920, July 2, 2009) concerning a Kosovar Rom family that entered France in 2002 points in the right direction. Indeed, it recognizes that “repatriation to Kosovo would have negative consequences for the education and well-being of the children”, all of whom are schooled in France and that consequently “the centre of their private and family life is now in France”. For these reasons it orders the issuance of a temporary “private and family life” residency card for members of the family. The Prefect appears to be gradually accepting this outcome for the Kosovar

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<sup>83</sup> Kosovo\*: “Ce n’est pas le moment de procéder à des retours”, Communiqué from the Commissioner for Human Rights, Strasbourg, 02.12.2009.

<sup>84</sup> United Nations High Commissioner for Refugees (UNHCR), UNHCR’S ELIGIBILITY GUIDELINES FOR ASSESSING THE INTERNATIONAL PROTECTION NEEDS OF INDIVIDUALS FROM KOSOVO, 9 November 2009

Conseil de l’Europe, Report of the Council of Europe Commissioner for Human Rights’ Special Mission to Kosovo, 23 – 27 March 2009

OSCE, Department of Human Rights and Communities, MISSION IN KOSOVO, Implementation of the Strategy for Reintegration of Repatriated Persons in Kosovo’s Municipalities, November 2009

OSCE, Department of Human Rights and Communities, Protection and Promotion of the Rights of Communities in Kosovo : Local Level Participation Mechanisms, December 2009

Roma and Ashkalia Documentation Centre (RADC), Helplessness: RAE Forced Returnees in Kosovo, Passau / Prishtina, October 2009

Romano Them, Fact-finding mission to Kosovo and Macedonia, 28 January to 5 February 2009

Roma families of Tours, under pressure from activists of the Pont-aux-Oies network who provide support to them.

## E- The Politics of the numbers

The sizeable impact of the number of humanitarian repatriations on the overall numbers of those deported is now a well known fact. Among the 29,289 people turned away in 2009, more than one-third are Romanian and Bulgarian nationals, mainly Roma, which can be estimated based on the first half of 2009 in which Romanians represented 4,346 of the 14,844 deportations according to a parliamentary report.

Beginning in August 2007, the Minister of Immigration recognized that he was slightly behind schedule on the goal of 25,000 returns to the border set for 2007. To explain this backlog, Brice Hortefeux pointed to the difficulty of expelling Romanians and Bulgarians, whose countries had then become members of the European Union, and membership made the procedures more complex. He affirmed, however, that “it remains desirable to accompany” these citizens to their countries and that they represent 6,000 of the 24,000 expelled in 2006<sup>85</sup>.

The so-called “humanitarian” repatriation mechanism has gradually helped to meet this objective since 2007 and even beyond, since today, the Romanians and Bulgarians are more frequently deported now than when they were not yet European citizens.

In certain Departments that are more particularly concerned by the presence of Roma families, the proportion is even more significant. For example in Nantes, the Prefecture boasted in its 2008 report about achieving its goals with 248 expulsions, 110 of which were humanitarian repatriations.

If the numbers are compared to the estimates of the number of migrant Roma squatting or living in shantytowns in France – between 10,000 and 15,000 persons – it can be ascertained that it is these Roma who are paying a hefty price for this expulsion policy. The 2009 expulsion quotas, which exceed the targets set by the Head of State, are the main cause. This is also explained by a budgetary advantage: the cost of the humanitarian repatriation mechanism was valued at €2.7 million in 2008<sup>86</sup> solely for financial assistance (i.e. an average of about €267 per person), to which transport and associated expenses (administration, support...) are added. These are enormous sums when one considers that their only effect is to promote round trips between the countries of origin in the European Union, but they remain much lower than the cost of expulsions “under constraint”, estimated at about € 21,000 per person expelled.<sup>87</sup>

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<sup>85</sup> Le Figaro, Tuesday, 21 August, 2007.

<sup>86</sup> Rapport de l'OFII au Conseil d'administration – 22 April, 2009 – *Les aides au retour et à la création d'activités économiques – Bilan 2008* (OFII report to the Board: Assistance for Return to country of origin and the creation of economical activity – a Balance Sheet 2008)

<sup>87</sup> Pierre Bernard-Reymond, (special report writer for the finance commission with responsibilities for “Immigration, Asylum and Integration”, *Rapport préparatoire au projet de loi de finances 2009, Mission "Immigration, asile et intégration", nov. 2008* (Draft report for the Finance Act 2009 concerning “immigration, asylum and integration”, Nov 2008)

## II) THE FREEDOM OF MOVEMENT AND RESIDENCE FOR WORKERS IN THE EU, DENIED TO ROMANIANS AND BULGARIANS

The free movement of workers, set out in article 39 of the Treaty of Rome<sup>88</sup> is one of the fundamental principles of the European Union. It gives all EU citizens the right to gain salaried employment and to exercise it within another Member State, in accordance with national regulations applying to national workers.

However, the Romanian and Bulgarian Treaties of Accession to the European Union<sup>89</sup> allowed the old EU Member States to temporarily depart from this fundamental freedom set out in EU law, by restricting the access to their labor markets for citizens of these two new Member States, during a transitional period. This period, lasting a maximum of seven years, is divided into three phases.<sup>90</sup> The second phase began on 1 January 2009 and the application of the transitional provisions will end for all countries on 31 December 2013, at the latest.

Of the 25 countries that were members of the EU before 2007, today 15 countries<sup>91</sup> have opened their labor markets completely and 10 States<sup>92</sup>, including France, are still implementing the restrictions with regard to workers from Bulgaria and Romania.

These restrictions in France mean that Romanians and Bulgarians find themselves subject to the same regulations as foreign nationals from countries outside the EU: in order to hold salaried employment, they must apply for a work permit from the Department for Work,

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<sup>88</sup> Treaty establishing the European Community, signed in Rome on 25 March 1957, and in Brussels on 17 April 1957 (Act of 30 November 1957).

<sup>89</sup> Treaty between the European Union Member States and Bulgaria and Romania, concerning the Accession of Bulgaria and of Romania to the European Union, on 25 April 2005 in Luxembourg.

<sup>90</sup> Reminder of the different stages

- 1) 1 January 2007 – 31 December 2008: During this initial two year phase, the access of Romanian and Bulgarian workers can be governed by the national legislation of the other Member States. At the end of these two years, the Commission must draft a report allowing the Council to examine this first phase of implementing the transitional provisions;
- 2) 1 January 2009 – 31 December 2011: The Member States can extend the application of their national measures during a second phase of three additional years provided that they inform the Commission before the end of the first phase. Without this, EU law guaranteeing the free movement of workers will apply.
- 3) 1 January 2012 – 31 December 2013: The restrictions, in theory, come to an end at the end of the second phase. However, a Member State maintaining national arrangements at the end of this second phase can continue to apply them until the end of the seven year period following the date of Accession if serious disruptions occur or might occur in its labour market, and after having informed the Commission.

<sup>91</sup> Since 1 January 2007: Finland, Sweden, Czech Republic, Cyprus, Estonia, Latvia, Lithuania, Poland, Slovenia, Slovakia

Since 1 January 2009: Greece, Spain, Portugal, Hungary

Since 1 May 2009: Denmark

<sup>92</sup> Belgium, Germany, Ireland, France, Italy, Luxembourg, Netherlands, Austria, United Kingdom, Malta

Employment and Professional Training (the DDTEFP) and request a residence permit from the prefecture.

## A- PROBLEMS LINKED TO THE PROCEDURE FOR OBTAINING A WORK PERMIT

### **Account by a Romanian Rom living on land near the *Chemin de la Motte* – Rezé, 24 March 2010 – Interview by the *Romeurope Collectif*, Nantes**

I have lived here for three years and have always been looking for work. I found some seasonal work in agriculture (lily of the valley, tomatoes...), and, once, I got a three month contact working for a company.

I never stop looking for work, but it is very difficult, because I don't have a residence permit. Employers don't trust us enough to hire us.

In France, the rules that govern employment are very tough for us. Getting a contact is very difficult [...] and employers don't want to pay the taxes required to hire us because they are very high.

In the other European countries it is much easier: in Italy, for example. If an employer thinks you are suitable, if they are satisfied with your work, in three days you'll have your contract in your hand. Then, within the month, you can get an identity document.

The reason I decided not to go to Italy or to another European country is because my children have been attending the Alain Fournier primary school in Chantenay for three years, and because I don't want to sacrifice their future and their rights. It is for this reason that I have decided to stay here, despite the suffering, for their future. So that they will have a decent life, a job in the future and a place to live.

### **Toulouse – Statement from a member of *Médecins du Monde* concerning the economic activities of a group of families**

One of the group's main activities is cleaning windscreens at the Purpan roundabout or at other thoroughfares in and around Toulouse. They leave for work every morning, 6 days out of 7 and come back to the camp at around 5:30 – 6:00pm, having already been to the supermarket to get food for the evening which is bought with money earned during the day. Some mothers stay in the camp in order to look after the youngest children. One person said they had found work by handing out leaflets but were only paid for half of the time they had spent working. Sometimes there is casual work for the young men. Despite the obvious poor resources, which can be assessed by observing their current living conditions, they all maintain that it would be worse in Romania. Hence their resolution to stay in our country and to keep looking for a way to integrate. They are, moreover, aware that getting an employment contract remains the ideal way to do this. In theory, 150 professions with labor shortages are open to them, for which the employment situation is indisputable. They maintain that they are very motivated to work, whatever the job. 5 or 6 of them have driving licenses.

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## 1) Charges deducted by the OFII

The circulars dated April 2006 and December 2007 regarding the professions open to citizens of the new EU Member States show that taxes and charges remain chargeable by the OFII across all professions, including those subject to labor shortages known as "open".

Since January 2010, employers must pay:

- A tax set between €70 and €300 for an employment with a contract of less than one year
- A tax set at 60% of the full-time, gross monthly salary for an employment with a contract of less than one year, that is, a minimum of €806 for an employment at the minimum wage.

The basis of these taxes is a contribution on the part of employers to money invested by the government in order to encourage foreign workers to come to France or to costs linked to a change in status of a foreign national hired in France who obtains a work permit for the first time. But, in the case of EU citizens subject to the transitional period and already present in the territory, none of the anticipated services which would justify this tax have been rendered by the OFII. In the past, OMI (*Office des migrations internationales* - Office of International Migration), the predecessor of the ANAEM subsequently OFII, had been condemned (GISTI ruling) for having made foreign nationals pay a charge where services were not rendered in return for this.<sup>93</sup>

In addition, the decree of 11 August 1975<sup>94</sup> regarding this tax was amended in 1994 in order to specify that, if the worker recruited is an EU citizen, the tax is not payable. This was not contradicted at the time of the last amendment of this decree in 2004 (after the entry of ten new countries, of which eight were subject to the transitional period). This exemption for employers of EU citizens was also confirmed by a 2005 circular relating to the ANAEM taxes and duties<sup>95</sup>.

On this basis, the GISTI was able to contest the legality of this tax in the case of EU members. The administrative tribunal in Paris was then referred to in respect of a challenge to the OFII charge for the employment of a Romanian citizen. The Board of Immigration Control acknowledged in December 2008 that the total charges requested from the employer were erroneous and that rather than €893, the employer only owed €168, which corresponds to the “charges” part of the tax, the rest (€725) corresponds to the “contribution” part. But this decree, dated 11 August 1975, was quickly repealed<sup>96</sup> without the situation of EU citizens being indicated anywhere.

The regulation of these taxes changed from January 2009: the OFII tax is now payable when the residence permit (revenue stamp) is issued. This change in procedure forces the employer to bring forward the amount of tax whereas previously the notice of the amount to pay was received at the end of the process. Here there is an additional obstacle to hiring, since employers must commit themselves financially even before obtaining the work permit for the person they wish to hire.

## 2) Documents to be provided

The list of documents to be provided, set out in by the order dated 10 October 2007,<sup>97</sup> is itself very limiting not to say discouraging for employers, all the more so when it is a question of small businesses like those in the restaurant or building trade.

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<sup>93</sup> EC, 20 March 2000: <http://www.gisti.org/doc/jurisprudence/2000/ce-gisti-2000-03-20.html>

<sup>94</sup> Decree n° 75-754 dated 11 August 1975 setting out the amount of the fixed contribution instituted by art. 64 of the 1975b finance law (n° 74-1129 dated 30 December 1974) which is the responsibility of the employer hiring a permanent foreign worker in the process of appealing to the National Immigration Office [*Office National d'Immigration*]. Art. 3.

<sup>95</sup> Inter-ministerial circular DPM/DMI2/2005/542 dated 16 November 2005 relating to the taxes and duties due to the National Agency for the Reception of Foreigners and Migration (ANAEM – formerly the Office of International Migration) when granting non-EU citizens residence and work permits.

<sup>96</sup> Decree n° 2009-2 dated 2 January 2009 relating to the amount of tax set out in articles L. 311-13, L. 311-14 and L. 311-15 of the Entry and Residence in France and Right of Asylum Act.

<sup>97</sup> Order dated 10 October 2007 establishing the list of documents to provide in support of a work permit application.

This file, which must be submitted to the DDTEFP, includes the following documents:

1. CERFA application form for a work permit for a foreign worker – simplified employment contract

### 3) The duration of the process

The circular dated 22 August 2007 relating to work permits points to a specific process<sup>98</sup> in the case of Romanians and Bulgarians in order to speed up the processing of their files. This consists in not submitting information to the prefecture, as is the case for citizens of non-EU countries requesting a change in status in order to be able to obtain a paid job in France, but directly to the DDTEFP. However, in several Departments (Bouches-du-Rhône, Seine-Saint-Denis...), this procedure is not followed and the files are submitted to the prefecture, which lengthens the time taken to process them.

Gathering all of the documents which make up the file already takes, in general, several weeks. In the best case scenario, the employer must then wait from one and a half to three months between the submission of the file to the DDTEFP and the stamp on the contract authorizing employment and it is not handed over until after the OFII notification. In other cases, this can take much longer still.<sup>99</sup> Even so, the circular dated 22 August 2007 instructs

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2. Letter justifying the recruitment of the worker and detailing the work they will do;
  3. An up-to-date Kbis document (*extrait Kbis*), if referring to a corporate body; an up-to-date K document [*extrait K*] or a certificate proving qualifications (*carte d'artisan*), or failing that, an income tax notification, if referring to an individual
  4. Articles of association of the corporate body, if such documents exist
  5. Copy of the worker's passport or identity document if they live abroad
  6. Copy of the most recent statement of payment of social contributions sent to the organisation in charge of collecting them;
  7. If need be, a copy of the most recent statement of payment of contributions to the paid leave fund
  8. Worker's curriculum vitae or all other evidence of their skills and experience; if need be, a copy of their qualifications or permit allowing them to take on paid employment; when paid employment is subject to specific statutory conditions, the evidence that these conditions have been satisfied;
  9. Letter of appointment, if need be;
  10. When the employment position is open to challenge, the evidence of research carried out in order to recruit a candidate who is already in the labour market (this condition is withdrawn for Romanians and Bulgarians when the job appears among the 150 professions known as open)

If the need arises, the government can, in addition, ask the employer to produce:

11. a copy of the draft contract drawn up in implementing the law or the collective agreement; for artists, the draft contract for each artist or the group contract for the artist group;
12. a copy of the last two pages of the official employee register or a copy of the last three staff movement logs for establishments with more than fifty employees.

When the employer has already applied for a work permit, the relevant service can, in addition, ask him to produce:

13. the last three pay-slips of foreign employees having worked in France;
14. evidence of the last statement of payment of social contributions sent to the organisation in charge of collecting them; and, if need be, to the paid leave fund;

The documents presented in support of an application for the issue or renewal of a work permit must be translated into French by a certified translator.

<sup>98</sup> Circular DPM/DMI2 n° 2007-323 dated 22 August 2007 relating to work permits

“The new Member States, only being obliged to have a residence permit insofar as they exercise a professional activity in France, should have their work permit application processed as a priority. This application is then submitted directly to the relevant DDTEFP by the employer. If the work permit is granted, the service for foreign labour notifies of its interest and forwards the file to the ANAEM who passes it on after processing to the prefecture. The rest of the procedure is the same as for a change of status.”

<sup>99</sup> Some examples of the waiting period were reported in this way in several towns at the time of the national meeting of the Romeurope Collective on 24 January 2009: a file was pending for more than 6 months in Marseilles. Several files were also pending for more than 6 months in Lyon. The director of regulations at the DDTEFP of Seine-et-Marne had declared verbally that he estimated the waiting period for a response to be 4 months, beyond which there is an implied rejection. A Romanian who was present indicated that he had received a work permit after 6 months and the residence permit 3 months after that. Finally, in the Department of Var, a person supported by the SICHEM association

the administering of a fast-track processing of files, especially if they concern EU citizens. The circular indicates that “the processing of the work permit application is reduced to a common law time limit of two months imposed by article 21 of the law dated 21 April 2000. The DDTEFP therefore has a maximum of two months to make known their decision for submitting the complete application. You would, nevertheless, see to it that the files are the subject of prompt processing (ten days maximum) in the most urgent cases.”<sup>100</sup>

In the same way, the circular dated 29 April 2006<sup>101</sup> advised that the employment office “considers applications swiftly in order to confirm our desire to open up the market to new Member States”.

This waiting period in the processing of applications, with very different practices according to the Departments and the uncertainty of the response, makes the majority of jobs almost inaccessible.

#### **Statement from the association “Les mots s’envolent” – December 2008**

Via the FARE, we pointed Mr. M., a 32 year old Romanian Rom, in the direction of a job as a window cleaner. He had enough French, a vehicle and could work irregular hours. One employer was interested, but after several weeks he hadn’t followed up the application. The employer was called and he explained that, despite his interest, another person was going to take the job, being in a position to take it straightaway.

#### **An example from Nantes**

In Nantes, a local task force which includes the employment office, the prefecture, the Job Center, Nantes conurbation and the Department Council, has implemented a specific procedure to enable a faster appointment of Romanians and Bulgarians. Employers who wish to hire people on a long-term basis submit two applications at the same time to the employment office:

- 1) An application for a contract of fewer than three months, for which the work permit is issued in 3 to 5 days. For this first, short contract, the prefecture of Loire-Atlantique does not require people to apply for a residence permit and employers do not pay the ANAEM tax.
- 2) At the same time, an application for a longer contract or CDI [an open-ended contract] is submitted and considered before the end of the first period of 3 months. The ANAEM tax is paid at the end of the process.

#### **An example from Seine-Saint-Denis**

In Seine-Saint-Denis, a open letter was sent by the sub-prefecture of Saint-Denis to the employment services, solely for the benefit of families being supported within the scope of integration villages, in order to guarantee the processing of the files within a period of one month (which should, nevertheless, be the rule for everyone if national circulars were enforced).

## 4) The duration of the contract

In theory, it is possible to apply for a work permit for a fixed-term contract (CDD), with no text indicating that an open-ended contract (CDI) is necessary. The law (the labor regulations as well as the regulations on the entry and residence of foreigners and the right of asylum) distinguishes, moreover, employment contracts lasting fewer than 12 months (therefore inevitably CDD) from those lasting 12 months or more (which could be CDD or CDI). In the first case, it is necessary to re-apply for a work permit at the end of the contract.

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was still waiting for her residence permit even though she had been working with a work permit for 9 months.

<sup>100</sup> Circular DPM/DMI2 n° 2007-323 dated 22 August 2007 relating to work permits

<sup>101</sup> CIRCULAR N° DPM/DMI2/2006/200 dated 29 April 2006 relating to work permits issued to nationals of the new EU Member States during the transitional period

However, some DDTEFPs insist upon a long contract or even a CDI and refuse to grant work permits for short or temporary contracts. Several refusals on these grounds have been noted in the Loire and in certain Departments in the l'Île-de-France.

## 5) Payment terms

There is no requirement in the text with regard to weekly working hours. A work permit can be granted for a part-time contract. On the other hand, it is necessary that the salary is at least equivalent to the SMIC<sup>102</sup>.

Thus, in certain employment sectors, such as the caring professions, where working part-time is the norm, it is almost impossible to satisfy this condition. This particularly affects employment opportunities for women, whose work plans are essentially directed towards domestic service related professions (cleaning, home help for the elderly, childcare...). If it is, in theory, possible to submit two or more part-time contracts at the same time to the DDTEFP, in practice, it is harder to find several employers who can agree on the shared working hours.

## 6) The criteria for ensuring a match between skills, experience and qualifications and the specifications of the job to which they apply

The DDTEFP has to verify that the person concerned satisfies all of the requirements regarding qualifications and skills stipulated in the job description, through the CV, copies of qualifications and proof of employment, if need be.<sup>103</sup> This stipulation frequently leads to the rejection of work permit applications including for jobs not requiring any skills.

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### **Statement from the association "Agir avec les Roms" (Pas-de-Calais) – January 2009**

In Pas-de-Calais, a work permit for the unskilled post of a joiner's assistant was rejected because the person's CV did not fit. The employer definitely wanted to hire the person. He fought for the file to be accepted but got nothing. In addition, 14 files were submitted for seasonal work (apple picking) in Bourges by an employer who was used to these procedures: all of them were rejected.

## 7) The honouring by the host employer or business of the legislation relating to work and social welfare

The texts<sup>104</sup> indicate that an investigation can be commissioned when a business is not known to the Inspectorate of Workplaces. This procedure leads some employment offices to carry out unjustified checks which intimidate the employers concerned and discourage them from hiring a Romanian or Bulgarian candidate.

### **Statement from a member of the Melun Collective for those without Documentation – December 2008**

A company offering multiple services, whose headquarters are in La Ferté-Gaucher, started the process of hiring a Romanian window cleaner. It was a CDI contract with a variable

<sup>102</sup> Article R5221-20 of the labour law and CIRCULAIRE N°DPM/DMI2/2007/323 dated 22 August 2007 relating to work permits

<sup>103</sup> CIRCULAIRE N°DPM/DMI2/2007/323 dated 22 August 2007 relating to work permits

<sup>104</sup> CIRCULAIRE N°DPM/DMI2/2007/323 dated 22 August 2007 relating to work permits

timetable of between 25 and 35 hours per week. During a 3 month period, the employment office carried out checks and sent an inspector on two occasions to investigate the company. Since it was a company offering multiple services, it questioned the nature of the post, claiming that it dealt with tasks wider than those carried out by a window cleaner. Despite repeated efforts by the Town Hall in Nangis to support this appointment, the work permit was not granted and the company gave up on continuing with this approach.

A Romanian man obtained a full-time CDI cleaning contract in an educational establishment. The DDTEFP services were zealous and investigated the company. The employer was called in several times and lost entire working days. They finally established that a contract which had gone through the Town Hall for the cleaning of an educational establishment would not be enough to pay an employee a full-time wage and that the company was therefore making a false declaration, unaware of the fact that the company was considering looking for other contracts in addition to this. What is more, the labor inspector tried to find irregularities in the functioning of the business. In the end, the application for a work permit was rejected.

## 8) The procedure for obtaining a work permit in the case of “open” professions

France has claimed to be beginning efforts to gradually ease restrictions on the free movement of European workers. Before Romania and Bulgaria entered the European Union, an initial circular in April 2006<sup>105</sup> set out a list of sixty-one professions subject to labor shortages for which the situation of the labor market did not block entry to citizens of the eight EU Member States subject to the transitional period and, from 1 January 2007, to Romanians and Bulgarians. A second, longer list of 150 professions was adopted by the government in November 2007, at the inter-ministerial immigration control committee meeting and presented in a circular dated 20 December 2007<sup>106</sup>, followed up again by an order dated 18 January 2008.

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The important statement which was made about this list of professions subject to labor shortages known as “open” to EU citizens might have contributed to giving credence to the idea that Romanians and Bulgarians now had almost the same access to the French labor market as French citizens.

It is therefore important to make clear once more the very limited openings that this list constitutes: for these 150 professions, the employer wishing to hire a citizen of one of the new Member States does not have to do any preliminary research on the national labor market and to justify themselves to the Departmental employment office (DDTEFP). Therefore, one of the restrictions on the procedure for obtaining a work permit is lifted: the obligation to publish a job advert with the ANPE (*L'Agence nationale pour l'emploi* - National Employment Agency) and to wait one month during which the employer is required to look through all job applications responding to the advert.

In addition, with regard to these professions, the DDTEFP cannot give grounds for a refusal of a work permit by making reference to the effect of the local labor market situation upon the profession or the qualification being considered. On the other hand, all of the obstructions

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<sup>105</sup> Circular dated 29 April 2006 relating to work permits issued to citizens of new EU Member States during the transitional period.

<sup>106</sup> Circular dated 20 December 2007 relating to work permits issued to citizens of the new EU Member States during the transitional period and of third States, based on the list of professions experiencing difficulties with recruitment. The list concerning Europeans was confirmed by the order dated 18 January 2008 relating to the issue, unopposed by the employment situation, of work permits to EU citizens subject to transitional provisions

detailed above remain. They are enough to make it almost as difficult in practice for Europeans to access these 150 professions as it is to access other professions.

The easing of the application of the national law on foreigners for Romanians and Bulgarians, granted by other countries which, like France, have maintained the transitional measures, are often more favorable. Thus, Belgium has introduced an accelerated procedure for the granting of work permits, with a time limit of 5 days, for the professions with labor shortages. Italy does not require a work permit for jobs in certain sectors (agriculture, the hotel and tourist industries, domestic work and caring professions, the building trade, the mechanical engineering industry, executive and highly skilled roles, and seasonal work). In the United Kingdom, work permit exemptions can be granted for sectors affected by labor shortages.

**Statement from the association “Les mots s’envolent”** which supported several Romanian Roma applying for work permits in 2008-9 in the Ile-de-France.

“We were surprised to observe that employers’ alleged fear regarding the Roma community is completely relative. In fact, once some of the usual clichés were taken apart (isolating themselves in their communities, nomadic lifestyle, refusal to integrate), we observed that employers are used to working with different communities and have experience of problems with documents, language and even with skills.

But in the context of the free market economy, how can an employer be asked to give priority to a candidate who is going to be more expensive (the ANAEM tax) and who will take up the post later? How can these constraints be combined with those of employers who are nevertheless prepared to offer work legally but are under constant pressure?”

**Account from Y Lucas, social mediator for ASAV (Association to Welcome Travellers), collected as part of research carried out by INSERM (Institut national de la santé et de la recherche médicale – National Health and Medical Research Institute) June 2010**

Alin gained a Baccalaureate with a good grade at the “Dr. Victor Gomoiu” high school in Vânu Mare in Romania. With this academic background, he got a job maintaining the IT equipment in the local council offices from the local council in Vrata, (35 km from Vânu Mare in [Mehedinti](#) County). It was Alin who made the decision to leave Romania. After having worked for the local council in Vrata, he did not find work. Therefore, he came for financial reasons.

His abilities in the field of IT are wide-ranging: installing internet connections, a perfect command of network systems and of various software such as Windows 98, 2000, XP, Vista; he also knows how to use Word, Excel and PowerPoint. He has grounding in English, Russian and Latin.

In France in 2008, he repaired and maintained the computer equipment in a cyber-café in Aubervilliers (93). After having drafted his CV with the help of ASAV, all of his searches for advertised work remained unsuccessful. Today, he does various odd jobs in the sale of scrap (salvaged cables...). One person from a hotel-restaurant who hired him in the past said to him that she could hire him officially but only provided that he had a permit.

## **B- Problems linked to exclusion from systems of help into employment**

### **1) Exclusion from Pôle emploi’s employment services**

Romanians and Bulgarians who still do not have access to paid employment cannot receive any support in obtaining employment from the services of *Pôle emploi*. In fact, they are not

included in the groups of foreigners listed in article R5221-48 of the labor law who can be registered on the list of job-seekers.

In the case of young people under the age of 26, there is no legal obstacle to receiving support from local initiatives but some turn them away, using the excuse that they have a lack of resources at their disposal in order to support their integration since, as indicated further on, they do not have access to professional training, apprenticeships or training on the job.

## 2) Exclusion from professional training

“Access to professional training courses is governed by the same rules as those relating to registration on the lists of job-seekers.”<sup>107</sup> This means that Romanians and Bulgarians without work permits do not, in theory, have access to courses run by AFPA (*Formation professionnelle diplômante pour adultes* - Association for the professional training of adults), nor to professional training courses funded by the region. Only those young people who are monitored by the ASE or as part of a court ruling have access to professional training. This is what was attempted in Seine-et-Marne for two young people between the ages of 16 and 18, but these measures have an important human cost.

**An example from Rhône:** As part of MOUS (*Maîtrise d'œuvre urbaine et sociale* - Control of Urban and social works) – Insecure living conditions, implemented in Lyon and its surrounding area in 2007, the Rhône prefecture allowed around 20 people to undertake AFPA training.

## 3) Exclusion from apprenticeships and training on the job

Like all foreign nationals who submit an initial work permit application, Europeans who are subject to the transitional period do not benefit from support measures to help professional integration or reintegration. Taking into account that employment contracts intended to allow professional integration or reintegration receive public funds or benefits in as far as social contributions are concerned, the government thought that it would not be possible for first generation migrants<sup>108</sup> to access them and gave Romanians and Bulgarians equivalent status to this last group.

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<sup>107</sup> Circular DPM/DMI2 n° 2007-323 dated 22 August 2007 relating to work permits

<sup>108</sup> Article R5221-6 of the labor law amended by Decree n° 2008-634 dated 30 June 2008 – art. 4

“Subject to the arrangements of article R. 5221-22,

- apprenticeships (*le contrat d'apprentissage*)
- CIEs (*le contrat initiative-emploi* – contracts for those finding difficulty accessing employment)
- “future” contracts (*le contrat d'avenir* - contracts to facilitate social and professional integration)
- CI-RMAs (*le contrat insertion-revenu minimum d'activité* – contracts for those in receipt of various types of allowances)
- contracts for work or integration through economic activity (*le contrat de travail ou de mission d'insertion par l'activité économique*)
- CIVIS (*le contrat d'insertion dans la vie sociale* – Contract for integration into society)
- and professionalization contracts (*le contrat de professionnalisation*)

do not allow the issue of one of the work permits referred to in 2°, 4° to 9°, 12° and 13° of article R. 5221-3 and cannot be signed by holders of temporary residence permits mentioned in 3° of the same article.”

These contracts cannot permit the issuing of an initial residence permit bearing the comment “EC-all professional activities” for citizens of new EU Member States subject to the transitional scheme, nor of a temporary work permit.<sup>109</sup>

In practical terms, this arrangement excludes Romanian and Bulgarian young people, who have come with their family and who therefore are not in the care of children’s social services, from most state education professional training which is often based on training on the job (apprenticeships or professionalization contracts).

Adults and young people are similarly excluded from the social economy sector, even though the organizations in this sector (groupings of employers for integration into employment and skills, integration organizations, intermediary associations) should be able to act as an intermediary in order to allow an adaptation of the abilities of Romanians and Bulgarians to the French labor market.

**An example from Seine-Saint-Denis:** In Seine-Saint-Denis in 2009, an open letter was sent by the sub-prefect of Saint-Denis to the employment services, solely for the benefit of families being supported within the scope of integration villages, which makes them eligible, as an exception, for apprenticeships

**Statement from the association “Les Mots s’envolent” – December 2008**

Mr. C is 22. He has lived in a caravan in a shanty town for 5 years.

Given his experience and his young age, the GEIQ BTP (*Groupement des employeurs pour l’insertion et la qualification* – Employers Association for integration and qualifications) route was given priority. Once his CV and covering letter were polished up and sent off, the managers at GEIQ invited him in. The interview lasted an hour and a half, over the course of which they assessed his knowledge of the French language, his level in Maths and logic, explained to him in detail the workings of organization, dates of training, the job description and kinds of professionalization contracts. The interview was a success and the managers informed the association that they were retaining his application.

A month and a half later, Mr. C still has no news. Still in his caravan as winter sets in, he refuses to go back to Romania for fear of missing out on what he sees as his only chance of integration. At GEIQ we were told that, although his application was one of the most interesting, the restrictions both administrative (waiting period for a work permit) and financial (ANAEM contributions) did not go in his favor, particularly in a climate of crisis in the building trade which is reducing the amount of people it hires and is looking to make savings. The ridiculous thing about the situation is that one of the most promising candidates will, without a doubt, not be able to begin training in January. We are asking him to hold on, take the time to plan out a new schedule and to obtain all of the correct agreements for this particular appointment.”

## **C- Maintaining transitional arrangements in order to protect the national labor market: a big lie**

### **1) No risk of destabilizing the labor market**

The government is free at any time to put an end to the transitional regime imposed upon Romanian and Bulgarian citizens living in France. It is evident that such a decision would represent a negligible risk for the French labor market. It is, in fact, the Roma people who represent the majority of Romanians and Bulgarians prevented from accessing the labor market by these transitional arrangements. Among them, a very large majority is made up of

<sup>109</sup> A single exception: article R5221-22 of the labor law states that minors with no relations, taken into care by children’s social services, can receive, if need be, a training or professionalization contract,

children, the elderly, people in poor health, and mothers looking after young children who would not want to work immediately.

In the end, there are thought to be between 2000 and 3000 Romanian and Bulgarian Roma already present in France who thus regularly enter the labor market, in addition to new workers who are citizens of these countries, who obtain a work permit each year despite the current difficulties of the procedure.

Faced with the concern expressed by the government of a “magnet effect” in the case of a complete opening of the labor market, the Spanish example is enlightening. For one year now, Spain, which receives 50% of Romanian immigrants in the European Union (compared to 2% in France) – which was 730,000 people in January 2009, has been one of the 15 EU countries which have opened their labor markets completely to citizens of the two new Member States. The Spanish government’s main argument was that opening the borders without the right to work would only serve to stimulate the black economy and to make the job security situation worse. In fact, there was no explosion in the number of Romanian citizens in Spain in 2009 following this decision. There are a greater number of people returning to Romania at the same time as unemployment is rising in Spain.

The European Commission, drawing on numerous economic studies, has also demonstrated to the old Member States the insignificant nature of the impact on their labor markets of an anticipated end to the transitional arrangements. The well-corroborated report<sup>110</sup> that it presented before the start of the second phase of the transitional period to the EU institutions, which debriefed on the first phase of the implementation of the transitional provisions following the accession of Romania and Bulgaria, is categorical in its conclusions.

All studies on the subject that it quotes agree on the following points:

- The mobility of labor after the successive enlargements of the EU in 2004 and 2007 had few repercussions for the salaries and employment of local workers, even in the Member States which recorded the largest influx of labor.<sup>111</sup>
- The flow of movement since the countries became members of the Union in 2004 and 2007 has had a markedly positive impact on the economic growth of the EU. The effects on GDP per capita in the host country are practically nil in the short term and slightly positive in the long term.
- It is not the restrictions of access to the labor market that influences the flow of movement but rather the general supply and demand for labor.

The European Commissioner for Employment, Social Affairs and Equal Opportunities expressed his disappointment following France’s decision in 2009 to persist with the

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<sup>110</sup> European Commission, Communication from the Commission to the European Parliament, to the Council of Europe, European Economic and Social Committee, and to the Committee of the Regions – The repercussions of the free movement of workers in the context of the enlargement of the European Union – Report debriefing on the first phase of implementation (1 January 2007 – 31 December 2008) of the transitional provisions established in the Accession Treaty of 2005 and responding to applications issued in accordance with the transitional provisions set out in the Accession Treaty of 2003. Brussels, 18 November 2008.

<sup>111</sup> A study dating from 2008 shows that “the salary average in the EU-15 is only 0.08% lower in the short term as compared to that which it would have been without the additional arrivals of mobile workers from the EU-8. In the long term, the impact is nil. The short term impact on employment is equally minor. The increase in the average rate of unemployment in the EU-15 is thought to be only 0.04% in the short term. In the long term, the entry of workers from the EU-8 has had no repercussions, the consequences are equally minimal with regard to the flow of movement from the EU-2” Brücker et al. (2008). Brücker, H. et al. (2008), Labour mobility within the EU in the context of enlargement and the functioning of the transitional arrangements, forthcoming

restrictive arrangements: “No economic or social reason justifies this decision. [...] Free movement has nothing to do with the economic crisis: it is a fundamental freedom.”<sup>112</sup> The European Commission has subsequently shown its support for demands for the end of the transitional arrangements in France by welcoming, on 28 May 2009, a French delegation made up of Romanian and Bulgarian Roma, elected representatives and association representatives.

At the national level, the government has been regularly questioned on these matters. A discussion by the HALDE (*Haute Autorité de Lutte contre les Discriminations et pour l'Égalité* – High Authority fighting against Discrimination and for Equality) (n° 2009-372) dated 26 October 2009, made a principal recommendation for it to end the transitional arrangements, which it considered one of the main factors contributing to the exclusion of Romanian and Bulgarian Roma populations.

Several members of parliament asked questions, both spoken and written, on the matter.<sup>113</sup> Following a call from several Roma from the Ile-de-France, a demonstration on 10 December 2008 brought together 450 people, including 350 Romanians and Bulgarians, outside the Employment Ministry and the representation of the European Commission in France. Following this, a delegation went to the Immigration Ministry on 23 March 2009 and to general secretary for European Affairs on 24 March 2009.

In the last quarter of 2009, an open letter on the same point from the main trade unions was sent to the Prime Minister.

However, the government's responses remain unchanged: no end in the near future to the transitional arrangements is envisaged, nor will there be an easing of restrictions. Romanians and Bulgarians already enjoy preferential treatment through the opening up of 150 professions. The taxes deducted by their employers are justifiable since they allow the funding of activities by the OFII for the integration of foreign nationals in France and relocation to their countries of origin.

## 2) The consequences of this protectionist attitude for Roma populations living in France

In its report dated November 2008, the European Commission emphasized that the lack of favorable conditions, including, in particular, the opening of the labor market, allowing mobile workers to become integrated into society in the host country, leads to social problems and to the loss of economic assets which mobility provides.

The experience of certain families, living in squats and shanty towns in France, who have gained employment, illustrate, if need be, this obvious fact: access to decent housing, to all social welfare, schooling for children, accelerated learning of French...

### | Statement from Romica Calin - St Etienne – December 2008

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<sup>112</sup> Interview with Vladimir Špidla - La Tribune, 8 January 2009

<sup>113</sup> Written question from Dominique Raimbourg (Member of Parliament for the Socialists in France) to the Ministry for Immigration, 4th November 2008

Written question from Michel Billout (Senator for the French Communist Party) to the government, 10 December 2009

Spoken question from Jean-Patrick Gille (Member of Parliament for the Socialists in France) to the government, 1 December 2009

"I am a plumber and am professionally trained in plumbing (heating and bathrooms). I worked as a plumber for three and a half years in Romania. I sent out my CV all over Saint Etienne and the surrounding region. I have been to meetings with employers. I have been turned away because of the amount that has to be paid to the ANAEM (€900) in order to hire me and because of the waiting time of at least three months to get a response from the employment office. I have four children who have been at school in France for seven years. This is my eighth year living in France. I waited for 2007 in the hope that I would be able to work like everyone else, to give another future to my children, not like my past in Romania.

If France does not improve the laws as regards employment for Romanians and Bulgarians, it is going to worsen the situation for Roma who are already living in France and it is going to make more people work illegally. If the government changes the law regarding work, every Romanian or Bulgarian will be able to support their family reasonably well, pay rent, and we can have done with the shanty towns, the squats, the caravans, the begging, and the people scavenging in bins... in a rich country like France. We will be able to start living a dignified life, like human beings. Our children will be able to carry on with their studies like everyone else. But if this does not happen... the children might end up as delinquents.

In every town where there are support committees for Roma people, this law preventing work is toppling everything they are building. The support committees do the work of social workers, they take sick people to hospital, they take care of school enrolment, they organize activities for children, they organize French language courses, they accompany people looking for work to companies... It is a large investment and preventing Romanians from working destroys in one day all that has been done for months and months.

Personally, I have a job offer from STAF 42 in Saint Etienne. My job offer was sent to the employment office and to the prefecture. STAF 42 is a work integration social enterprise and my contract is a CDD (fixed-term). I am eager to receive a response. Perhaps this response will be just a small yes, but that yes could change my family's future." [*Since this statement Mr. Calin has received the response from the prefecture to his work permit application: it was declined*]

### III) THE RIGHT TO DIGNIFIED AND INDIVIDUAL HOUSING, EXCEPT FOR PEOPLE LIVING IN SHANTY TOWNS

#### A- Squats and shanty towns, ultimate examples of substandard housing

##### 1) Migrant Roma housing in France is not a lifestyle choice but a manifestation of the housing crisis and a policy of exclusion of rights

The 2010 report from the Abbé Pierre Foundation<sup>114</sup> cites 3.5 million poorly housed people in France. The most extreme situations covered under the notion of poor housing<sup>115</sup> is the lack

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<sup>114</sup> Abbé Pierre Foundation, *L'état du mal-logement en France*, 15th Annual Report - February 2010

<sup>115</sup> By default, a definition of poor housing that could be adopted: "Having a home means having a fixed space adapted to the individual or family, it is also a space to maintain personal and social relations and lastly, is a space secured by contract or ownership. Three conditions that fall within the physical, social and legal domains. When these conditions are not met, we talk of sub-standard housing. " André Gachet, *Sans droit ni titre: Une réalité qui s'est banalisée au fil des années de crise du logement*, Proceedings of the Symposium "L'occupant sans droit ni titre - Regards croisés:

of personal housing, which implicates at least 100,000 people forced to live on the streets or in public spaces but also a considerable number of people who resort to improvised housing: campsites, basements, car parks, cars, sheds, wagons, offices, abandoned sites, stairwells, sheds, attics, etc. Among the latter population, about 100,000 people <sup>116</sup> live permanently on camping sites, and the last census in 1999 indicated that 279,000 people live in atypical housing (permanently occupied, fully furnished and decorated hotel rooms; makeshift housing; and temporary constructions).

We find the squats and shanty towns that the Roma families have resorted to at the bottom of this poor housing chain. These situations are clearly distinct from selected occupation for the purpose of protest (which are found, more rarely, in political or cultural squats). It is indeed occupation by default due to lack of accommodation or housing accessible to those with low incomes and administrative logjams to entering social housing programs. For want of better housing opportunities, Roma families organize among themselves to find shelter in:

- Old dilapidated caravans that can no longer be moved, installed on land they do not own;
- Makeshift houses put together with planks, old bags, boxes, tarps, various salvaged materials - sometimes leaning against caravans, creating veritable shanty towns;
- Squats (occupation of "available" buildings equipped or not for housing) whose quality depends heavily on the initial state of the building.

In all of these situations, they are occupants without rights or claim to their living place - a status whose image is too often limited, in public opinion and for the government, to living in a public or private space without authorization. As seen in the light of the housing crisis context described above, "foremost, the absence of rights and titles signifies substandard housing" especially since "as a general rule, the absence of rights is generally accompanied by poor physical and social living conditions" <sup>117</sup>

In the case of Roma migrants in France, squats and shantytowns can also be described as an immediate product of the public policies of marginalization of an unwanted population or the translation of the logic of exclusion based on laws and orchestrated by the government<sup>118</sup>. It is obvious that the limitations of access by the Romanian and Bulgarian populations to employment plus the impossibility of access to regular housing (including all the consequential social rights) keeps these poor migrants outside of the system and leaves them no other choice than to take refuge in the urban margin.

Far from being inevitable, unlawful occupation without rights or title to the land or buildings by EU citizen families would find its most pertinent answer in open access to employment; this answer would respond to the main needs of the concerned parties but would also cost the least in public funding.

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*magistrats, collectivités locales, associations et avocats.* Tribunal d'Instance de Villeurbanne, Barreau de Lyon, ALPIL – 28 April 2009

<sup>116</sup> According to a 2005 study by France Poulain, a researcher at the CNRS.

<sup>117</sup> André Gachet, "Sans droit ni titre: Une réalité qui s'est banalisée au fil des années de crise du logement", Proceedings of the Symposium "L'occupant sans droit ni titre - Regards croisés: magistrats, collectivités locales, associations et avocats." Tribunal d'Instance de Villeurbanne, Barreau de Lyon, ALPIL – 28 April 2009

<sup>118</sup> Cf. Olivier Legros, "Les pouvoirs publics et les grands « bidonvilles roms » au nord de Paris (Aubervilliers, Saint-Denis, Saint-Ouen). Réflexions sur la dimension spatiale des politiques de régulation de la grande précarité en milieu urbain" to be published. About integration villages -villages d'insertion and their beginnings, see also Olivier Legros, 2010 "Les "villages d'insertion": un tournant dans les politiques en direction des migrants roms en région parisienne? ", No. 08., July 2010, REVUE Asylon(s), URL address: <http://www.reseau-terra.eu/spip.php?article947>.

**Families at the Pont-Rousseau Rezé grounds, 19 March 2010 - Interview by the Romeurope Nantes Collective- April 2010**

"We are from the Mehedinti region in Romania. We lived in a rural area and could not find work. We do not own land. We went to another country where we could find work. We would like someone to accept taking care of our situation and help us find work. We have already participated in the harvesting/selling of lily of the valley and we are prepared to do it again this year, but, as men, we would like to have stable jobs to ensure the well-being of our families. We do not want to move continuously from city to city, from country to country. This is not the life we want; we just want to settle somewhere. [...] If we work, we can rent a home for ourselves, we are ready to do any work (agriculture, mechanics, cleaning, etc.). "

## 2) Premises occupied without right or title and yet recognized as lodging for people

Owners of buildings or land occupied without right or title may petition the courts to order the eviction of the occupants from their property, and occupancy of land can even be considered a criminal offense punishable by law under the French Law of 18 March 2003, known as the Interior Security Law.

However, on several recent occasions, courts have held that these dwellings were the "home" and even "housing" for families who were entitled to protection against the request for eviction coming from a public owner who did not propose any adapted housing alternative. Although they are regulatory from the point of view of the procedure, these evictions are not necessarily legitimate or even legal when viewed from the perspective of rights, which the families could claim. These evictions fully violate the right to housing as recognized by international texts (the International Covenant on Economic, Social and Cultural Rights, the European Social Charter, the European Convention on Human Rights, etc.) and the Constitution of the Fifth Republic.

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Three decisions by the *Tribunal de Grande Instance de Pontoise (TGI)* regarding land occupied by caravans and/or cabins in June 2008<sup>119</sup>, November 2009<sup>120</sup>, and December 2009<sup>121</sup> have rejected requests for evictions coming from local government<sup>122</sup>.

The reasoning of the courts was based on the observation that "the facilities are very insecure but are **family housing**" and that no alternative accommodation was proposed although the right to housing is "a constitutional principle superior to property rights". The courts also cited Article 8 of the European Convention of Human Rights (ECHR), arguing that it was disproportionate interference with the right to respect for privacy and family life in the absence of pressing social needs of public interest. These decisions also referred to the vulnerability of these populations for whom special protection should be granted. Lastly, one of the decisions stressed the importance of ensuring the continuity of schooling for children.

Similarly, in November 2009<sup>123</sup>, the *TGI* in Lyon decided against the Department Council of Rhône, which called for eviction from a shanty town on land that it owned, and affirmed that

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<sup>119</sup> Ordinance No. 08/000950 of 30 June 2008 of the Tribunal de Grande Instance de Pontoise

<sup>120</sup> Ordinance No. 09/000841 of 20 November 2009 of the Tribunal de Grande Instance de Pontoise

<sup>121</sup> Ordinance No. 09/000970 of 29 December 2009 of the Tribunal de Grande Instance de Pontoise

<sup>122</sup> Agence Régionale des Espaces Verts (dependant on the Ile-de-France region) and the Communauté d'agglomération Val-de-France

<sup>123</sup> Ordinance No. 09/02850 of 16 November 2009 of the Tribunal de Grande Instance de Lyon

"despite its precarious character, the camp is a **home**" for people. They repeated the same citations from section 8 of the ECHR. In this case, the court found that the right of ownership was not called into question since the Department Council had no immediate plans to use the grounds and that to the extent that no damage was found due to occupation, there was no obvious legal problem.

The requests for eviction from the shanty towns in the towns of Ormoy<sup>124</sup>; Corbeil-Essonne<sup>125</sup>, and Massy<sup>126</sup>, in the Department of Essonne, were dismissed during the summer of 2009 by the *TGI* in Evry which reiterated that the right to housing is a constitutional right, having become an enforceable right, and that the persons living in slums or in unsanitary housing were at the forefront of being concerned by this right. The court also noted that it was waste land, which put the severity of the problem into perspective, and that the occupation did not violate public peace.

Other decisions in the Val-de-Marne, less clear-cut but also symbolic, have recently imposed delays of up to one year before any eviction at the settlement of Orly<sup>127</sup> and on the Department Council of Val-de-Marne regarding land in Villeneuve-le-Roi - highlighting the absence of any re-housing propositions in parallel to the request for eviction.

Beyond the progress they constitute for the defense of family rights, these decisions have political resonance: they remind us of the government's full responsibility in the establishment of a shanty town and shifts the stakes to making the right to housing more important than the destruction of their accommodation which, despite the precarious living conditions, must be considered as a solution that the poor migrants have counted on to insure their survival.<sup>128</sup>

### 3) Inadequate and dangerous housing

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It is important to remember that the protection from which the makeshift shelters benefit because of the absence of alternative housing proposal does not help to minimize the grave risks for the occupants – regardless of the care usually provided by the Roma families in the set-up of the interior of their squats, caravans and sheds.

There is a legal definition of substandard housing, which was rewritten and expanded in 2009 by the Molle Law<sup>129</sup> and which now covers "the premises or facilities used for housing and inherently unsuitable for such use, as well as the housing in such a state (or the building in which they are located) that it exposes the occupants to obvious risks that can affect their physical safety or health."

The reference to "facilities" inherently unfit for habitation was added explicitly to cover situations where the premises concerned have not been solidly built (all precarious or makeshift sites). It is therefore essential and urgent today to include all squats and shanty

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<sup>124</sup> Ordinance No. 09/00566 of 15 July 2009 of the Tribunal de Grande Instance d'Evry

<sup>125</sup> Ordinance No. 09/00738 of 4 August 2009 of the Tribunal de Grande Instance d'Evry

<sup>126</sup> Ordinance No. 09/00182 of 19 May 2009 of the Tribunal de Grande Instance d'Evry

<sup>127</sup> Ordinance No. 09/780 of 17 June 2009 of the Tribunal de Grande Instance de Créteil

<sup>128</sup> Legros, to be published.

<sup>129</sup> Law No. 2009-323 of 25 March 2009 for the mobilization for housing and the fight against exclusion (MOLLE) facilitating the fight against substandard housing and contributing to the protection of occupants (art.84)

towns in identifying substandard housing in order to plan the actions for addressing the issue in each Department.<sup>130</sup>

Everywhere, in fact, the findings relating to safety and security conditions – primarily for the occupants (even if the Press and communities emphasize more the nuisances inflicted on the residents) - are alarming.

Of the 75 current or past shanty towns in Seine-Saint-Denis in 2009 and in the first quarter of 2010<sup>131</sup>:

- Approximately 20 had home-made toilets (made by the Roma) and for some, compost toilets;
- A dozen installations had one water point on site - in other cases, the source of water (often fire hydrants) was located 15 minutes on average from their housing;
- Only one had a fire extinguisher;
- Approximately 20 had garbage collection services provided by the municipality.

**Testimonial from families on land at Beaujoire, 19 March 2010 - Interview by the Romeurope Nantes Collective**

We, the Roma of Nantes, we are not asking much; we do not necessarily need money, houses or jobs. The conditions that we find ourselves in are deplorable from a humanitarian standpoint; we cannot humanly live in such conditions.

What we ask is primarily for our children: they need water, electricity, and heat. We live in conditions comparable to those of the 18th century; they are not worthy of 2010. We beg to be treated like human beings, not as the animals the authorities treat us like.

### a) Toilet facilities

The absence of toilet facilities is the most difficult situation the Roma confront and these facilities are what they want primarily. On some sites, depending on the soil, they have been able to dig holes and place some boards around them to make an outhouse. On relatively stable ground, certain organizations (*Toilettes du monde*, *Coup de main*) initially install compost toilets and, where possible (available connection to water), toilet blocks. However, in cities where such makeshift facilities are impossible, the situation is dramatic and humiliating.

### b) Water

There is usually only one water point on the grounds for groups of one hundred to two hundred people - and many times it is often found outside the grounds itself. Water deprivation is sometimes a government strategy to make the Roma leave. The arrests and systematic attacks (water containers pierced, tear gas thrown into the vehicles) from police forces have been reported in Seine-Saint-Denis (La Courneuve and Sain) in 2009 and throughout the beginning of the first quarter in 2010 against people who came to collect water from the fire hydrants.

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<sup>130</sup> Actions programmed through the PLH (*Programmes Locaux de l'Habitat* – Local Housing Programs) and the PDALPD

<sup>131</sup> Data from the census conducted by the Medical Aid Committee in 2009 and 2010 within the coordination of associations of Seine-Saint-Denis involved with Roma

## c) Electricity and heating

In some squats and on most land areas, there is no safe access to electricity - except for makeshift connections and electric generators. Using candles for lighting includes its own risks. Each winter, *Médecins du monde* teams treat burns, especially children.

The most common heating method is keeping the gas burner on the cooker lit permanently - sometimes laid on the ground, with risks that this poses to the children who live and play nearby. Some manage to build wood stoves with salvaged metal pipes acting as the chimney, but the smoke often comes inside the cabin, making the air unbreathable.

In St Etienne on 21 December 2009 and in Bordeaux on 29 January 2010, associations went so far as to organize protests for the restoration of electricity, which had been intentionally cut off during the heart of winter.

### **Testimony from a member of the Roma Solidarity Network of Saint-Etienne 19 December 2009**

This is happening in Saint-Etienne.

The temperature was – 4° today in the city; tonight it will even colder. The weather forecast says so.

Well .... EDF cut the power to the squat in Rue Antoine Durafour today!

Was it under order of the site's owner: *Cité Nouvelle*, a low-income housing company, serving the community?

About fifty people, including twenty children, live in that squat. There are even very young children. The people who live there have been forced to because they have been evicted so many times that I won't even begin tell you about it. And it's not a few measly blankets that will keep them warm.

Two little blue trucks came this afternoon. Before they came, there was power. After they came, there was no more. Cut off! The heat, the lights, the kitchens and the meals...cut off!

Complete black and cold.

There are no words to describe the baseness and indignity of such an act. The Cold Emergency Plan has been launched everywhere; the newspapers, radios, TVs talk only about that. And in St Etienne, based on the decision of someone (who should be ashamed of themselves tonight when he returns to his well heated home), they cut off the electricity of people so poor that they can only survive with that kind of heating!

### **5 January 2010**

The electricity was cut off by EDF in the squat at 33, rue Desjoyaux two days ago.

Right at the heart of the sub-zero days in St-Etienne.

Right when the cold burns the ears and head, right at the shortest days of the year, right when we need hot meals.

About fifty people.

Because of this, the children no longer go to school. When you wake up to – 3° or – 4°, going to school is not a priority. There are also some children who are two or three years old.

### **Testimony from a member of the Procom association in Bordeaux – January 2010**

Last Friday in the squat, after having broken a circuit, the Roma tried to connect again and during this operation, they were arrested by the police and placed in custody for 23 hours. They have been given a criminal fine and have benefited from a "humanitarian solution" according to the press.

In this context and since power cut off in the squats have been recurring for a while, after discussion with the Roma, we will organize a protest next Thursday (Bulgarian and Romanian) and have requested a meeting at the prefecture. We ask that charges be dropped against the five in custody, we protest against police pressure and

demand access to water and electricity for all the Roma squats in the Bordeaux metropolitan area.

The systems used to compensate for the lack of lighting and heating have permanent risks, of course. Gas poisoning and fires in the squats or shanty towns are common and in many cases fatal. The sadness and anger surrounding these tragedies are reinforced when confronted with the total lack of government responses; the government seems resolved simply to wait for the next incidents that will inevitably occur at regular intervals throughout France.

**4 February 2009:** The members of one entire family were poisoned by gas at the Moulin à Vent squat in Lyon. If a few more minutes had gone by, Elisabeta, a little girl, would have lost her life. The gas container's tube had been damaged during the previous eviction.

**23 May 2009:** Diego, a 7 year old child, died in a fire in the hut that sheltered him in Bobigny.

**11 October 2009:** A man died and another was seriously injured in a fire related to the use of a candle at a squat in Montreuil. A temporary occupancy agreement had been requested repeatedly by the *Collectif de soutien aux Rom* (Support Collective for Roma), which would have allowed the installation of electricity.

**7 February 2010:** Stefan, 3, and Francesca, 15 months, died in a fire in their hut in Orly (Val-de-Marne). It took this tragedy before housing was offered to their family. The mobilization of elected and government representatives wanes quickly and virtually no elected official responded to the invitation to the rally organized in front of the prefecture a month later.

**15 April 2010:** Laurencio, 5 ½ years, died in a hut fire in Gagny (Seine-Saint-Denis). Several people were hospitalized, including all the members of the Laurencio family (the parents and two children). Some were seriously injured. No formal response was given outside of the associative press releases. The families were given shelter in a town gymnasium for the night, but placed on the streets in the morning without any humanitarian aid - even though they had lost everything in the fire: clothing, food, personal belongings, money, identity papers, etc. For its part, the DDASS in Seine-Saint-Denis merely proposed three nights' accommodation in places scattered over several towns. The prospect of going back to living on the street, separated and with no resources a few days later, of course, instigated this proposal's refusal by most of the people. Just imagine what the reaction would have been if this indecent governmental response had been made to families other than Roma families, who had just experienced the trauma of a fatal fire.

In the latter two cases, municipalities had refused connection to ground water and there was no fire extinguisher.

**11 May 2010:** A fire destroyed most of a squat at rue Roger Salengro in St Etienne. The inhabitants had just enough time to leave the building with their children, amid the smoke. Faced with 44 people, including 14 children, who were on the streets and had lost everything, the town hall representatives and the director of the prefect's office refused to consider any alternative accommodation.

#### d) Lack of public services

Even when families can remain for a stable time in one place, no public services granted to the other inhabitants of the town are provided: the post office does not deliver mail, the area's social workers do not make home visits, garbage is not collected at all or only infrequently, etc.

This last example has serious consequences, because the garbage - which often exists prior to their installation on the abandoned areas - covers the ground or accumulates in huge piles, resulting in actual health risks. Without regular and adequately spaced municipal

pickups, the situation worsens daily. This explains the proliferation of rats in many of the living quarters.

#### e) An often outlying situation

While the squats are scattered throughout the heart of cities, settlements are located mainly in the outskirts of major cities (Paris, Lyon, Marseille, Lille, Nantes, Saint-Etienne, Bordeaux, Toulouse, etc.). In some Departments, such as Val-d'Oise and now Essonne, Roma were driven further and further into agricultural land or into the forests. This situation creates isolation, which makes the families' daily lives even more difficult.

## B- Expulsion from living areas

If any cause is apt to unite and rally people across political and volunteer lines, it is the call for an end to evacuations from squats and shanty-towns without any dignified or sustainable re-housing proposals being made. Local elected officials included, many people are now denouncing or recognizing the absurd and unjustifiable character of these policies of perpetual expulsion from one community or department to another.

### 1) A strategy of harassment

Since Romania and Bulgaria, the countries from which the vast majority of Roma migrants come, joined the European Union, and because the authorities cannot remove them all from French territory by legal means, Romeurope has observed an intimidation and harassment strategy being implemented in most Departments in an attempt to force these people to return “voluntarily”. The Roma migrants are systematically, and, often, violently expelled by police from their settlements, creating a climate of terror among families.

In 2009, in the Department of Seine-Saint-Denis, at least 35 sites were evacuated, meaning approximately 5,000 people. Among these, many had already undergone at least two evictions that year. In 2009, between the winter truce (mid-march) and the beginning of summer (end-June), at least twelve evictions of large groups were conducted, some families being successively evicted up to five times in two months.

In 2008, in Lyon, ALPIL (*Action pour l'Insertion par le Logement - Action for Social Integration through Housing*) conducted a statistical study on general settlement trends in sites and squats in the Lyon urban community, over a period of eight months. The duration of these settlements is diminishing: expulsions are carried out ever more frequently and quickly, which means that people can count less and less on the deadlines granted by a judge. “We are already in a downward spiral: the settlements are increasingly isolated, unstable and poorly equipped in terms of safety and equipment, and they are less and less capable of being defended, more and more urgently in need of evacuation.

The settlements are of a smaller size, are located downtown (half of Lyon being walled) and are changing from large-scale settlement of a site (at the beginning of the year) to smaller-scale occupations of buildings, etc. (by mid-year). The rapid nature of these transformations means that we have little time to work.”<sup>132</sup>

#### **Accounts given by families in the Saint-Herblain settlement, collected by Romeurope Nantes – March 21, 2010**

“Since 2006, some of us have experienced seven or eight evictions. We live in terror and fear. We worry for the health of our children who fall ill due to the poor sanitation in which we live.”

### 2) Occupants' rights rarely or inadequately defended

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<sup>132</sup> Thomas OTT, *Les occupations sans droit ni titre en 2008, Actes du Colloque « L'occupant sans droit ni titre - Regards croisés: magistrats, collectivités locales, associations et avocats. Barreau de Lyon »*, Tribunal d'Instance de Villeurbanne, Barreau de Lyon, ALPIL – April 28, 2009

Under the law, neither the police nor the owner of a squatted property can evict the persons settled on the premises without a court decision,<sup>133</sup> but in practice, even when due process is followed – and as we will see below, this is far from being the usual case – situations where the occupants are in a position to assert their rights are very few in number.

There are several reasons for this. The first is that the most common type of proceedings targets persons whose identity is not confirmed. This is an *ex parte* decision, allowing one to instigate proceedings without notifying the parties. These parties are therefore not summoned to the hearing, which complicates the task of the associations organizing their defense. Such a procedure is implemented when the bailiff is unable (or claims to have been unable) to identify the occupants of a site.

Moreover, in a number of Departments, the dedicated supporters who could support families through the necessary steps to defend their rights (e.g. applications for legal aid, seeking legal counsel, etc.) and help them to assiduously follow each step, are themselves powerless before the complex and diverse procedures that can lead to an eviction (classic proceedings with a hearing in court in the presence of both parties, referrals as a matter of emergency, prefectural arrests for health hazards or danger, confusion concerning the procedure applicable to Travellers, offenses for settlement without claim or legal authority to a site, etc.).

Finally, the thought of appearing before a court terrifies many families. They find it preferable to maintain their anonymity and do not want to attend the hearing and express their case themselves.

### 3) Evictions without respect for due procedure

The fact that the occupants do not assert their rights is often due to their eviction taking place without the due procedure being correctly applied - indeed, without there being any legal framework authorizing the eviction.

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In some Departments, particularly when the human resources of the support network are too weak to ensure legal follow-up of every evacuation, numerous families have had excavators and police vans arrive to evict them by force, without their ever having received “any document whatsoever”. If some of these families’ allegations, however formal, can be attributed to a lack of understanding on their part, it is much more likely that the prefecture does not base its actions on any court decision, or neglects to ensure that the steps, allowing families to protect their rights and to be informed of the deadlines that are granted them before eviction by force, have been followed.

#### **Account given by the association Roms Action – Grenoble**

The national police arrived at a squat on June 9, 2009 to evict the families outside of any legal procedure. A Roma head-of-family and a community worker present on the site and who refused to provide interpretation, were arrested. The social worker’s refusal was interpreted as a “verbal assault of an officer of the law”. The two were subjected to verbal violence and provocations throughout their custody period.

#### **Inter-association memo – April 2009 – Seine-Saint-Denis**

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<sup>133</sup> Pursuant to section 61 of the loi du 9 juillet 1991. There exist, however, two exceptions to this:  
- Flagrant offense: persons may be evicted without court order if they have occupied the site for less than 48 hours.  
- Arrest for danger or health hazards: In cases of serious or imminent danger, the mayor can make a decision based on these reasons and give the occupants notice to vacate the building. The prefect can take the mayor’s place should the latter fail to take the necessary measures. In cases of great urgency, the mayor can request that the prefect allow the police to collaborate in order to proceed with the eviction without a court order.

**In Drancy, according to the prefecture, Roma people are unwelcome at ceremonies commemorating the Nazi genocide.**

At 7:00 a.m. on April 22, 2009, in Bobigny, the national police evicted more than 200 people who occupied the former deportation center of Drancy. [...] An expulsion order had been issued at the owner's request on April 1, but the people were not served this judgement by bailiff, nor did they receive any other order to vacate the premises. On the day of the eviction, the police were unable to present any documents demonstrating the legal basis for their intervention.

But skipping steps in the evacuation procedure was for a good reason, one that the Bobigny sub-prefecture highlighted without shame: a commemoration ceremony had been organized on those premises for the National Day of Deportation on Saturday, April 25. The memory of the deportation, however, concerns the Roma migrants as well: during the Nazi era, they experienced both deportation and genocide, and in France, internment.

It is also common for the prefecture or municipality to declare that the people "left of their own accord", without resort to the use of law-enforcement officials. But countless accounts given by Roma families demonstrate that at the origin of these "voluntary" departures, before the court's decision becomes enforceable, before it is announced, or even in the absence of any legal process, there is always the presence, sometimes daily, of police (including municipal police even though they do not have the slightest jurisdiction in this matter) who pass through the settlements and, using all sorts of threats, demand that the families vacate the premises. False deadlines before the next eviction are often announced, provoking panicked reactions. In some cases, psychological harassment is accompanied by violence or humiliation and, as explained above, the collective distribution of these removal measures forms part of the pressure tactics. This "activity" on the part of the authorities prepares the ground for transfer to the OFII which then comes and proposes that families return to Romania. In such a context these "humanitarian return operations" are widely successful and suffice sometimes to practically vacate the property without needing to apply the eviction procedure. How then can these actions shared between the prefecture and the OFII not be qualified as expeditious evictions of the squat or site?

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**Nantes, mid-June, 2009 – Account given by Médecins du Monde – Nantes**

Roma families told Médecins du Monde that they had been visited by the gendarmerie on the second day following their arrival on the site that they occupied. The gendarmerie apparently came to request that certain heads of family, as well as some women whose husbands were absent, follow them to the station. All of these people were then put on file with digital fingerprints, photographs and photocopies of their identity documents.

**Aix-en-Provence, June 23, 2009 – Account given by Rencontres Tsiganes**

Significant police forces were deployed to the Réaltor site starting at 6:30 a.m. Caravans and huts were searched. According to witnesses, this operation's objective was the removal of a vehicle whose documents were not up to date. The owner, a disabled man, attempted to intervene, as did his wife. Police officers allegedly threw them violently to the ground and beat them with kicks to the stomach, while other police officers chased off the children with tear gas.

**Strasbourg, July 1, 2009 - Account given by Médecins du Monde – Strasbourg**

Médecins du Monde arrived on a site in the Koenigshoffen neighborhood where ten or so families had been settled for three years. An oral agreement was in place with the elected representatives to the effect that they would not be evicted from the site, which belonged to the city. Therefore no proceedings were implemented, but on that day the families announced to the medical teams that they wished to leave the site, as the preceding week they had been visited by the police and threatened with an upcoming eviction.

**Nantes, June 30, 2009 – Account given by Médecins du Monde – Nantes**

Following several visits from the police ordering the occupants to vacate the site (without any legal proceedings being implemented to our knowledge), some seventeen Roma families from

the Schoelcher site were obliged to evacuate on Tuesday, June 30, preferring to leave the premises of their own accord rather than undergo this kind of pressure. Médecins du Monde testifies to having sometimes seen several police cruisers pass by in the space of a few hours during health surveillance watches carried out on the sites.

**Dijon, April / May, 2009 – Account given by the Collectif de soutien aux Roms de Dijon**

Since mid-April 2009, a squat located at 8 avenue de Langres has been under near-permanent police surveillance from a building across the road with a view of the camp; the comings and goings of Roma people who leave to beg are closely monitored. The police searched the camp on Wednesday, April 29, and several men were arrested and placed in custody. They were released after 24 hours without any charges being laid, but having been subjected to intense pressure tactics, including being made aware that the details of their lives over the past few months had been recorded. "They release you, but you know that they can come back and arrest you again tomorrow, the next day, later, anytime..." Terrified, the majority of the families decided to return to Romania a short time after; the few who stayed were evicted from the settlement on May 14.

**Marseille, December 7, 2009 – Account received by a member of the Human Rights League and an author (compiled and published by Rencontres Tsiganes)**

We arrived at a settlement made up of six caravans of Roma families who had fled the war in the former Yugoslavia, and who were strongly affected by it (murder of their parents and spouses, violent extraditions from Italy, lives and careers destroyed, etc.). They have obtained political asylum and permanent resident cards. Being moved about at the whim of the police and the municipality who chase them from their camps without offering them the slightest viable alternative, they have been camped for several years in Marseille and the surrounding region, in unbelievably precarious conditions: no access to water, electricity or sanitation facilities; insecurity, racism, discrimination...left to rot here for the last two years, beside the railroad tracks, beneath the highway. That afternoon the men had gone in search of a better site. YM greets us and tells us her story.

"Today, around 3 p.m., a police cruiser with four police officers in it came hurtling through the settlement, and then left," showering the caravans with gravel. The deep grooves produced by the skidding vehicle were still visible on the ground.

YM was there with her mother, who was consoling her after they had gone to place a plaque on the grave of her ten-year-old son, who was run down two years ago by a hit-and-run driver, when, "a quarter of an hour later, they came back and once again spun their tires to frighten the children." These violent intrusions terrified the mothers, whose children, playing outdoors, began screaming and took refuge in a caravan.

P, an eleven-year-old girl whose parents explained the horror and violence she had experienced during the Bosnian war: her grandfather and her uncle had been murdered by uniformed soldiers, became afraid and threw a stone at the police cruiser. The police officers came after her and she hid in one of the caravans which served as a dining hall, with the other children. While one of the police officers, "the biggest one", waited at the door, another one came into the caravan and hit P with his truncheon. She protected her head but the marks on both arms and her right leg were still easily visible the next day.

Madame YM's grandmother left her caravan with a nine-month-old baby in her arms to ask what they were doing and request that they let the child be. She told them that they had no right to intervene in this way. "They could have killed a child". The police officer replied, "I am the law; I do what I want," and called them "bloody gypsies".

The police officer then reproached her for stealing water from a near-by fire hydrant. YM told us that, a little while back, an officer had taken one of her water containers, telling her, "Now you won't steal any more water" (remember, they have no access to water). She added that the police have repeatedly caused them problems by confiscating their water drums. This particular police officer frequently came to unplug the electric connections that the Roma migrants had made on public lines (remember they have no access to electricity). YM also commented on the inappropriateness of the officer's behavior, stating that he made obscene gestures below the belt in front of the children.

Y was brought, with the infant, to the police station, where she was placed in custody. This is what the police officers told the family. One of her daughters, M, Y's sister and the mother of the baby being watched by its grandmother, were away shopping when this took place, with B, one of Y's grandsons. Upon their return, she was shocked and worried when told of her ill

grandmother's departure with her young child, and of the psychological violence committed against all the people present and the physical violence to P.

Three police officers later returned to get Y's medication because, as she has emphysema, asthma and cancer, she was not doing well. The one who had struck P threatened the children, saying, "Don't say a thing, you didn't see a thing and - you," indicating P, "I didn't do anything to you". "You did so, you hit me!" she replied. M and B followed the police officers to bring the medication and pick up the baby.

#### 4) Violence and destruction of property accompanies expulsions

Nor is it rare for the evacuation from a site to be accompanied by violence and destruction families' property. Under police pressure to evacuate their homes as quickly as possible, families must abandon the majority of their possessions, i.e. their medication, their identity papers, etc. As Romeurope has regularly denounced, each expulsion amplifies the instability in which these families live.

**Bondy, June 11, 2009 – Account given by PARADA and the Médecins du Monde suburban mission in Île-de-France**

The police arrived early in the morning to expel 40 or so people who had settled on a site after having been evicted from Saint Denis two days earlier. One of the tents that the families had just purchased to shelter themselves was destroyed – this scene was filmed. Finding themselves in the street, the people were then pursued and prevented from settling elsewhere (a common situation after evictions). As the families were prevented from bringing their food with them, the children remained empty-stomached all day. On June 15, this same group was once again evicted from a new site where they had settled in Bondy. The evacuation was preceded by daily police harassment, and occurred without any prior notice to vacate the premises.

In some cases the caravans are confiscated, even though these have protected status as places of residence.<sup>134</sup> In Drancy, on April 22, 2009, nine caravans that were slow to leave the site were impounded and their owners physically prevented from recuperating the belongings that they contained (medication for a person on dialysis, identity documents, a pregnant women's medical file, money, etc.).

During eviction from a settlement in la Courneuve on the March 24, 2010, twenty caravans were impounded. Similarly, on April 13, 2010, during a large expulsion in St Ouen l'Aumône Liesse in the Val-d'Oise Department, some caravans were confiscated, parked on a municipal site and their owners denied access to them.

**The European Economic and Social Committee, in a decision handed down October 19, 2009<sup>135</sup> unanimously condemned France for violation of the Revised European Social Charter for its systematic and violent expulsion of Roma families and Travellers.**

The Committee notes that "illegal occupation of a site or dwelling may justify the eviction of the illegal occupants. However the criteria of illegal occupation must not be unduly wide, the eviction should take place in accordance with the applicable rules of procedure and these should be sufficiently protective of the rights of the persons

<sup>134</sup> *In the event of illegal settlement of a site belonging to another party, seizure of automotive vehicles is only possible with a view to confiscate them by the criminal jurisdiction unless these are habitation vehicles. The penal code provides (Art. 322-1) that the destruction, degradation or deterioration of property belonging to another is punishable by two years of imprisonment and €30,000 in fines, unless only light damage resulted. This provision applies to the destruction of a caravan. The vehicle can also have protected status as it constitutes a dwelling place for a person.*

<sup>135</sup> *Following the Collective Complaint by the European Roma Rights Centre of April 17, 2008*

concerned” (ERRC v. Bulgaria, Complaint No. 31/2005, decision on the merits of 18 October 2006, § 51).

It further notes that “States Parties must make sure that evictions are justified and are carried out in conditions that respect the dignity of the persons concerned, and that alternative accommodation is available (FEANTSA v. France, Complaint No. 39/2006, decision on the merits of 5 December 2007, §163). The law must also establish eviction procedures, specifying when they may not be carried out (for example, at night or during winter), provide legal remedies and offer legal aid to those who need it to seek redress from the courts. Compensation for illegal evictions must also be provided” (ERRC v. Italy, Complaint No. 27/2004, decision on the merits of 7 December 2005, § 41).

The Council of Europe Human Rights Commissioner observed in his memorandum that evictions are a particularly problematic issue, plunging families into a climate of fear. “These expulsions often involve brutal methods, tear gas and the destruction of personal property”. Following some evictions, the CNDS (*Commission nationale de déontologie et de sécurité* - National Commission for Police Ethics) has found that unjustified and disproportionate acts of violence were committed

## 5) Lack of re-housing proposals

When evacuations from settlements are reported in the Press, the reports regularly include the following regarding the State’s services: the inhabitants turned down the re-housing options proposed to them. To be clear, the Press should add that these proposals are limited to three to five nights in hotels that are often far apart from the town and each other, or that involve separation of men and women. The families know that ending up in the street without their bearings after this hotel stay will be even more difficult and therefore prefer to find a new place to settle by themselves.

The authorities who expel these families without re-housing them therefore bear full and immediate responsibility for the shanty towns that spring up elsewhere, under even more precarious conditions.

This is clearly indicated in the following memo dated May 22, 2010 from the St. Etienne Roma solidarity network (*Réseau de solidarité avec les Rroms de St Etienne*):

### [City council and the prefecture install a shanty town in Saint Etienne](#)

In an empty lot strewn with garbage, squeezed in between the Montmatre cemetery and the dog pound, Romanian Roma families evicted twice in two days by the city council and the prefecture of Saint-Etienne have regrouped in utter desperation. There are twenty-two children, the majority of whom are under age 6, including one 4-month-old baby and two 1-month-old infants – approximately 60 people in total, all exhausted by the evictions that they have undergone. Evicted at dawn on May 19 from the building on Preynat Street in Beaubrun, at the city council’s request, and then, the following morning, from the building at 33 Blvd de la Palle, which belongs to the OPAC (*Office public d’aménagement et de construction*, a social housing association) of the City of St-Etienne, in which they had taken refuge. They spent the night crammed into a few vehicles and the two or three tents brought to them by members of the St. Etienne Roma solidarity network. EMMAÛS also contributed a van in which the people could gather.

The situation is critical. The children have of course stopped going to school. The adults are preoccupied with how they will find wood and various other materials to build shelter. They all feel that they can’t handle any more evictions; they want to be able to settle somewhere.

All the work done to educate the children, to obtain regular school attendance, etc., has been destroyed. A woman being treated for cancer wonders how she will get the daily injections prescribed by the hospital.

This is a disaster orchestrated by the city council and the prefecture, who stubbornly refuse to look at any decent and sustainable re-housing solutions.

During a recent interview requested by the Solidarity Network, an assistant representing the mayor stated for the millionth time that city council refuses to house or shelter these people, and that it had requested that the evacuation of Preynat and Méons (a building requisitioned 2 years ago by the Solidarity Network) be made a priority, while not excluding the evacuation of the other sites settled by these families. As for the prefecture, it is also organizing evacuations and refusing any dignified solution. Seven months ago, the prefect took upon itself the initiative to schedule a work meeting with the region's communities, the state and the various relevant organizations. Since that time, nothing.

The prefecture and city council are ultimately responsible for the shanty town being established in St. Etienne. Instead of helping these families to access shelter or housing, they have parked them in a vacant lot, while numerous buildings and possible accommodation stand empty in the city and greater urban community. Afterwards one can always talk positively about human and children's rights.

Despite everything that the volunteer organizations are doing, we can see where this situation is heading. The lot has no bathrooms and will quickly turn into a mud pit with the first rain; the rats will inevitably arrive, the permanent sound of barking dogs and the smell of the kennels will quickly become unbearable with the heat, humidity, dust and general dirtiness. And the population will surely rise if the expulsions continue. This is how, in St. Etienne, we treat the poorest of the poor, in complete contradiction of the city's tradition of solidarity and welcome.

Of course, this solidarity is beginning to resurface. EMMAÛS and Secours Populaire, notified by the Solidarity Network immediately appeared on the scene. Social workers from SAMU social (*Service d'aide médicale urgent* - emergency medical assistance services) are also doing what they can. The situation has everyone in a panic.

This morning, city hall, contacted by a member of the Solidarity Network, actually did agree to install a water supply and several trash bins. But the first deputy, Mr. Coynel, is believed to have said that, "the Solidarity Network must see that the property is respected." Is this for real? City Hall evicts these families, refuses to re-house them, sets up a shanty town on an vacant lot that has served as a landfill for several months, destroys a good part of the various organizations' work, and then requests that the members of the Solidarity Network, who have been donating their time to help these families, ensure that the site be kept clean. – Irresponsible, contemptuous, shameful ... We don't even know how to qualify this type of comment. And as for WCs? "Impossible," replies the deputy, "City Hall can't do everything – Why don't you ask the prefecture!" Shameful!

Not only are these evicted families not re-housed, but they are also sometimes followed by the police who successively expel them multiple times before they can settle elsewhere. Several times, they have been physically forced to leave the district or Department.

Even the families who had suffered the serious fire that claimed the life of a child on May 23, 2009 in Bobigny were followed like this after their eviction from the gymnasium that had been requisitioned to shelter them during the 48 hours following the tragedy. Prevented from settling in the Department of Hauts-de-Seine, they were escorted by the authorities to the Department of Seine-Saint-Denis. Faced with such a desperate situation and the State's short-comings, Médecins du Monde decided that very night to put an end to this wandering and to accommodate the families in an equipped humanitarian camp set up on abandoned state highway lands in Saint-Denis. The prefect then filed a provisional legal action, seeking the emergency camp's closure and a judgement against the organization for this act of support for the Roma people. His request dismissed, the prefect then brought a lawsuit against the inhabitants themselves in an attempt to force their expulsion.

Taking to the extreme the removal of these undesirable populations from one place to another, the prefecture of Essonne, following the evacuation of a site in Massy on September

17, 2008 organized the forced accompaniment of the families from the site they had been evicted from to the station at Massy-Palaiseau. This was followed by police supervision on the platform and in the RER (suburban transit system) train cars, preventing the people from getting off at any stations before Corbeil-Essonne. The scene was filmed, and the CNDS contacted by a parliamentarian, was able to establish the facts and lay responsibility on the security forces, who had implemented this procedure outside of any legal framework.<sup>136</sup>

These expulsions without re-housing are even more inhumane in winter. While certain courts grant deadlines that avoid expulsions in the coldest months of the year, this is not always the case, as the winter truce, which prohibits eviction of tenants between November 1 and March 15, does not apply to occupants “without claim or legal authority”.

Thus, from October 15 to December 2, 2009, in Île-de-France alone, 2,200 shanty town inhabitants were thrown out onto the street in sub-zero temperatures with absolutely no proposal being made for shelter or re-housing.

400 people expelled on October 15 in Argenteuil (Val-d’Oise, Stalingrad Ave.)  
820 people expelled on October 21 in Bondy (Seine-Saint-Denis, d’Aulnay Street)  
50 people expelled in the first week of November in Paris (Porte de Choisy)  
400 people expelled on October 27 in Villetaneuse (Seine-Saint-Denis, Division Leclerc Ave.)  
60 people expelled in late-October in Livry-Gargand (Seine-Saint-Denis, Chemin de Vaujours)  
100 people expelled on November 12 in Villabé and Ormoy (Essonne, Moulin-Galand)  
50 people expelled on November 16 in Montreuil (Seine-Saint-Denis, Halle Marcel Dufriche; expelled again several times in the following days)  
200 people expelled on November 25 in St. Denis (Seine-Saint-Denis, Charles Christoffles Street)  
90 people expelled on December 2 in Clichy-la-Garenne (Hauts-de-Seine).

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## C- Resettlement experiences

### 1) Good excuses to do nothing

Why do most public entities responsible for dealing with Roma families act as if they have no resettlement options and must create ad hoc methods to remove the Romas from squats and shanty-towns?

The most common excuses fall into four categories:

a) Presumed cultural differences have a major impact on the nature of interim and temporary housing solutions and must therefore be taken into account before housing is made available.

This assertion is not always based on bad intentions, but when examined more closely, and compared with plans to resolve housing issues for other migrant populations, it is clearly based on prejudices and stereotypes: they [the Roma] do not want to work, educate their children, be housed like everyone else; they cannot renounce their characteristic and

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<sup>136</sup> Commission nationale de déontologie de la sécurité, Avis et recommandations December 14, 2009, following the November 6, 2008 referral n° 2008-125 by Bernard Vera, Senator of the department of Essonne.

perpetual wanderlust, they only can live together as a group, they are dirty and noisy and incapable of maintaining a residence; they will never be able to control their drinking, etc.

Romeurope member associations can counter each of these assertions with a list of families whose experiences prove just the opposite. It is unfortunate that the housing issue almost always arises when a community faces the challenge of settling a group of Roma on its territory, and never from the demands and rights of each individual household, which differ based on their goals in France and their reasons for immigration, their representation and their function.

**Witness statements from Roma families in Reze, obtained on 19 March 2010 by Romeurope Collective in Nantes:**

“We would like to be considered individually based on our own actions. We are not primitive individuals; we are not the same as all the others, like fingers on a hand; we are all unique.”

**b) Any improvement in their living conditions would inevitably open the floodgates to more arrivals.**

In many cases, the fear of invasion provides an excuse for inaction on the part of public authorities. “The belief that assisting people, who should not be here, encourages new arrivals is tenacious. And yet, if true, then continuing to do nothing for them should staunch the flow. This is simply not the case. We know instead that the absence of action corresponds with a lack of problem management, and that neglected problems have a disagreeable tendency to grow worse.”<sup>137</sup> This belief therefore “is not only inhuman (where does mistreatment end), but also erroneous. Today, we force them to live under conditions in which it impossible to maintain a sense of human dignity, and yet they continue to arrive. Because the rationale for migration is based not on the nature of the reception, but rather on the degree of poverty and discrimination they face in Romania.”<sup>138</sup>

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**c) Local government and even the French government have neither the means nor the authority to resolve a problem that ultimately is a European issue, and therefore a matter for European Union policy to address. “Unfortunately, the situation is beyond us.”**

We know, of course, that when faced with the problem of ensuring the rights of migrating Romas in Western European countries (work, housing, education, health...), the European Union can legitimately base its response only on the individual government’s policies and the national laws of the member states. Even though European resources are largely allocated to improving living conditions in an individual’s country of origin, that does not give French public authorities the right to ignore the Romas. This is not a European problem, but rather a matter of the reception granted to poor migrants in France.

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<sup>137</sup> Andre Gachet, *Sans droit ni titre: Une réalité qui s'est banalisée au fil des années de crise du logement, Actes du Colloque « L’occupant sans droit ni titre - Regards croisés: magistrats, collectivités locales, associations et avocats. (Without rights or title: A reality that became humdrum during the lodging crisis years, Actes du Colloque “Occupant without rights or title: magistrats, local communities, associations and lawyers. Barreau de Lyon,” Tribunal d’Instance de Villeurbanne, Barreau de Lyon, ALPIL –28 April 2009.*

<sup>138</sup> Press conference of 29 April 2010 on the support network for the Romas of St. Etienne.

And “to begin resolving the problem, we must take action here, in order to establish a powerful case for the government and Europe to get involved.”<sup>139</sup> Local authorities or States, already engaged in established projects that provide migrant Romas with access to housing, have only recently been able to request financial aid from the European Union. On 10 February 2010, the European Parliament adopted a resolution regarding ERDF’s eligibility to obtain housing for marginalized communities, including the Roma. Two amendments have been passed regarding the use of ERDF funds; first, funds are authorized for integrated housing projects targeting marginalized communities, available not only to new member states, but also to existing members; and second, funds are authorized to renovate existing housing, as well as replace old with new housing, regardless of zone (urban or rural). Previously, these funds could only be used to renovate social housing in urban zones.

d) Finally, public authorities could not deal with needs as massive as those posed by Roma squats and shanty-towns.

Roma migrants originating from Central Europe and currently living in squats and shanty-towns in France, do not exceed 10,000 to 15,000 individuals. “In comparison, the total population of shanty-towns exceeded 75,000 inhabitants in the 1960’s, while some areas, such as that of Champigny-sur-Marne (Val-de-Marne) sheltered up to 15,000 individuals in 1966. The reappearance of shanty-towns therefore remains a minor concern compared with the precarious housing situation during the “thirty Glorious years [1945-1975].”<sup>140</sup>

## 2) Living conditions in the Romas’ countries of origin

Nearly all Roma from the Balkans and Central and Eastern Europe countries have been sedentary for generations, in some cases for centuries. So their way of life has nothing in common with that of French travelers, whose nomadic nature impels them to keep moving their caravan homes from place to place.

Even if they do, at rare times, adopt this life style, Roma do not live in caravans in their countries of origin. Some live in tents, settled in the poorest and most outlying areas; but they usually live in mud-daubed clay-brick houses, in wooden huts or makeshift shelters lacking amenities. Water often comes from a shared well, more rarely one belonging to an individual. Electricity is pirated from power lines. There is no sewage system, no toilets, only sheds sheltering simple holes. Sometimes families have a small, actual house, usually modest, but with water, electricity, and more rarely access to sewage facilities. In town, families may live in apartments, often dilapidated.

These huts, houses, apartments are generally located in outlying areas, on the edge of towns, frequently in country villages, and often constitute ghettos. Thus, the segregation of the Roma living quarters strongly contributes to the discrimination to which they are subjected.

If the families that emigrate from their home country for good do not sell their homes, they often end up owning a home that is occupied by those who have remained, particularly elderly or handicapped relatives.

Their housing requirements in France remain modest, even if the ideal of a fully-equipped single family home remains a universal one.

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<sup>139</sup> Press conference of 29 April 2010 on the support network for the Romas of St. Etienne.

<sup>140</sup> Legros, to be published

### 3) Living conditions “adapted” to Romas here in France?

The rationales described above (skepticism that the Roma families could adapt to ordinary housing; fear of opening the floodgates to new arrivals; a particular law may exclude Roma from common law rights to shelter and housing), along with the relatively common tendency to confuse them with French travelers, almost always lead local authorities to begin efforts to evacuate a shanty-town by searching for a site on which to put caravan-type housing, mobile homes or prefabricated housing.

In order to clear up misunderstandings about this type of temporary housing solution (even more so when settlements are based on sites formerly occupied by French travelers, as was the case in the Seine-et-Marne and Tours), we must clarify the differences between the migrant Roma and the travelers. The Besson Law of July 2000 requires some districts to provide halting sites to accommodate travelers and their caravans. The individuals impacted by the law traditionally live in mobile homes and have a travel permit or booklet as stipulated by the law of 1969. These administrative documents are available to legal immigrants who decide to adopt a mobile life style.

Migrant Roma who settle, or are hastily settled in caravans and mobile homes, do not move there voluntarily. Except in a few rare cases, access to camp sites is not a preferable solution since such sites by definition are ill-suited to sedentary people. Furthermore, available camp sites are already insufficient to meet the needs of travelers (fewer than 15,000 lots are available, to meet a national need estimated at over 40,000). But, most important of all, such measures would be decided by the local community and would impose a life style that does not correspond with Roma' expectations. Finally, it is not realistic to propose that they share living space with other residents at these locations: Roma do not generally own caravans that can be easily moved and therefore are not suited to life at camp sites set up for short-term visitors. Instead, they end up creating a small shanty-town on the sites and breaking the rules, particularly rules limiting the time they can spend at the site. They would require an exception to the rules to continue to live there, unacceptable to travelers, who do not qualify for this exception.

Depending on the local situation and the authorities in charge, the reception extended to families ranges from installing old caravans on a site, with the tacit and informal agreement of the public authorities, to an action plan, under the leadership of a MOUS pilot committee, based on integration plans that are theoretically reproducible.

#### a) Approved sites

In the first example, individuals and supporting associations were granted a temporary solution that—albeit poor—guarantees at least a minimum of stability.

#### **In Frejus (Var), families subject to eviction have been under the protection of the prefecture for over two years.**

Seventy individuals are currently living on an established site, down from an initial 120. Some of them have lived in the commune for more than 5 years. They are from Timisoara. At first, they were supported by the Catholic charity, *Secours Catholique*, and a network of volunteers associated with the parish. Evacuation proceedings were initiated in 2007. In early 2008, the judge granted them a three-month delay. The SICHEM association got involved at this time. The delay enabled the association to negotiate an agreement with the prefecture regarding support for the families. The site had yet to be evacuated a year later because the prefecture realized that evacuation would only move the problem somewhere else. SICHEM pushed the reluctant town to get involved by requesting access to electricity, which is now available on the site.

Funding from the Abbé Pierre Foundation was granted to develop a new site that the State agreed to provide, but Frejus commissioned a report from its firefighters to show that it would pose a fire hazard.

The private camp site on which the families are currently living is therefore still subject to evacuation, but the prefecture does not want to execute the evacuation order as long as there is nowhere else to move them. As a result, a mobile home was installed in the middle of the site to serve as a team office.

Each family has signed an agreement with SICHEM. A charter and site rules have been established. Family councils meet every three weeks to discuss shared projects and problems (rule infractions, disputes between families...)

Around 20 volunteers are involved in the project: [they] sponsor celebrations, distribute food and clothing. Five people on the site have obtained a CDI through their own efforts (and, therefore, a residence permit). The sub-prefecture has agreed to grant 10 residence permits to speed up access to training and employment.

**In Wimille (Pas-de-Calais), on-site settlement by the sub-prefecture that, two years later, turned into a humanitarian repatriation operation for all of its occupants.**

Following numerous evacuations in and around Boulogne-sur-Mer, which started in early 2007, the sub-prefecture eventually-- on 3 June 2008—moved all of the people, under police escort, to an abandoned road belonging to the DDE. The lack of sanitary facilities - water, electricity, toilets - persisted. The Commissioner asked the group of Roma support associations in Boulogne to take a census and assign a number to each caravan, which could indicate recognition of the “right of residence.” But the associations did not respond to his request in order to avoid the risk of labeling them. Secours Catholique took responsibility for providing a mobile home/shelter for social services (pre-school for children 3-6, educational support for primary school students, medical and paramedical visits, family meetings, literacy services...)

Nevertheless, two years later - in the spring of 2010 - after the associations had managed to enroll the children in schools in Wimille area and establish a strong support network for the families, all of the families were served with eviction notices that forced them to accept humanitarian repatriation to Romania...although many of them plan to return soon to France.

In other cases, public authorities have taken responsibility for settling families on a site. All of the situations cited below were the result of actions taken by Councils, who owned the proffered sites and who, in varying degrees, provided their own services to help families obtain employment and housing.

**In Cesson (Seine-et-Marne), City Hall settled four families on a site and organized a press conference to officially welcome them there.**

After the October 2008 eviction of French travelers squatting on old halting sites, four Roma families, with children at school in the area, were received on a site belonging to the district in November. They had been in France for 12 to 15 years. The Council offered an assistance agreement to each of them. This gesture was acknowledged, touted even, during a 10 June 2009 Press conference sponsored by City Hall, to which neighboring Councils were invited, and during which the mayor affirmed that “we would like to show that welcoming these Roma families, who have been living precariously, is not difficult once there is political will.”

Very quickly, the district took action to turn this temporary situation into a permanent housing solution. All four families now have jobs thanks to City Hall: three in a cleaning business under contract to City Hall, and another under contract to City Hall to maintain public parks. The mayor also hired a driving school instructor to help the

adults obtain a driver's license. These families should gain access to housing in Cesson in September.

In Roissy-en-Brie, also in the Seine-et-Marne, a similar agreement was reached in 2009 with four additional families. Their integration will take longer because these families only recently arrived in France and speak very little French.

**Negotiations with Roma support associations in Toulouse led the city and urban community to propose developing a site for 120 people.**

Many Roma families of Romanian origin from the same village in Barbulesti (50 Km north of Bucharest) have arrived in Toulouse since 2002, particularly following the Danube flooding in 2005 and 2007. Some lost their homes and possessions in the floods. Associations have maintained contact with them since they arrived. The camp where the families (120 individuals) are currently settled is located at the end of a dead-end street in an industrial zone, near Touch (tributary of the Garonne), the Purpan Hospital, and the Blagnac international airport. It comprises 34 caravans in poor condition or extremely poor condition near a warehouse, unused for 10 years, that is relatively dangerous.

Evacuation operations have been under way since 22 July 2009. The Inter-Association Collective of Toulouse (*Collectif Inter Associatif Toulousain*) mobilized to demand that the Roma be transferred to another, more stable site, with better hygiene conditions, and the creation of a medium-term action plan for achieving integration. After numerous negotiations, Toulouse City Hall agreed to obtain a parcel of land adjacent to the current site and make improvements comprising, at the minimum, land drainage, water source, electricity, sanitary facilities and waste collection. A legal writ granted a respite from evacuation until 15 December 2009, which was extended until mid-March 2010. In the meantime, technical discussions with City Hall and the community were scheduled. The Council agreed to develop a site adjacent to the Flambere cul-de-sac. Preliminary plans (master site map, cost estimate) were drafted by the Urban Community of Greater Toulouse (*Communauté Urbaine du Grand Toulouse*), the association responsible for technical issues, while City Hall agreed to take charge of social support measures. Since this site is located in a non-habitable flood zone, it can only be a temporary solution, not a "done deal." The families contributed to the creation of technical plans for the 34-caravan settlement, which included access to water and electricity as well as sanitary facilities.

**Nantes: lessons from a large-scale reception effort at three established sites.**

The Nantes urban community has hosted Roma families temporarily on developed sites in a more established and constructive manner, and on a larger scale. However, the parties now implementing policies toward Roma in Nantes are not those who initiated the action plans, which have significantly evolved as a result. In 2005, Nantes presented a proposal that enabled an initial site, on Sainte-Luce Street, to be opened. Nantes City Hall took responsibility for improving the site, which it offered to the association One Family, One Roof 44 with a one year renewable lease. Accommodation facilities were purchased by the association using funds provided by the CCAS Nantes and the Loire-Atlantique Department Council. Subsequently, the Department Council withdrew from the program. Financing was then provided by CCAS Nantes, the Abbé-Pierre Foundation, and the Departmental Directorate of Health and Social Affairs (DDASS), which provides funds through temporary mobile home housing allowances (five have been reserved for families that already have a residence permit). Nantes and the regional council also agreed to pay for an interpreter/translator under the "springboard job" (*emploi-tremplin*) plan.

In 2006-2007, the Nantes urban community (comprising 24 communes) took over. It opened two additional sites (60 people in Sorinières and 200 in Chevire), paid for the facilities (mobile homes and caravans, sanitary facilities) and created a position for an

official solely responsible for welcoming Roma to the city. The Departmental Council pays for social services by employing three members of the ACTA-Roms association. Electricity is available to all families, along with a water supply and group sanitary facilities. A 24-hour guarding service was established on one of the two sites due to animosity from travelers on an adjacent site (mobile homes vandalized right before the families settled in them).

In late 2007, the media began to promote the fear of invasion that was being fomented by local public opinion. The political impact was devastating and early in 2009, municipal officials in charge of social services and public safety in Nantes made plans to reconfigure the existing sites; they announced that they would close the sites and relocate only an extremely small portion of the settled families. As president of the Nantes urban community, Jean-Marc Ayrault did not want to require each of the city's 24 districts to take responsibility for the families. As mayor of Nantes, he adopted a defensive posture and began to force the families to move away to other districts. The Council finally went too far, especially when it ordered the municipal police department to start registering the Roma. Police unions told officers to ignore the orders. Eventually, the scandal caused by the Council's repressive actions so undermined it that the balance of power shifted, enabling the associations to insist on reducing the number of families evicted from existing sites. The justifications for eviction were, after all, highly questionable: convictions for minor crimes, occasionally even for crimes committed before arrival on site, children skipping classes... One Family One Roof was hired to manage the housing and sites for the families, and ACTA-Roms was put in charge of social services. As for the families moved to new housing, and those remaining on the existing sites, an agreement was signed under the auspices of PDALPD<sup>141</sup> to use FSL funds for social support measures related to housing (ASLL) and tenant management (as has been possible since 2005<sup>142</sup>).

It is also important to emphasize that alongside this project a hardening of attitudes has been observed towards Roma families in Nantes who are living on so-called "waste" land.

## b) Insertion villages

Whilst accommodation on sites with facilities can constitute an emergency response to the catastrophic living conditions in the squats and shanty-towns, this approach must be limited to the minimum possible time, so as to rapidly put families into the traditional accommodation or housing process.

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<sup>141</sup> Departmental action plan for housing disadvantaged individuals.

<sup>142</sup> Circular #2004-58 UHC/IUH1 of 4 November 2004 on the new provisions for FSL as stipulated in law #2004-809 of 13 August 2004 on local freedoms and responsibilities (art. 65): "As of 1 January 2005, the role of the FSL has been expanded to provide financial assistance for associations and other organizations incurring expenses relating to tenant management.

This aid will replace AML – aid for negotiation about tenancy – introduced with the law of 29 July 1998 relating to the elimination of exclusion over an extensive range of situations. In fact FSL will, like AML, finance associations, CCAS, and other non-profit-making organisations to ensure tenancy negotiations (sub-letting, property management) take place. But also the FSL, based upon social and financial criteria circumscribed by the rules of the fund, will equally be able to finance associations and organisations that let accommodation which they are own directly to the underprivileged "

It is no doubt difficult to classify and distinguish between these experiences of accommodation on sites, all of which have been carried out outside the common law limits and standards for accommodation and housing. However, member associations of Romeurope warn against the possible slide from a purely humanitarian response to the development of projects which tend to promote settlements “adapted” to the specific requirements of ethnically defined populations. This danger is illustrated by the “integration village” experiments, in Seine-Saint-Denis and the Lille area, which are becoming THE State procedure for Roma families in France, and are emerging as “good practice” in Europe.

Today, there are around 650 people in “integration villages” in the Seine-Saint-Denis Department, divided up as follows:

	AUBERVILLIERS	BAGNOLET	ST DENIS	ST OUEN	MONTREUIL
Project start date	Temporary installation in 2006 with a preliminary MOUS  Installation in the permanent village and start of the MOUS in July 2007	Installation in July 2007  Start of the social support MOUS in October 2008	Installation on a temporary site in November 2007 with a preliminary MOUS  Installation in the permanent village and start of the MOUS in May 2009	Installation on a temporary site in September 2008  The permanent site has not yet been equipped (it will be adjacent).	Temporary installation on two sites and start of the MOUS in 2008 with <i>Rue et cités</i> [Street and cities] as sole associative operator  Move to two new sites placed initially under the responsibility of Rue et cités.  Sharing of the two sites between ALJ 93 and <i>Rue et cités</i> in January 2010.
Number of families accommodated	19 households	20 households (79 people)	19 households	19 households	348 people are integrated in the MOUS
Operators	Rental management and caretaking by the ALJ 93  Support by the PACT Arim 93 (3/4 time of social worker)	Rental management and caretaking by the ALJ 93 / support and insertion by the PACT (2 social workers)	Site equipped by the State via ADOMA  Social support by the PACT Arim 93  Mediation by the ALJ 93  Rental management by ADOMA	Rental management and caretaking by the ALJ 93  Support by the PACT Arim 93 (1 teacher / 1 interpreter)	ADOMA for construction of future one-off housing  <i>Rue et Cités</i> for social support and rental management of one site  The ALJ 93 for rental management and social support of the other site, for which the functioning is modelled on the other integration villages

	AUBERVILLIERS	BAGNOLET	ST DENIS	ST OUEN	MONTREUIL
Type of housing	Temporary site : caravans installed with financial help from the Abbé-Pierre foundation  Permanent site : prefabricated equipped modules and permanent building for communal hall	Prefabricated equipped modules and permanent building for communal hall	Prefabricated equipped modules and permanent building for communal hall	Caravans installed with financial help from the Abbé-Pierre foundation for the housing and prefabricated modules for communal areas (sanitary facilities, kitchen, meeting room)	Temporary sites: caravans.
Financing	Abbé-Pierre Foundation (Loan of temporary caravans)  Town of Aubervilliers  State  Ile-de-France region (plan to eradicate shanty-towns)	Abbé-Pierre Foundation (Loan of temporary caravans)  Town of Bagnolet  State  Ile-de-France region (plan to eradicate shanty-towns)	Abbé-Pierre Foundation (Loan of temporary caravans)  Town of St Denis  State  Ile-de-France region (plan to eradicate shanty-towns)	Abbé-Pierre Foundation (Loan of temporary caravans)  Town of St Ouen and city of Paris  State  Ile-de-France region (plan to eradicate shanty-towns)	Abbé-Pierre Foundation (Loan of temporary caravans)  Town of Montreuil  State  Ile-de-France region (plan to eradicate shanty-towns)

The quality of these projects seems to be fundamentally compromised by the political context in which they have emerged and the interventional logic of the public authorities. With the exception of Montreuil, where the Council promised at the start of their term to allow access to social rights and housing for Roma in squats and shanty-towns throughout the district, the starting point has always been the complete eradication of a shanty-town and not the lives of those living there. In addition, the selection of those people to be re-housed has been very debatable, as despite the declaration by the project organizers of their humanitarian and social motivation, the interventions have been aimed primarily at solving problems of space. By welcoming a small number of families and moving the others away, the “villages” operation has enabled the rapid freeing of the sites for new urban construction and the reinforcing of territorial control, while at the same time hiding “foreign poverty”<sup>143</sup>.

With the exception of Montreuil, where the project provides for re-housing in construction integrated in the heart of the urban fabric, the selected Roma families have found themselves in villages grouped well away from the towns, in zones that are difficult to access and very quiet (industrial wasteland, alongside freeways, or, in the case of St Denis, in the trenches of a former military fort). These sites are closed and hidden behind high fences.

The three projects carried out in the area of St Denis (Aubervilliers, St Denis and St Ouen) came after a drastic selection of the families.

<sup>143</sup>Legros, to be published.

The selection criteria were supposed to take into account prospects for integration into work, whilst also opening up the arrangements to certain families for humanitarian reasons. An interview grid was established and walk-in centers were open for three weeks. But the superficial nature of the diagnostic process (given the short time period), the fact that families who seemed to match the criteria were kept away, and the lack of transparency and communication towards the people living on the sites during the diagnostic phase contributed to reinforcing their impression of an arbitrary procedure.

Because the primary objective should be human dignity, the only acceptable selection must be voluntary participation. Whatever the criteria used and the diagnostic methods applied, the selection of certain families and the eviction of others will always be felt to be discretionary and iniquitous. How can we justify the fact that certain families should not have the right to decent housing with social support?

In a context where the implementation of a local housing policy for the Roma migrants is the exception, it is difficult to criticize the rare experiences that have emerged. However, it seems necessary to point out that housing projects which entail the eviction of more than 80% of the inhabitants of an area, such as in Aubervilliers, Saint-Denis or Saint-Ouen do not provide the complete picture. The evicted people move back nearby, and whatever the efforts used to isolate them, the selected families keep in touch with their relatives excluded from the scheme, who continue to live in very vulnerable conditions.

The villages are strictly managed. During the day a caretaker controls those to the village, the only people admitted being families with accommodation there. They can invite friends or family (up to 4 people) during the day, provided they have previously asked for authorization, and only from 8 am to 10 pm. During the night, surveillance is facilitated by floodlights or street lamps.

These regulations, which our associations consider to be draconian, are presented by the managers of the villages, distrustful of the occupants, as being necessary to mitigate the risk of relatives of the accommodated families also moving in. This would lead to a too-high occupancy which would jeopardize the project. The limitation on the number of housed people is always a critical point in housing projects, but particularly when an arbitrary selection has been carried out at the start, which excludes close family members. An example has been given of a young pregnant woman whose partner was housed in the village, but who was forced to sleep in her car in front of the village. Teachers also alerted Romeurope in the autumn of 2009 about two minors forced to sleep in a vehicle at the entrance to the Bagnolet village as they had arrived from Bulgaria after their parents had been admitted to the village. When the prevention of this risk leads to such excesses and to a permanent surveillance of families, it is difficult to see how a relationship of trust with the residents can be established and the means given to them to reach the objectives of integration and autonomy.

A more flexible management is possible. This has been put into place, for example, at Saint-Maur in the Val-de-Marne (a collective housing project in a former police station), which relies on encouraging families to take more responsibility, and even allowing temporary stays for family members for short periods with prior authorization, following discussions between the association and Roma representatives, and with the commitment of the recipient family.

In addition, we must note the paradoxical attitude of the State, which provides considerable financial means to the projects, but then refuses to remove administrative obstacles to employment, thus depriving them of the only way to accomplish their mission of supporting housed people to achieve financial and residential autonomy.

Via a memo to the employment services, the time for obtaining a work permit has been reduced to two months, and access to subsidized employment and internships is now possible. But the OFII tax is still payable by employers who employ foreign workers, which is the major obstacle to a real access to work. In the absence of residency permits for housed people, social workers find themselves with impossible objectives for the three-year initially planned maximum housing period. With the exception of Aubervilliers, where the strong support of local organizations has led to 15 work contracts, results in terms of employment are fairly mediocre in the villages of Saint-Denis and Saint-Ouen. Even in Aubervilliers, where the MOUS project will end after three years, only one family has been re-housed and the operators are requesting its renewal.

This is in sharp contrast to the cost of these projects, which is well above that of social housing. The sub-prefect of St Denis, when interviewed by the HALDE, evaluated the cost in investment and functioning of the integration village at €27000 per family, per year, which corresponds to the figures also given by the operators<sup>144</sup> : on average €14 per person, per day. The distribution of these functioning costs also shows the disproportionate portion for management and caretaking of the sites: each year the projects cost between € 140 000 and € 170000 for social support and between €303000 and €335000 for rental management and caretaking.

The financing methods are just as surprising. Whereas the MOUS for social support is financed equally by the State and local communities, State involvement in rental management and caretaking expenditure is assured via the subsidizing of each caravan or prefabricated module with a Temporary Accommodation Allowance (ALT). This type of grant is usually given to associations offering furnished housing within buildings housing other structures (for example a CHRS), or spread out within the Departmental rental stock (dispersed apartments). These structures enable the housing of disadvantaged people, who temporarily do not have access to their own accommodation and who cannot obtain individual help for housing. If a second-hand caravan loaned by a Foundation and installed on a site with sanitary facilities and public kitchens can obtain a grant via an ALT, we can start to wonder about the risks of decline in the standards of decency of accommodation offered to homeless and poorly housed people in France as a result of these projects.

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To conclude on the public projects with collective accommodation on these sites, it is up to the local organizations associated with these projects (Roma, associations and public authorities) to remain vigilant and to determine together the criteria to judge if the project is a humanitarian one or an accommodation measure with an ethnic character such as an "integration village".

The former aim can only be justified by the difficulty in rapidly bringing into use accommodation adapted to the needs of each family, when the health and security of an important number of people is threatened in their current lodgings. It is inseparable from a clear political will to reintegrate all those volunteering to do so into the traditional housing process in a short period. This must include from the start the removal of administrative obstacles to the job market and the bringing into use of common law housing and accommodation projects. Past experience has enabled the identification of conditions favorable to the integration process, beyond emergency and humanitarian measures: opening by the prefecture of access to work and legal residence, political support and the mobilization of local players.

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<sup>144</sup> In this case the ALJ 93, invited to the national meeting of the CNDH Romeurope 20 June 2010 at Lyon

#### 4) Towards a traditional residential process

In France it is the State that holds primary responsibility for accommodation and access to housing. Since 1995, the right to housing has been an objective at constitutional level<sup>145</sup> which has been constantly redefined and reinforced in law<sup>146</sup>. Since the introduction of the DALO law on January 1st 2008<sup>147</sup>, the right to housing or accommodation is not only a declared right, but has become enforceable before the courts. This requires the State to effectively implement this right by providing housing (or accommodation, depending on the administrative and personal situation) to any person who requests it.

This requirement for results is also applicable to the right to accommodation. As this right is unconditional it also applies to people that cannot claim a right to social housing because of their administrative situation, which is the case for most of the Roma migrants living in France. This enforceable right to accommodation also includes a right to support for an appropriate solution. “Any person accommodated in an emergency accommodation structure must be allowed to stay there as long as he or she wishes, until another solution is proposed”.<sup>148</sup> The law states that this “solution is achieved through a stable or health-care structure or through housing appropriate to the situation” of the person.

Access to common law accommodation can therefore be claimed by Roma families from the European Union without residency permits, in the same way as a French citizen in a vulnerable situation. They may even take priority when they live in squats or shanty-towns as the DALO law specifically identifies as having priority those populations who live in “premises which are unfit for human habitation or which are unhealthy or dangerous”. There is a risk particularly in the case of people considered to be illegal immigrants that the prefect clears his responsibility for providing shelter by proposing to refer them to emergency accommodation, but the chances are that the courts would judge this response as being unsuited to the needs of the person or family.<sup>149</sup>

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<sup>145</sup> Preamble to the Constitution of 27 October 1946: “The Nation provides individuals and families with the conditions necessary for their development. It guarantees to all, and particularly to children, mothers and old workers, health protection, material security, rest and leisure. Any human being who finds himself unable to work, because of his age, his physical or mental health or his economic situation, has the right to obtain from the community adequate means for existence.”

In addition, the decision of 19<sup>th</sup> January 1995 by the Constitutional Council states that “the possibility to have decent accommodation is a constitutional objective”

<sup>146</sup> Quilliot law of 22 June 1982 (“The right to accommodation is a fundamental right”) ; Mermaz law of 6 July 1989 ; Law number 90-449 of 31 May 1990 aiming to provide a right to accommodation, known as the Besson law (“to guarantee the right to accommodation is a duty of solidarity for all the nation. Any person or family experiencing particular difficulties, in particular due to inadequacy of his resources or his living conditions, has a right to help from the community” (art. 1)). ; SRU (*solidarité et renouvellement Urbain*) [*solidarity and urban renewal*] law of 13 December 2000 which defines the idea of “decent housing”.

<sup>147</sup> Law number 2007-290 of 5 March 2007 introducing the enforceable right to accommodation and bringing different measures in favour of social cohesion

<sup>148</sup> Law number 2007-290 of 5 March 2007 introducing the enforceable right to accommodation and bringing different measures in favour of social cohesion (art. 4)

<sup>149</sup> Administrative court of Lyon (hearing of 5 May 2009) concerning an appeal to the Dalo law (as the response time to a request for adapted accommodation had been exceeded) and guidance on the 115 number procedure, states that “accommodation which was proposed was not stable as they had to renew their request every three or four days, had to change places, it was exclusively for the night, leaving them homeless during the day with their belongings, the rooms were not always comfortable;

We know that there is a large difference between the existence of an enforceable right and the material ability for families to request it, and even more between being recognised as a priority by a mediation commission and being effectively re-housed<sup>150</sup>. Nevertheless, the existence of this right which applies firstly to people living in squats and shanty-towns, must lead the authorities to prioritize solutions based in common law accommodation and housing, and no longer in humanitarian responses.

For this reason, a MOUS was also put into place in Lyon to enable communities and the State to finance actions in favor of people living in shanty-towns, but with a very different logic to that of the integration villages. This MOUS entitled “Precarious living conditions” was put into place by the ALPIL between February 2007 and January 2009, but stopped by the new prefect who wanted to end his predecessor’s policy towards the Roma population. The Rhone prefecture had mandated ALPIL to carry out a local diagnosis of the situation in the very large shanty-town of the Soie, at Villerbanne. This mission was supposed to enable the re-housing of Roma families in dignified, humane conditions adapted to their mode of living. A plan had been implemented with the prefecture enabling the progressive re-housing of the shanty-town inhabitants. An eviction in August 2007 interrupted this momentum before the mandated association could finish its mission, but not before 70 occupants out of 480 had been re-housed through a variety of accommodation and housing solutions ( FJT(*Foyer du jeune travailleur* - young workers’ hostel), social residences, social housing, hotels, CHRS).

#### a) Emergency accommodation

The State holds primary responsibility for emergency accommodation<sup>151</sup>. It can also be assured by the Department Council] (via ASE – see above) and more rarely by the CCAS. Its implementation varies greatly depending on the Department, but the common feature is a **structural lack of space**, which, nearly always, results in refusals and in an orchestrated rotation of people who are admitted for a few days but who must rapidly give up their place to others.

Housing in emergency accommodation is often **very poorly adapted to the needs of the people**: generally only one night being allocated, no assurance of renewal, sometimes far from the location requested (at the other end of the region in the case of Ile-de-France), and in some cases with the separation of children from their parents (Ile-de-France) or men from women etc.

This accommodation is mostly proposed in the form of nights at a hotel. The absurdity of this approach is the **exorbitant cost** for accommodation that is completely unsuited and even demeaning for people in very vulnerable situations, with regular changes in areas, increased distance to children’s schools, impossibility of cooking, overcrowding, and squalid conditions...For example, the Departmental Council of the Val-de-Marne (which houses

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that the proposal even if it indicated the care taken by the prefect to accommodate the plaintiffs, cannot in the absence of a proposal for stable and adapted accommodation (...) be considered as a proposal for accommodation (...)

<sup>150</sup> The Committee for the monitoring of the enforceable right to housing indicated that up to 31 October 2009, 122560 appeals had been lodged; 83029 had been examined by a mediation committee, of which 38125 had been considered as a priority and 17589 had been re-housed.

<sup>151</sup> Emergency accommodation comes from a budget heading, managed regionally by DDASS, which enables the financing of an emergency telephone number (115), housing and orientation services, mobile teams (SAMU social),... and in particular different types of accommodation : day centres, nights in hotels, emergency accommodation centres (sometimes in dormitories, sometimes individual). These centres do not require admission to social aid for households (unlike CHRS)

several Roma families in hotels under the child welfare scheme), spends 75% of the child welfare budget on hotel accommodation. In order to control these costs, the Council is turning towards tightening the entrance criteria and looking for alternative solutions.

The principle of **unconditional emergency accommodation**<sup>152</sup>, with an absence of selection of the accommodated people, is far from being respected.

On the one hand, we must warn of **discrimination because of origin**, with, in some cases, a different welcome by the telephone counselors on the 115 number manifestly linked to the pronunciation of the name, or accent...in particular concerning the Roma populations. Many social workers from ASE are reluctant to intervene and associations and support committees helping families must often show great tenacity to ensure that families in danger are protected. These discriminatory practices could be prevented by improved training for social workers to better understand the Roma population in Eastern Europe and by mediation. The creation of a "Gypsy action coordinator" by the Departmental Council of the Seine-Saint-Denis is in this sense an initiative to be promoted elsewhere.

On the other hand, whilst emergency accommodation should not be **conditional on residency requirements**, there are often differences in practices in different areas. For example at St Etienne and Marseilles, it is clearly stated that illegal immigrants, whether or not they are European, do not have access to emergency accommodation. In the case of the Roma, only those (from ex-Yugoslavia) who have requested asylum are eligible. Previously in Seine-et-Marne, a centre financed by the Department Council at Mérinville provided emergency accommodation for families with children. However, recently, families have been redirected to the 115 number which applies the strict rules of DDASS, i.e. no accommodation for Roma without residency permits.

#### **The Roma and the 115 number in different Departments**

- In Paris: the 115 works relatively well, particularly in relation to families, provided those families are introduced by a citizen or association acting as a sort of guarantee. However several cases have been signaled where accommodation has been refused to families because they are on the list of people who have accepted aid to return to their country **ANAEM** (which would have sent it *SAMU social* in Paris) !.
- At St Etienne and Marseilles, it is clearly stated that illegal immigrants, whether or not they are European, do not have access to emergency accommodation. In the case of the Roma, only those (from ex-Yugoslavia) who have requested asylum are eligible.
- In Seine-et-Marne, a centre financed by the Departmental Council at Mérinville provided emergency accommodation to families with children. However, today, families are redirected to the 115 number which applies the strict rules of DDASS)i.e. no accommodation for Roma without residency permits, and no emergency accommodation for Roma families who have just been evicted.
- In the Pas-de-Calais, during winter 2009 when Roma families requested emergency accommodation during a period of severe cold, the prefect replied "but yesterday it was cold as well, where were they?"
- In Essonne, women with young children are systematically sent by the 115 number to ASE, via reception centres which generally refuse as they are already full up.

**Roma Solidarity Association, open letter to DDASS, the Department Council, the prefect for the Loire and the Mayor of St Etienne. St-Etienne, 8 October 2008**

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<sup>152</sup> Any homeless person in a situation of medical, psychological or social distress has access at any moment to an emergency accommodation solution (L. 345-2-2 CASF).

Mrs S.L has six children, F. 13 years, R. 9 years, C. 8 years, D. 6 years, E., 5 years and L. 3 years old. They have Romanian citizenship. [...] At the beginning of October 2008, the family finally settled in a former squat, rue de Chavassieux, owned by the Town Hall.

A few days later, the police was there again with a Town Hall employee to evict them.

It was raining that day. The mother had taken the children to the doctors and arrived after the local police who left them just the time to take their belongings. The girls threw the mattresses and blankets out of the window. Everything was wet; everyone was outside with their belongings packed rapidly into dustbin bags or blankets; so where to go?

On the telephone, the 115 has instructions from the DDASS not to house Romanians, even with children. Should access to emergency accommodation be conditioned by nationality?

As was tried in Val-d'Oise and in Seine-Saint-Denis in 2009, information campaigns for the telephone counselors for the 115 number can have a very positive impact. In Val-d'Oise, the counselors were able to go to a shanty-town to see for themselves the living conditions of the people liable to contact them for help.

Finally the principle of **lodging continuity** is very rarely respected. In application of this principle (Art 4 of the DALO law<sup>153</sup>) it is no longer possible to propose accommodation for just one night or several months. But we know that in the case of the Roma and other populations, that the transition to reintegration housing or at least to more stable housing solutions is rarely assured. More frequently, people are put back on the streets after a few days or a few weeks. They would, however, be within their rights to appeal to the courts to obtain stable housing. For example, a ruling by the Lyon administrative court on 1 May 2010 overturned the decision made by the Rhône prefect to end emergency accommodation for a family at the end of the winter period.

#### **Press release by the Nantes group Romeurope - 23 December 2008**

Installed in the middle of an urban wasteland, in the Colinière quarter, Violetta and her 5 children were informed of an eviction procedure on Thursday 11 December. The day before, three other neighbouring families from the camp had also been evicted. As the physical and material security of Violetta's family was no longer assured, it seemed that they would be homeless. An emergency solution was found on Wednesday 10 in the evening for only 2 nights in a hotel.

Violetta lives alone with her 5 children since the death of her husband. Her children all go to school (at the secondary school of the Colinière for the 2 eldest, at the primary school Urbain Le Verrier for the 3 youngest. Since her arrival in France, Violetta has learned our language and has started to build up social relationships in the quarter and in the school environment.

These integration criteria naturally encouraged her to refuse "aid to return" to her home country offered by the ANAEM. As a European citizen, since the entrance of Romania into the European community in 2007, Violetta is paying a "high price" for her decision to reject this aid. Ever since their eviction from the site, the Nantes group of Romeurope, members of Lodging for All (*Un logement pour tous et toute*) group and people helping the family have come up against a point-blank refusal from the political authorities:

- refusal to find a solution by the prefecture and the Departmental Directorate of Health and Social Affairs ;
- refusal to accommodate her on one of the 3 temporary accommodation sites equipped by Nantes City Council, which would offer this family a means of social integration, which is the stated and reiterated objective for these sites ;
- refusal by the Nantes social services to provide emergency accommodation.

For Violetta, the only solution since her eviction has been to settle in a temporary place. Despite the troubled situation of these last few days, the 5 children have been present every

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<sup>153</sup> Law number 2007-290 of 5 March 2007 bringing in the enforceable right to accommodation and different measures in favour of social cohesion - Article 4 "Any person accommodated in an emergency accommodation must be able to stay there, as long as he or she wishes, until a solution is found. This solution should be towards stable accommodation or health care, or towards lodgings adapted to their situation".

day at school. Violetta and her children request from the public authorities a place to stay and put their caravan, and therefore enable her children to continue to go to school [...].

In an exception to the general principle of separation of families and putting them onto the streets after 2 or 3 nights in a hotel, 4 Roma families have been accommodated by SAMU social in a hotel at Brétigny, following their eviction from a squat in the 13th district of Paris in December 2008. They are supported by the *Secours catholique*. This organization already helps 15 families who lived in 2007 in the boulevard Mc Donald shanty-town in Paris and who are lodged in a hotel in the suburbs by the Paris SAMU social (10 other families are in the same situation but are not supported by the *Secours catholique*).

## b) Reintegration housing

In theory, there is no reason why Roma should not be offered reintegration housing, whatever their administrative status. The admission procedures for a **Centre d'Hébergement et de Réinsertion Sociale** (CHRS)<sup>154</sup>, however, take future prospects of professional reintegration and independent housing into account. The prefect takes the final decision on supported housing admissions. In the administration's eyes, the Roma fail to satisfy qualifying criteria from the outset. Far more efforts must be made to ensure that families entitled to this type of housing actually secure their places, especially as many Roma's countries of origin now form part of the European Union.

There have been rare cases of Roma admissions into CHRS: in St Etienne, one place was recently secured for a family receiving an Adult with Disabilities Benefit (*Allocation Adulte Handicapé*), and a second for a family containing one permanently employed member. A Kosovan Roma family, whose application for asylum had been denied, secured accommodation in a CHRS in Tours with the help of fellow workers, and another is waiting in a hostel for a similar housing set up. Lastly, in Toulon, in the summer of 2009, a Roma couple with two children arranged to meet a social worker from the Department Council and thereby secured a place in the city's CHRS. Even the social services mediator who had helped them thus far was surprised by such a positive outcome.

Reintegration housing options are also available in other types of accommodation facilities, registered with ALT (**allocation de logement temporaire**)<sup>155</sup>. In December 2007 in Bordeaux, after direct negotiations with the prefect, Procom and Médecins du Monde managed to secure accommodation for several families in an ALT building run by CCAS in the city centre. The CCAS coordinates this project. An agreement between Médecins du

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<sup>154</sup> CHRS, Centres d'Hébergement et de Réinsertion Sociale aim to offer housing, support and social reintegration for people looking for accommodation or shelter, thereby facilitating the recovery of personal and social independence. This involves educational assistance and professional reintegration activities. The type of person admitted varies from one establishment to the next. Admission requests can be made directly to a CHRS or through the intermediary of a social worker. The prefect decides who is admitted.

<sup>155</sup> *L'Allocation Logement Temporaire* is part of a State-run set up awarding financial aid to organisations or CCAS (*Centres Communaux d'Action Sociale*) that offer housing to people of limited means. The housing is offered for an average of 6 months, with more flexibility in difficult areas. The organisation or CCAS must provide social services support, and be either the tenant or owner of the housing.

Monde and the CCAS concerning French lessons, medical follow up and health coverage rights was drafted but never signed. This success was only achieved through the exertion of inter-organizational pressure, and did not incite any widespread reflection or follow up. Nonetheless, it was the first of its kind in the Bordeaux area and brought the reality of the Roma issue home. This kind of funding for housing should be encouraged as it involves the authorities in housing and reintegration issues.

In Mulhouse, between 1999 and 2005, the organization APPONNA 68 supported 12 Romanian Roma families settled on government-authorized land. The organization was mandated to reintegrate the families, but no residency papers were obtained. The families have thus continued to live in poverty. In 2005, the land was sealed off and the families relocated to public housing and private addresses. The 12 flats are managed by the ALT, and the FSL funded 4 years of social support.

In addition to reintegration housing and rented public housing, the Roma should also be securing more places in hostels (social accommodation, young workers' and migrants' hostels), with real occupational status (lease or tenancy agreement) and guarantees of remaining at the address and receiving individual housing benefits even if they are paying charges rather than any sort of rent. So long as the norms of occupation and cleanliness apply, and real support is provided, this type of temporary furnished housing could act as a transition to independent housing. Thus in Tours during the summer of 2008, all the families included within Council arrangements<sup>156</sup> were relocated elsewhere, most of them to the ADOMA hostel.<sup>157</sup> The families were satisfied with this change, even if it was not problem-free: they had no rental agreement and the accommodation was cramped, with at least one large family being forced to split up. Only two families still remain in the hostel. The others, which all now include employed family members, have moved on to public housing. Two other families left of their own accord to try out their luck elsewhere, and later returned to Tours and built new huts on the city's outskirts. They are assisted by local organizations and the Saint-Genouph Council. Their situation nonetheless remains of concern.

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These types of housing and temporary accommodation should be encouraged. Roma families accommodated in these kinds of settings begin a residential history grounded in common law from the outset and, particularly in cases of reintegration housing, can receive individual support, which is preferable to the community treatment accompanying the collective management of an authorized site.

### c) Public housing

Access to public housing is without a doubt the best way to initiate a person's reintegration, as proven by the swift reintegration of the families re-located to public housing over the past

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<sup>156</sup> This involved families who, squatting in a former dump, were temporarily housed in construction huts set up in a scantily equipped zone on a disused reception centre site known as the « terrain de la Gloriette »

<sup>157</sup> 7 families in the ADOMA hostel, Joué les Tours (rooms in shared flats), 1 family in the ADOMA hostel, Tours.

few years (new towns of Sénart, Achères, Saint-Michel-sur-Orge, etc.). Out of the 39 families included in Sénart's SAN program in the Seine-et-Marne, over the last 5 years 33 were allocated public housing from the prefect's quota for one of the new town's 8 districts, along with specific social services support.

In 1986, a decree in France restricted the allocation of social housing to French people or those "permitted to spend regular time on French soil in permanent conditions as defined by [...] order<sup>158</sup>". As stipulated by law<sup>159</sup>, Europeans can be accorded residence papers on demand, but such a step does not condition the rights associated with regular stays in the country (except for access to work during the transitional period). Thus if they can prove that the conditions (income and health coverage) qualifying regular stays in the country are satisfied (as stipulated in the cited decree), they should not have to produce residency papers. Unfortunately, all social housing bodies consider the possession of European Union residency papers mandatory.

In most Departments, the public housing demands made on behalf of Roma without residency papers are not even processed, or evoke no response.

In Nantes in 2009, however, a few families living on officially registered land and receiving child benefits were relocated to public housing. But few such allocations are made because the social services renting properties require tax returns for the previous year, or even previous two years, and residency papers for at least 6 months, even though families only hold seasonal employment contracts. Housing is therefore secured through rental agreements in the name of the ACTA-Rom organization, or Une Famille Un Toit.

During a national Romeurope meeting held on 24<sup>th</sup> January 2009, a Romanian Roma pointed out that like others amongst his compatriots, he had been living in France for some years (since 1990) and had had residency papers for 10 years, but despite this was still living in a caravan; not because he chose to, but because no other form of housing was available to him.

**Testimony from a member of PARADA, 3<sup>rd</sup> September 2009, Seine-Saint-Denis**

This is about a Roma woman living on her own, with residency papers valid until 2010, receiving child benefits, a mother of six children, all born in France and 4 of them underage, all holding French nationality because the eldest went to school for 13 years in France (as stipulated by nationalization law), and she's seven months pregnant into the bargain.

Her husband passed away a few months ago. Her family was squatting in a flat in a housing estate in Saint-Denis (Cité Courtille, rue des Marnaudes) until their eviction on August 23<sup>rd</sup>.

The family had pursued all manner of administrative procedures over the previous ten years, particularly requests for public housing (it has proof of the efforts it made). Since the eviction, this woman has tried everything. Including the Seine Saint-Denis prefecture, where she is known.

Now homeless, she recently returned to Saint-Denis' social services department to re-present her case, but was categorically refused all aid on the pretext that she had been a long-term squatter. She was quite literally thrown out of the Town Hall by the police because she was making too much noise.

So she called 115, which offered one night's shelter for her and her youngest children – the children over 15 years old were not allowed in. Obviously she refused such an inadequate solution, as she didn't want to leave her daughter in the streets, even though she said that her

<sup>158</sup> Clause R. 441-1 of the *code de la construction*, from a decree issued 19th March 1986 and completed by a decree of 25<sup>th</sup> March 1988.

<sup>159</sup> Clause L. 121-1 of the *CESEDA*.

two sons of 18 and 19 could manage on their own if they had to. The only option she had was to place her children in care. Whichever way she turned, it was impossible to get just treatment. What should she have done: lived in a shantytown? This would have been particularly dangerous in her situation, and in any event, inadmissible in her eyes, given her vision of life, etc... This woman has the means to pay rent! She has French papers, her children have French nationality, she just has two big problems in life: she is Roma and a woman. Conclusion: her children will sleep on the streets, and miss school, even though they are desperate to go (their school bags and books are in storage, and what's the point of going anyway: no one knows where they'll be living tomorrow).

#### d) Freeing up vacant housing

The number of squats reveals the extent of the housing problem, but also the number of vacant public or private buildings that are neither insanitary nor dangerous and could, with a bit of work to bring them in to line with housing norms, be turned into temporary family accommodation, or even a tie to a place if occupied sporadically to start with. The Lyon-based organization ASLIM<sup>160</sup> encourages landlords to sign a “temporary occupation agreement”, thereby making their property available to the organization for a limited period, and then proposes a “temporary sub-contract” to families needing housing.

But public authorities can also chose to free up vacant housing. Thus in Val-de-Marne, around 150 people are housed by the Department Council and the districts, some of them since 2004. In the Autumn of 2004, in Choisy-le-Roi, some families with children at school wanted to stay in the district, despite their regular evictions. The Council decided to offer them four abandoned houses to settle in. On 20<sup>th</sup> November 2004, Roma previously settled on land belonging to Val du Marne’s Department Council, at Saint-Maur-des-Fossés, were accommodated in the former police station, also owned by the Department Council. The same type of arrangement was made for two families by the Vitry-sur-Seine Town Hall, and for some ten families by the Val-de-Marne’s Department Council (4 houses in Villejuif, Vitry and Saint-Maur, two flats in Vitry and Joinville-le-Pont). From 2007 on, the Department Council also signed an agreement with the organization Pour Loger concerning support for the families it had housed. Their situation is improving, and several family members have started finding work: some rethinking is therefore underway with the Department Council on the organization of their subsequent move into permanent housing.

The city of Nantes freed up several houses from 2008 on, thereby housing some thirty people previously living on officially registered land. The organizations in charge have observed that the premises are well maintained (better than the communal areas where they were living before).

In September 2008, following an eviction in its Department, the Essonne Department Council paid for one night’s accommodation for 5 families in a Première Classe hotel in Chelles, in the neighboring Department of Seine-et-Marne. The people concerned (10 adults and 19 children) were then settled on land near a municipal dump. Three women were pregnant. A baby died shortly after birth. The two other women gave birth in November and December.

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<sup>160</sup> *Action de Soutien au Logement d’Insertion et au Meublé* [Assistance for Supported Housing and Furnishings]

When the mothers left hospital, these two families were relocated, one to a flat reserved for public sector primary school teachers and the other to a city-owned property. As soon as September came round, all the children aged between 6 and 12 went to primary school. The CCAS covered the costs of canteen, day centre and winter-sport lessons. Their vaccinations were brought up to date. Teachers volunteered to teach the parents literacy. The children fared well at school: their parents were involved and their attendance regular. The Council's social services also helped the adults to find work.

The Roma Solidarity Network with support from the organization "So no one is left to sleep in the streets" (*"Pour que personne ne dorme à la rue"*), initiated a series of "citizens' requisitions" to draw attention to buildings in a perfectly inhabitable state in the St Etienne area, left vacant whilst the State abandoned dozens of families to dangerous squats and regular evictions: in August 2008, October 2009 and April and May 2010, four public buildings, left vacant for several years (housing for public sector primary school teachers in two cases, and two former retirement homes) were thus requisitioned by the organizations for the use of Roma families. In every case, coordination and management of the different premises was organized with the families. Regular meetings have been held on the premises. The other residents were informed by letter, and a Press conference organized to set out the steps taken.

**Press release from the St Etienne Réseau de Solidarité Roms – 13 Mai 2010**

On Monday 11th May 2010, a fire destroyed a building occupied by Roma families, some 44 people, 14 of whom are children.

These families only just managed to escape the building, fighting their way through the smoke, some of them jumping out of a first floor window. They lost everything.

Since then, the prefecture, the prefectural administration and the Town Hall have all abandoned them to their fate, refusing to come up with any solutions for their re-housing.

Thanks to the solidarity exhibited by organizations and the people of St Etienne, they have found shelter under the kiosk on the Place Jean Jaurés and acquired a few mattresses, blankets and some food. They have spent the last two nights sleeping under this kiosk.

All persons, all sectors of society, who undergo a tragedy such as this, receive assistance (as is their due) from the prefectural, departmental and municipal authorities so as to be re-housed as a matter of urgency. They may also be offered psychological support. These Roma families have received absolutely nothing. Yet there is a pregnant woman, a baby, and young children who haven't been able to attend school for the last three days.

These families are in danger.

Hundreds of townspeople have already expressed their solidarity and demanded that these families be re-housed (more than 1,400 signatures collected on a petition over the course of two days).

Given the indifference of the public authorities and in the name of human dignity, we are shouldering our responsibilities.

Squats are humanly intolerable and dangerous.

There are a number of vacant buildings in the area. So we have requisitioned one of them, the block of former Molina primary school teachers' flats, at the bottom of Montreynaud.

We are entirely aware that this act is illegal, but legitimate in terms of human dignity and the protection of persons and children. Our solidarity aims to lay claim to fundamental rights, the right to decent housing, so that these families can live in dignity, as should be the case for all men and women.

We call on universal solidarity in the support offered to these families, support for their installation, and getting the building up again.



## IV) CHILDREN'S RIGHTS: DISREGARDED IF THE CHILDREN ARE ROMA

The International Convention on the Rights of the Child, signed on 20 November 1989, celebrated its 20th anniversary in 2009. One of its key assertions is that signatory states, France included, “undertake to ensure the child such protection and care as is necessary for his or her well-being”. All laws, courts, public services and social welfare organizations must ensure that “the best interests of the child [are] a primary consideration” (article 3) in all their decisions. In particular, this involves taking every measure to recognize “the right of the child to the enjoyment of the highest attainable standard of health” (access to treatment, preventative health measures, proper living conditions, social welfare... articles 24 and 26), “the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development” (article 27) and “the right of the child to education” (article 28). In the Universal Declaration of Human Rights, the United Nations also declared the right of the Child to special help and assistance.

The situation of Roma children must be assessed from this frame of reference: in relation to the rights of the Child as opposed to those of the foreigner. Yet these rights are continually disregarded in France when the public authorities leave Roma children to live in unacceptable living conditions on unsanitary land, when they refuse them the designated address necessary for accessing care, when they obstruct access to schooling, when they deny their parents the possibility of legally acquiring the resources that would ensure their physical, mental, spiritual, moral and social development, as all parents are duty bound to do.

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Contrary to prejudices founded on very marginal cases, the child is usually the focus of attention within Roma families. Child begging – or begging with children – is a reality often cited in support of the image of abusive Roma parents. On the basis of the law of August 2003, which made it a specific offence to beg in the company of a child, today parents are even arrested with their children for this reason. This, despite the Court of Cassation (Supreme Court) ruling of 12 October 2005, which led to the release of a Roma woman who had been arrested several times for begging with her son. The judges on that occasion considered the mother's actions did not demonstrate any neglect on her part, but highlighted the State had let her live in a state of such destitution that she had been forced to beg out of necessity.

Parents are often stigmatized for involving their children in this activity, which in many cases they do due to a lack of day-time childcare. However, we consider it far more crucial to denounce the trauma associated with the extreme precariousness of their living conditions, the evictions from land, police brutality, arrests... Children who witness this law enforcement intervention are particularly traumatized.

Furthermore, during group arrests, all family members (including children) are arrested, placed in custody and sometimes taken to detention centers.

## A- Roma children, excluded from school in large numbers<sup>161</sup>

The presence of children in France with no schooling is problematic in the light of the national and international texts signed by France. Given the extent of this problem, a detailed reminder of the content of these texts allows us to re-evaluate lack of schooling as a serious violation of the rights of the Child.

### **International Convention on the Rights of the Child Article 28**

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- a) Make primary education compulsory and available free to all;
- b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- c) Make higher education accessible to all on the basis of capacity by every appropriate means;
- d) Make educational and vocational information and guidance available and accessible to all children;
- e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

### **Education Code**

**“Education is compulsory for children of both sexes, French and foreigners, between six and sixteen years of age.” (Article L. 131-1)**

“The right of the child to education aims to guarantee, on the one hand, the acquisition of basic tools for learning, basic knowledge, elements of general culture and, if they choose, professional and technical training; and, on the other hand, education allows them to develop their personality, raise their level of initial and further training, and to integrate themselves into social and professional life and exercise their citizenship. **This compulsory education is provided first and foremost within teaching establishments.**” (Article L. 131-1-1)

### **1946 Constitution**

“The Nation guarantees children and adults equal access to education, professional training and culture.” (Preamble – Article 13)

### **International Covenant on economic, social and cultural rights, signed in New York on 16 December 1966**

“The States Parties to the present Covenant recognize the right of every person to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms.” (Article 13)

### **European Convention on the Protection of Human Rights and Fundamental Freedoms.**

“Nobody can be denied the right to an education” (Protocol n°1 – Article 2)

While their school experiences will differ, the Romeurope member associations who intervene in the field on behalf of Eastern European Roma people are in agreement that the Roma children living in the squats and shanty towns of France can be considered as almost

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<sup>161</sup> For more detailed information on the exclusion of Roma children from French schools, refer to the 2009 CNDH Romeurope study, the source of most of the facts and figures in this chapter:

Alexia Veriter, “*La non-scolarisation en France des enfants roms migrants. Etude sur les obstacles à la scolarisation des enfants roms migrants en France*”. The limited schooling of Roma migrant children in France. Study on the obstacles to schooling for Roma migrant children in France, January 2010

entirely without schooling. To be more exact, the **children without schooling** in question here are children of compulsory school age (aged 6 to 16), who are not in school or are there so irregularly that they cannot gain a basic grounding in school education.

Several scenarios match this definition:

Firstly, there are children who find themselves **completely outside of the school system**. They have lived in France without ever having been enrolled at school. Most attended school in their home country, others have never been to school (they are usually children who were not of school age before leaving their home country, and who have migrated long distances).

Other children are very **partially integrated in the school system**. They may sometimes be considered as “at school” by the public authorities because they are enrolled in a school or in the process of enrolling, even if their actual school attendance is only very partial (enrolment part way through the school year, a very long wait before being assigned a school place, interruption following an eviction or very low and irregular attendance due to living conditions). The notion of “regular attendance” is very relative when applied to Roma children. In Lyon, for example, associations consider that children are “regularly attending” school if they go three days a week, giving an insight into what the average school attendance might be. Schooling can be disrupted by attendance stretching over 3 or 4 months, or several days per month, over the course of the whole year. It is therefore difficult to believe that these children are benefiting from effective access to education.

Finally, there are the children **outside the school system**, who have been at school for one or several years in France but who have dropped out, often indefinitely (usually before moving onto secondary education).

Although exclusion from the school system may affect Roma children for varying periods of time, in the vast majority of cases they spend their entire childhood and adolescence outside of school. For some children recorded as being “at school”, their time in school is a brief and chaotic interlude, punctuated by absences and falling behind.

It could therefore be said that **between 5000 and 7000<sup>162</sup> Roma children in France today will reach the age of 16 without ever or barely having been to school.**

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<sup>162</sup> In fact, school-age children represent between one third and one half of the Roma population living in France in squats and shanty towns, which itself is estimated at 10,000 and 15,000 people. Almost all of these children can be considered without schooling, fitting into the different scenarios described.

A study carried out in 2009 by the Romeurope Collective evaluated how many Roma children outside the school system in different urban areas (by cross-referencing the information provided by different actors: local authorities, national education authorities and associations). The “school-age children” column indicates the estimated number of children aged between 6 and 16. In general, they represent one third to one half of the population present.

<b>The educational status of Roma children in several French cities during the academic year 2008-2009</b>			
<b>Cities</b>	<b>School-age children</b>	<b>Children enrolled during the year</b>	<b>Children actually in school</b>
Marseille	600	50	20
Lyon	159	92	35
Nantes (Unapproved sites - <i>Terrains non conventionnés</i> )	300	120	40
Nantes ( <i>Terrains conventionnés</i> *)	73	73	73
<b>Situation in November 2009</b>	<b>School-age children</b>	<b>Enrolled children</b>	
Seine-Saint-Denis (except the MOUS*** of Montreuil, Bagnolet, St Denis, St Ouen and Aubervilliers)	1300	80**	
MOUS Montreuil	110	40	
Massy	100	7	

**Key:** The column entitled “Children enrolled during the year” shows the children for whom the enrolment process was carried out during the academic year. The last column, “children actually in school” shows how many children were still in school at the end of the academic year, and who had the minimum attendance (these children are generally considered to be attending regularly when they spend three or more days per week in school).

\* The expression “terrains conventionnés” (approved sites) refers to the land inhabited by families having agreed a contract with Nantes City Council, and who benefit from a fixed residence, sanitary facilities, school support and other assistance, provided that they make an effort to integrate, including by sending their children to school.

\*\*Data collected from ASET 93

\*\*\*These MOUS vary a great deal with regards to how they function, and were implemented for a limited number of families who benefit from a fixed residence and welfare support.

This exclusion from schools in France is reminiscent of an increasing phenomenon in the country of origin. In Romania, the country of origin of most Roma children present in France, all children were at school for an average of four to six years under the communist regimes. Following the fall of these regimes, and despite the laws prescribing free and compulsory schooling without discrimination, all Romanian children suffered from a gradual exclusion from school, linked to the lack of enforcement of compulsory schooling, parental unemployment, impoverishment (which meant that the costs related to schooling could no longer be borne and that a child’s economic contribution became necessary for the family’s survival). Discrimination against Roma children within the schools (relegated to special classes or the bottom of the class, victims of bullying, etc...) was also a factor.<sup>163</sup> However –

<sup>163</sup> The abandonment and lack of schooling of Roma children in Romania seems to have reduced in recent years, but is still a significant phenomenon.

Below are the figures contained in the report by the Open Society Institute (Equal Access to Quality Education for Roma, Romania, Monitoring report – 2007). Proportion of Roma children who have been excluded from school or have never been enrolled (in 1992 and 1998).

Age	Withdrawn:	Never enrolled :
	1992 / 1998	1992 / 1998

and this is a scandal when you compare the relative wealth of both countries – **Roma children receive a far more regular and far better education in Romania than in France.**

**The schooling of Roma children in Europe**

In the European Union, when the situation in 10 States was evaluated in 1985 and in two new States in 1988:

- around 30 to 40% of children attended school quite regularly;
- half of all children had never been to school;
- a very low percentage reached secondary education
- school results, particularly in literacy, were not in proportion with the length of time spent in school, indicating that school was not even fulfilling its role in the basic areas of learning
- the illiteracy rate amongst adults often exceeded 50%, and even reached 80% to nearly 100% in certain places.

The situation only evolved very slowly over the course of the following years, and the trends were the same across Europe. The figures indicating a good school attendance rate in certain States do not in any way mean that school is a qualitative success as a means of adapting the Roma community to its surroundings. They are more likely an expression of a self-satisfaction and desire to value the supposed benefits of a policy.

(Jean-Pierre Liégeois, 2007)

The author adds that “It is important to mention that, 25 years after the research carried out in 1984, the situation has not noticeably changed.” (Jean-Pierre Liégeois, 2009) despite the context of the implementation of recommendation CM/Rec(2009)4 of the Committee of Ministers to member States on the education of Roma and Travelers in Europe.

**B- The effect of exclusion from school**

Roma families are largely aware that not sending their child to school will compromise their ability to find work, and they express their concern on the subject. However, without even considering how access to work can favor social integration, a lack of schooling promotes, above all, the emergence of a generation of illiterate young people who will not have the tools necessary to live independently in French society. In the long term, these are elements that will perpetuate the discrimination against Roma populations and perpetuate their stereotypes.

**Alexia Veriter, “The limited schooling of Roma migrant children in France. Study on the obstacles to schooling for Roma migrant children in France”, January 2010**

Denisa is 12 years old. She moved into a squat in Marseille with her family over a year ago, but has already been in France for more than 4 years. Before coming to Marseille, her family lived in Lyon, where Denisa went to school for 2 years. Now it is over a year since Denisa has been to school, and when we asked her why she stopped, she said that the evictions make it difficult to go to school. Denisa’s family is finding it really very difficult to become settled: when they moved in here after having been evicted from their squat in Lyon, they didn’t know how long they would be able to stay. Soon they will have to leave this squat too, and her parents think they will end up going back to Lyon. However, Denisa doesn’t lack any desire to go back to school; she talks about it enthusiastically: she had made friends there, was picking up French well, and learning many other things. Not only did she enjoy it, but she also became aware that attending school was very important for her future; when asked why she wanted to continue going to school, she solemnly answered that she will not be able to find a job if she doesn’t go to school.

Apart from anything else, to deny these children the routine offered by school, when they are permanently facing an uncertain future (economic instability, housing made uncertain by evictions, etc.), is to take away an essential means of finding their bearings in time and space.

7-10	10.1 / 1.9	27.9 / 15.4
11-14	24.4 / 8.6	17.6 / 15.8

School is also one of the principal places of stability for families, too. They rely on it to put down roots in the social fabric by building links outside of their community.

Finally, a significant increase has been observed over recent years in the number of Roma youth who, distancing themselves from institutions, edge towards street activities: usually begging, but also illegal work, petty crime and even prostitution.<sup>164</sup>

## C- Principal obstacles to the access to school

### 1) Expulsions from living areas

The expulsions of families from their living areas are common everywhere, but they can be particularly widespread in certain Departments (cf. chapter III-B)

An eviction from a site can have far-reaching consequences for the school career of a child:

As the date by which the family must leave approaches, the child displays signs of anxiety in their lessons that are picked up on by their teachers: agitation, lack of concentration, tearfulness, etc. The police make regular visits in the weeks leading up to the eviction. During these periods, children are sometimes not sent to school because their families are preparing for their departure and are fearful of being separated from their children during the eviction (this kind of situation has occurred in the past).

The eviction is followed by an absence from school for a certain length of time, sometimes permanent, while the family finds a new home, moves in and finds its bearings.

This enforced mobility explains the reluctance on the part of some education boards, which fear making classes and resources available “for nothing” because they know that children may leave the school a few weeks after having started in their class.

The case of Alexandru, a Roma student forced to change secondary school twice in one year due to evictions, is a good illustration of the restrictions imposed by the unstable housing arrangements of Roma families. His story, described below by a teacher and member of Médecins du Monde, demonstrates the difficulties faced both during the enrolment administration process (very long enrolment waiting lists) and in maintaining regular attendance given the living conditions on the sites and the unstable background.

#### **Account of a Médecins du Monde member, Nantes, October 2009**

“Alexandru’s family arrived in Nantes in April 2007 and settled in the western outskirts of the city. A school place was requested with the help of community organizations. In May of the same year, Alexandru received a request from CASNAV to assess his level of reading, writing and French language. The results placed him in CLA-NSA but due to a lack of places, he had to follow the standard curriculum. The education board’s decision arrived in October 2007: the establishment selected was the local secondary school, situated fifteen minutes from the site where the families had settled.

Everything went reasonably well to start with: a timetable was drawn up, extra French classes were organized, and learning support was offered. In December, the families were evicted

<sup>164</sup> Hors la rue (*Off the Street*), 2008 Summary of Activities - Establishing common law guidelines for, and in support of, at-risk, isolated or badly mentored foreign minors - <http://www.horslarue.org>

from the site and moved to the outskirts in the East of the city. From then on, Alexandru's journey to school was over an hour by public transport. The management and education team of the school decided to use the school's social bursary to pay for his monthly travel pass. However, Alexandru's absence and punctuality record, quite exceptional in the early months, deteriorated. The causes were quickly identified. Firstly, the new site was completely filthy (15 to 20cm of mud to get to the caravans) and many parents, Alexandru's included, were too ashamed to send their children to school dirty. Secondly, it appeared that several bus drivers refused to serve the bus stop next to the site (most children and adults travelling without valid tickets). Faced with these obstacles, an application was submitted in May 2008 to the education board to find a school closer to the new site. The new placement came in October, and Alexandru was once again twenty minutes from school. But eight months later a new eviction forced the families to leave the site and return to a few metres from their first site, in the western outskirts. Alexandru's school was once again on the other side of the city from his home. A new application to change school was submitted to the education board. The application, supported by the family having moved into a flat, was accepted. At the start of the 2009 academic year, Alexandru returned to his original school. These circumstances have had serious consequences for his education: falling behind even further in his learning, absenteeism leaning towards missing school completely during certain periods, loss of skills (in November 2008, Alexandru returned to the level of knowledge he had been at in October 2007)."

## 2) Enrolment refusals and delays

Refusing the presence of Roma occurs most often at the local district level as these are the first ones involved when Roma move into an area and their presence also affects electoral issues. Certain local mayors are quite clear on this issue: accepting Roma children into local schools means allowing the Roma population to establish itself within the locality. In essence, school is a place where Roma families may create connections with other local residents, as well as connect with available social services...

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### a) Refusals to enroll Roma children in school are sometimes explicit

Enrolment denials are sometimes direct. Town Halls sometimes cite the illegal or dangerous nature of the families' squatter status, a situation the local governments do not want to support, as the reason for denying children access to local schools. In other cases, the lack of a specialized class for accommodating non-francophone students serves as a pretext for the impossibility of accepting Roma children in local schools. Still more frequent, when families camp on areas bordering two or even three localities, the different local governments deny ownership of the land in question in order to absolve themselves of any related responsibilities.

#### **Testimony from the Yvelines LDH (Human Rights League), October 2009: New School Year, 2009, Yvelines**

Approximately 70 individuals camp between the districts of C and T. After a HALDE decree (2009-233) in June 2009, the district of T was required to accept Roma children in its schools. But when the school year opened, neither C nor T appeared to have learned its lesson.

"The B family arrived at the camp several days before the school year began. They had lived previously in another Department and the children (2 in secondary school, 4 in primary school and one in nursery school) had all attended school and were French-speaking. The family attempted to enroll the children in C (which was closer), but the head registrar required the family to have a designated address (*domiciliation administrative*) in C. The family then went to the Town Hall in T to request enrolment in T, which might be followed by a dispensation to go to C, but the registrar in T responded that the family must enroll in C where their caravan was located.

The IGN (National Geographic Institute) map clearly indicated that the camp location was in T, and so the Human Rights League re-contacted the educational department in T, who then also required the family to have a designated address (*domiciliation administrative*) in T, knowing full well that the families living in the camp used postal addresses in different humanitarian organizations around the region, and not in T, and that only the local government had the right to grant a designated address to the families.”

**SUD Education Press Release: Finistère – Roma children have the right to attend French schools! Sunday, 18 October 2009**

Currently, Roma children residing in the district of Loperhet are still not been accepted in the local schools as the Mayor denies their enrolment. The mayor of Loperhet hides behind a “decision” made in the Finistère prefecture.

Instead of granting access to local schools, the academic institutions (State, local and National Education Service) are looking to establish a system with part-time, volunteer instructors who will teach lessons in the center where the children are living.

SUD Education finds the solution of a single class composed of Roma children only, taught in their area of residence (and therefore outside of the city) unacceptable: this is “education by patchwork”, and it does not satisfy any apprenticeship, integration and social requirements for these children. These institutions are above all contributing to the ostracization of Roma children who, like all children living in France, have the right to attend French schools alongside other children their own age.

Enrolling children at school is at the sole prerogative of the mayor of Loperhet. As the law requires, without regard to any prefectural “decisions”, he must assume his political responsibilities and accept Roma children at the state school.

**b) Abusive requirements for documents, especially for a designated address (domiciliation administrative)**

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However, enrolment refusals also work through more complicated twists and turns, including, notably, the requirement of administrative documents which are difficult for the families to provide and which are only required for Roma children. Legally, only two documents are required in order to enroll a child in school: one identity document (passport or identity card or family record book or a copy of a birth certificate) and a health record book (or certificate) demonstrating vaccinations are up-to-date (or in process for a younger child). Yet Roma families are often asked to provide all kinds of documents: copies of lung x-rays were required as an enrolment requirement for Roma children in Marseille in 2008-2009; other documents include parental liability certificates.

Families living in squats or shantytowns are almost always required to provide proof of a designated address by a recognized authority. Of course, “for enrolment purposes in educational institutions and higher learning establishments, proof of domicile MAY be required”<sup>165</sup>. But on the one hand, this also means that the administration is not REQUIRED to request it, especially if to do this would hinder or delay the child’s enrolment. In these types of situations, the notion of immediate allocation (described below) should apply and any missing documents should be accepted in the course of the enrolment.

On the other hand, for individuals “without a stable residence”, meaning those without a reliable postal address, it is indicated nowhere that proof of address must necessarily be a designated address. It is made quite clear in article L131-1 of the Code of Education that the Town Hall is required to provide schooling for children who RESIDE in the district; this is no

<sup>165</sup> Decree No. 2000-1277 of 26 December 2000 (Article 6)

way means the child must have a declared residence with the CCAS or another recognized organization<sup>166</sup>.

Furthermore, any manner of proving a connection to the district should be accepted and it seems possible here to rely on the examples listed in the Circular related to address requirements for individuals without a stable residence: proof that the family has made contact with a humanitarian organization or some other local institution; proof of links with family or friends; recipient of some type of community-based integration program...<sup>167</sup> Some districts, however, already apply this principle by accepting a simple declaration made by the parents stating an address or a similar declaration from an organization.

This does not, however, absolve the CCASs, something which is unfortunately too often the case, from respecting their obligation to help establish a designated address (*domiciliation administrative*) for families living on the margins in their district, in order to provide them with an address to validate their social rights, especially with respect to health insurance.

### c) Unjustified delays in enrolment and appointment procedures

The usual delay between a request for enrolment and the moment the child begins school rarely exceeds one week. For Roma children, the average time is two months. Depending on the location, processing the request appears to require, in terms of enrolment by the Town Hall or allocation to a class by the School Inspectorate, a concerted procedure and a specific program.

Town Halls often require meetings before children are accepted, which is not the case for non-Roma students. Frequently, acceptance of enrolment requests is subject to the opinion of elected officials.

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In terms of placement, when a large number of children request enrolment at the same time, it makes sense that a certain delay is necessary to accommodate all the students, especially if this would mean opening a new class. What is at issue here is that first, the delay is excessively long and second, no provisional schooling is offered to the children while they wait. These delays are often even longer for secondary school students, who must pass placement exams at the Information and Orientation Centre, and for whom there are often fewer available spaces. For certain schools, enrolment delays for students is related to a reticence, which is openly expressed, to provide schooling to Roma children in the fear that they will be shortly evicted, sometimes causing the closure of a class.

Outrageously long enrolment delays have been denounced in one example in the Nantes urban area where children were waiting for placement for six months and even a year. In Seine-Saint-Denis, the School Inspectorate states that it makes efforts to reduce these delays to three weeks when placing groups of children. This still remains quite long if we add the enrolment procedures with the Town Hall and if we consider that the children have no provisory schooling during the waiting period.

The principle of immediate provisional enrolment is rarely applied to all children residing in the district. National Education Service circulars remind us, however, that no matter the

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<sup>166</sup> “Each year when the school year begins, the Town Hall will take a census of all children residing in the district and who are subject to compulsory schooling” (Code of Education L131-1)

<sup>167</sup> Circular No. DGAS/MAS/2008/70 of 25 February 2008 on granting designated addresses to individuals without a stable residence by the CCAS or CIAS

difficulty a family has in gathering the requisite documents for a child's enrolment, the child must begin school immediately and the file should be completed after the fact.<sup>168</sup>

Furthermore, the absolute impossibility of accepting a child into a school should involve an emergency procedure, quite the opposite of the months of waiting which is the norm for Roma children.<sup>169</sup>

Without implying that this is the local authorities' intention in every delay situation, it is sometimes quite clear that delays are used to waste time so that a procedure to evict the Roma from their camp may see its conclusion before the children become integrated into local schools.

**Testimony from an MRAP member and from Romeurope Val-de-Marne**

Several families, who were being assisted by Secours Catholique de Paris, were evicted from their camp in Paris and became squatters in various areas in two districts in Val-de-Marne.

On one of these, where a family with 8 children was living in a squat, the Secours Catholique de Paris immediately intervened at the beginning of November to get six of the children, two secondary school children and four primary school children, into the school system.

The school registrar at the Town Hall used various pretexts to delay the children's enrolment:

- Rejected the addresses listed with the Deacon's Office.
- Questioned the certified declarations of the adults from the Secours Catholique because they were from Paris.
- Evoked the so-called requirement of agreement through an elected body.

The local MRAP chapter contacted the elected official in charge of education. This individual, wanting to keep the Council from being publicly accused of refusing enrolment to these children, did what was required so enrolment was accepted, after an MRAP activist declared themselves responsible for the family. The children then began school after the Christmas holidays and are very happy.

These administrative obstacles created a 2-month delay. Unfortunately, it took action on the part of two humanitarian organizations (MRAP and Secours Catholique) to obtain a decision which is already guaranteed by French law. Perhaps, without help from both organizations, the family would not have had the courage to continue the fight alone.

**Extract from the study, "Non-schooling of Migrant Roma Children in France. Study of the obstacles preventing the education of Migrant Roma children in France", (*La non-scolarisation en France des enfants roms migrants. Etude sur les obstacles à la scolarisation des enfants roms migrants en France*) Alexia Veriter, Romeurope, January 2010**

In Nantes, humanitarian organizations have denounced enrolment delays lasting between six months and a year. These organizations estimate the average delay before school placement is three months. Specialized classes are overwhelmed, so much so that the CLAs have divided their school year in half: one group of students is taught from September to January, while a second is taught from January to June. The School Inspectorate, however, does not deem it necessary to open another CLA in the district. In its defense, it is confronted with

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<sup>168</sup> « For primary school, according to the dispositions of Circular No 91-220 of 30 July 1991, even if the family is unable to present one or several of the documents needed upon their request for enrolment, the child must be allowed provisional enrolment until the documents required to enroll the student are presented in the shortest delay possible. » (Circular No 2002-101 of 25 April 2002)

<sup>169</sup> "In the event that a school director is absolutely unable to admit a child because the school is full, the director must report this issue, within three days, to the school inspector of the Department. The latter will then inform the prefect and will take all necessary steps to make enrolment possible." (Circular No 2002-101 of 25 April 2002)

issues related to student diligence and drop-out rates following the opening of classes. As for delays in enrolment requests, the CASNAV notes that the School Inspectorate treats them quickly (between one to two weeks), and that the Town Hall is responsible for the long delays. The Educational Service has already called the School Inspectorate to order so that it shortens its enrolment delays (according to the organizations).

#### d) Placement in schools far away from the family residence

Families may also be discouraged from enrolling their children because the children end up placed in institutions far away from the family residence or because siblings are placed in different schools. In the context of the previously-cited study, the father of a family living in Nantes explained that his three children were all at school in three different institutions, all far from each other, and so it was impossible for him to bring them and pick them up from school on time.

#### e) No active strategy for children for whom no one has attempted enrolment

The Code of Education requires Town Halls to keep a census of all children residing in a district and enforce compulsory schooling.<sup>170</sup> However, districts do not have an active strategy with respect to these children, whose presence cannot be unknown (Roma living areas are often highly-visible and regularly supervised by municipal police), and therefore local government is aware that the children are not enrolled in school. The response from the Marseille Education Department: “The Town Hall has neither the means nor the legal tools, in a town as large as Marseille, to check whether all children are in school.” We would need a special police force!”

Yet some towns have already attempted to assume their responsibilities in terms of compulsory schooling...Nantes, for example, took a census of all school-age children several years in a row, and included approved sites as well as remote or undeveloped sites. The Educational Department at the Town Hall thus had a list which included the name of each child, his/her place of residence, birth date, educational level, CASNAV test results, as well as the school in which the child was placed. Today, however, the city of Nantes has changed its policy toward Roma populations and no longer counts families living on remote or undeveloped sites. Only children from families involved in the Nantes City welcome project get noticed by the city hall for enrolments, placements, and support toward schooling. An organization chartered by the Department Council is in charge of school enrolments for other

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<sup>170</sup> Article R131-3 of the Code of Education: “Each year, at the start of the school year, the Town Hall must compile a list of the children residing in their district who are subject to compulsory education provision” (Code of Education L131-1) The list must include the child’s first and last name, date and place of birth as well as the first and last name, address and profession of the child’s guardian.

This list is updated on the first day of each month. To facilitate the establishment and update of the list, school directors or the public or private school administrative heads must declare all children who attend their establishment to the Town Hall within eight days of the new school year beginning. Transfers and changes will be provided to the Town Hall at the end of each month. All municipal advisors, departmental delegates from the national education service, social service assistants, teaching staff, government authorities, School Inspector, director of national education department or assistant have the right to consult and copy the list of school-age children held at the Town Hall. Omissions will be declared to the mayor, who will confirm reception.”

children. In Montreuil, the Town Hall also took a census of school-age children but, just like in Nantes, was only interested in the families involved in the integration project (MOUS). This census brought CASNAV to Roma sites in order to conduct testing for placements. Any other children residing in the district remained outside the scope of these measures.

Furthermore, the School Inspectorates, otherwise directly responsible for indicating any situations of non-compliance with compulsory schooling<sup>171</sup>, do not appear concerned that a significant number of Roma children are not attending school in their district. While some make efforts to obtain the means as well as reduce delays for school placements, they continue to wait for the humanitarian organizations to transmit a request first.

Thus, the construction of a program for schooling and support is completely reliant on the organizations in contact with Roma families. But granting access to school is often not their first goal and their work is conducted by a handful of volunteers who are often focused on other emergencies. These workers make a priority selection of children who seem to have the greatest chance that their enrolment will be completed with regular attendance, in terms of the family's material conditions and stable residence or because the parents have shown themselves to be "motivated" in terms of school. The children of families who remain unknown by aid organizations, and there are obviously many, have little chance of ever setting foot in an educational institution.

### 3) The Lack of Response for the Basic Needs of Children Living in an Extremely Unstable Situation

#### a) The Impact of Living Conditions on School Attendance

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Maintaining personal hygiene with very limited access to water is next to impossible, notably during the winter when there is no hot water to bath with, when the ground is muddy, and the laundry does not have time to dry from one day to another (often, only one source of water for all families on the same sites or in the same squat, in a remote location, does not always provide drinking water, and hot water, even less). Additionally, the occupied sites are not always paved, and in certain areas the mud rises to the calves in rainy weather. Certain parents do not want to send their children to school dirty. This feeling of shame is sometimes an important key to understanding the behavior of families towards school. Therefore, during the winter and during rainy weather, children are more frequently absent. A teacher in Marseille noted that personal hygiene problems arise starting at the end of October. The repercussions regarding integrating students can then be felt, with criticism from other students regarding their bad odor, or even criticism from the other students' parents.

#### **Testimony from a Member of the CLASSES Association, Lyon, October, 2009**

During the day on Thursday, the director and teacher of school F. – that accommodates 9 CLIN nursery and elementary school students living on the G site – called me to tell me that no child was present for school that day. I told them that I would go by there that evening. [...] That evening, all of the families were there, the children were sloshing in clay soil that stuck to your shoes, several children were barefoot, they were all covered in this yellow mud on their wet clothes. It went over the top of the boots of the younger ones that were lucky enough to

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<sup>171</sup> Article L131-9 of the Code of Education; Title III: Free compulsory schooling and enrolment of children in nursery and elementary schools – Chapter 1: Compulsory schooling "The school inspector shall notify the Attorney General of any cases of infraction to this chapter, except when the inspector has requested the establishment of a parental liability contract from the president of the Department Council.

have shoes. So I swallowed hard when I told them: "Why were they not at school today? They are better off at school than here, at least they will have a hot meal, tomorrow they all must go to school". The parents responded "Yes, they will go tomorrow". I knew very well that wasn't possible, no clothes could be dry and what one would consider clean! Their hut is their only protection, with a few plastic floorboards in various states of repair. [...] Friday morning, I had a meeting with the parents of two of the children that should have gone to take some tests at middle school T. in Venissieux. Upon arriving, I did not see a single one of the parents, so I say to Andrei who was waiting on me, "And your father?"; "He went to school with my brother", he told me. And sure enough, all of the children had left to school, accompanied by their fathers. That afternoon at around 4:30 returning from another squat, I stopped at the school knowing that I would maybe see the parents and the teachers. Three fathers were seated on the low wall, waiting for their children who were leaving school, the fathers as well as the children, were all clean...

**Testimony of Families from the Beaujoire site – Nantes, March 18th, 2010 – Comments Recorded by the Romeurope Nantes Action group**

"We want our children to be registered for school, but how can we introduce them there unclean, starving, tired!"

Likewise, doing homework in an often over-crowded, poorly heated or unheated, and not always lit home is practically never taken into account. Access to electricity is very limited as well, and the recourses used by the families to heat, to have lighting, make food, etc., (generating electricity, illegal connections, candlelight...) greatly expose them to fire risks. Regular attendance and willingness are thus not the same for these students. The teachers generally understand this fairly well; some even go to the families' sites or squats in order to meet the parents and discover the conditions in which they live.

For certain children, poor state of health and nutritional deficiencies have a direct impact on their concentration skills or are the cause of significant absenteeism. Due to difficult access to AME (see chapter on social welfare), certain visual or hearing impairments are not treated. Lastly, lack of privacy in the home encourages the spread of contagious diseases. Thus, when a child is sick, several others fall very ill in turn, and those who are students will be absent from school.

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**Excerpt from the Study, "Non-schooling of Migrant Roma Children in France. Study of the obstacles preventing the education of Migrant Roma children in France", Alexia Veriter, Romeurope, January 2010**

A teacher in Lyon described what everyday life was like for one of her students who, after being evicted, slept on the ground for several weeks in a squat, and who was nevertheless present in class just like the other students. She added, "These children do not live on the same planet as us, even more so if transience as well as housing problems are considered". Other students of hers lived in the streets or slept in their cars after being evicted. To conclude, she said indignantly, "and even these children have the right to learn too". According to her, and according to several other participants met, children's living conditions greatly influence their learning and their behavior at school.

## b) Educational Disengagement Related to Transportation Difficulties

School is often far away for Roma children, either because their family occupies a site or a squat located on the outskirts of the town, because they want to continue their education in the same school after having been evicted from a site or a squat, or even because the Town Hall wanted to distribute the Roma children to different schools in the city (this is the case in Nantes, where it was decided to place no more than 5 Roma children per school; this decision is no longer respected today, but geographical criteria are no longer taken into consideration due to the transience to which families are subjected). This poses two types of

problems: the implementation of school transportation serving the areas in which they live and the financing of this transportation. It is noted that a lot of children quit school due to the distance from their school. The transportation times can be very long: in Nantes the average transportation time for schooled students is approximately 45 minutes.

This transportation represents a financial investment for families. They are often paid for the middle school students (thanks to social funds for middle school students), but this is not the case for elementary school students. Even when the transportation is financed, the fees for travel companions are never covered.

Sometimes associations find solutions to respond to the absence of subsidies or free transportation, and yet these arrangements do not represent a long term solution. Occasionally, aid are granted to families (by action groups or associations) for the fuel costs for one of the people in the family that has a car and agrees to drive the children to school.

In Lyons and its suburbs, the CLASSES association pays for students' transportation in order to allow them to attend the same school throughout the year, despite evictions. In order to do this, the association made deals with the transportation union (SYTRAL) so that the students with the CLASSES action group benefit from a monthly tariff of €8.20 per month, but a portion remains the responsibility of the association, which receives no subsidies.

Child fraud in transportation has already had severe consequences. For example, in Nantes, two out of three drivers of a bus line would no longer stop at certain bus stops close to some sites occupied by the Roma people once they arrived since they did not pay their bus fares. The children were sometimes accompanied to their school by the bus ticket collectors. Approximately thirty children thus had difficulties getting themselves to school.

Despite often being a long way away, it is not unusual for students to be relatively devoted to school: for example, during the 2009-2010 school year, a group of children schooled in Bobigny had to move to St. Denis following a fire that occurred at the end of May that cost one of their lives, and after a forced break, they started back to school (of course for a short time due to the approaching summer vacation) making the commute from Saint Denis to Bobigny.

**Aix-en-Provence – Report of Gypsies Encountered September 1st, 2009**

13 Roma children from plateau de l'Arbois were registered in the Aix school system. The school transportation service, under the responsibility of Pays d'Aix Community, refuses to take care of these children for safety reasons. Various interventions, letter to the Town Hall. For the time being, nothing can be done. These children will not go to school, contrary to their obligation as outlined by law.

### c). Difficulty Regulating School Cafeteria fees

The meal served at the cafeteria is often the only hot and complete meal of the day.

In high school, there is a school cafeteria fund that allows students coming from less fortunate backgrounds to eat at their school's cafeteria. The families must apply through social assistance, but sometimes these funds are already depleted.

In elementary schools, cafeteria fees are generally calculated by the family's income (between approximately €0.15 and €3.50 per day). It is a locally made decision that varies greatly from one district to another. Certain Councils grant free or greatly reduced fees for families with limited resources, but others apply the highest rate because the families have no documentation proving their limited resources (notably, tax assessments).

Certain districts refuse to introduce free meals but let the families' debts mount. The families then accumulate unpaid invoices, which is a source of anxiety for some, who do not know if they can still send their children to school. Although the children are not refused access to the cafeteria, it is likely that the fact that the invoices remain unpaid makes the Town Hall reluctant to register some groups of students for school (notably in Seine Saint Denis, according to ASET 93 (*Aide à la scolarisation des enfants tsiganes* - Educational Assistance for Gypsy Children). Planning for the families to come pick up the children from school for lunch is virtually impossible, or at the risk of the children not coming back in the afternoon. Dropping out of school is therefore almost certain when the children do not have access to the cafeteria.

**Excerpt from the Study, "Non-schooling of Migrant Roma Children in France. Study of the obstacles preventing the education of Migrant Roma children in France", Alexia Veriter, Romeurope, January 2010**

Bianca is a mother of two, a 6 year-old boy and a 2 year-old girl who stayed in Romania with her grandparents while the family settles. With her husband and their son, they live in Montreuil, and will perhaps become one of the families selected to participate in the MOUS relocation program. When we meet them, she is returning from her day at work; Bianca sells newspapers every day in order to meet the needs of her family. Today she made 15 Euros, which is not enough, according to her. With 15 Euros, they will have difficulties feeding themselves. Despite their daily struggles, she sends her son to school. He learns French there. Their son's education would be impossible to consider if the family did not benefit from financial aid for clothing and school supplies, as well as for the cafeteria. However, the family's grueling living conditions (living in a hut) do not guarantee the child real access to education: nutritional deficiencies, humidity, cold, and lack of privacy in the home are not favorable conditions for educational success.

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#### d) The Poor Mobilization of Social Welfare for Children and Education

The great majority of families living in squats and shanty towns do not have access to CAF benefits (see chapter of social welfare). In certain cases, the immediate consequence is to make what money the children bring in essential for the family's survival. They therefore spend all day searching for sources of income (begging, contributing in economic activities) instead of being in school. Only extra-legal aid from local authorities as a financial support can be allocated in order to overcome the most significant financial difficulties.<sup>172</sup>

**At the community or inter-community level**, specific aid can be granted by school funds to cope with fees associated with child education, and more broadly speaking, with their social, cultural and health needs.<sup>173</sup> However, this aid, often limited, is generally very insufficient to respond to their needs.

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<sup>172</sup>“The regional councils, bodies operating public services in common, and school funds can enable children to benefit from measures of a social character regardless of the school they attend.” (Article L533-1 code of Education)

<sup>173</sup> A council deliberation creates, in each district, a school fund, intended to facilitate school attendance through aid to students contingent upon their family's resources. The scope of the school funds can be extended to educational, cultural, social and health activities for the benefit of children in primary and secondary education. To this end, the school fund can develop Educational Success Programs. When school fund have not paid any expenditure or received any revenue for three years, it can be terminated by municipal council deliberation. The revenue of the fund is composed of voluntary contributions and grants from the district, the Department, or the State. It can receive, with the authorization of the State Representative in the Department, donations and legacies. Several communities can unite for the formation and maintenance of the fund.” (Article L212-10 of the Code of Education)

The Educational Integration Help plan AIS (*Aide à l'Intégration Scolaire*), implemented by the city of Lyon, seems to serve as an example. Since 2003, this plan has been established to facilitate the access to child education for the children of the most destitute families, regardless of nationality. This plan only concerns the people whose resources are less than the social minimum and do not receive child benefits. AIS provides families the payment of education costs in exchange for their investment in education.

Firstly, this included the costs associated with the cafeteria, day care, transplanted classes, and in 2006 the aid was expanded to cover transportation as well as a portion of the school fees (up to 50 Euros for nursery school and 100 Euros for elementary school). AIS is granted whenever the request is made throughout the school year. It included 600 students to begin with; at the beginning of September, 2009, it only included approximately 200 (this reduction can be explained by an improvement of social conditions for numerous families, and by the fact that less underprivileged populations moved into the city). The city of Lyon also allows access to after-school activities by means of the vacation aid (CCAS), who gives children the possibility to participate in summer camps. Several Roma children have benefited from this and the experience has been very positive.

Also, education success plans ("*programmes de réussite éducative*")<sup>174</sup> that can bring the means and tools outside school hours to give weaker students a greater chance to succeed, are still too rarely used to put in place the practical conditions for continuing education for Roma children, notably in respect of Drop-out prevention programs. For example, in Nantes, paying for school transportation could have been negotiated in the framework of the Educational Success Program.

**At the Departmental level**, the Department Councils are responsible for child protection since the decentralization laws took effect. Mandatory assignments for the Departments, they are implemented by the ASE, which is in charge of "providing financial, educational, and psychological support for minors and their family or to any legal guardian confronted by difficulties that risks the health, security, morals of these minors or severely compromises their education or physical, emotional, intellectual, and social development [...]". In support of minors, the ASE is supposed to "lead emergency protective measures", "measures to prevent dangerous situations", and "organize the collection and transmission [...] of worrisome information" (CASF article L211-1). The Department Council must exercise protective measures for all of the children in the Department, regardless of their parents' situation in relation to their stay, their living conditions, and whether or not they are administratively domiciled in the Department.

With regard to the multiple logjams in access to school mentioned above, the ASE services must therefore provide successful, sustainable, and regular educational conditions for all of the children living in squats or shanty-towns in the Department by any means necessary. As such, the Department Council can intervene in different ways, by giving:

- monthly allocations providing subsistence for families;

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"The school funds can remit to people who encounter social difficulties, vouchers named 'personalized support checks'" (Article L212-11 of the Code of Education)

<sup>174</sup>The Law of Social Cohesion of January 18th, 2005 defines the plans, their objectives, the public targeted, the legal structures, resources for the plans and the funds forecasted for five years of the plan. The DIV circular for the prefects, April 27<sup>th</sup>, 2005 specifies the conditions of implementation.

-special help covering the fees associated with education (transportation, cafeteria, supplies, educational insurance, preschool activities...): for example, in Pas-de-Calais, the Department Council took care of the cafeteria costs for the 15 Roma children at school in the Wimille district for the 2009-2010 school year. This is the same case for the Roma children living in shanty towns in Béziers.

-Social care for families who apply for it and, when necessary, offering AEMO *administrative*;

-or even offers of housing suited for families with children, who apply for it.

However, the Departments saw their costs significantly increase over recent years, notably for child protection, without the State forecasting sufficient funding to cover the change in costs. In this context, the Department Councils often find themselves in a logical bind, refusing or cutting rights, sometimes on illegal grounds, in order to cut back on their expenses.

Although one of the most active Departments in terms of child protection, in Seine-Saint Denis a fixed budget has been determined for ASE services, which leads to very frequent illegal refusals, relating in particular to the administrative situation of families. In December of 2009, a protest by unionized social workers in Department Council against the instructions that were given to them and should have led to a change of practices.

Until July, 2009, in Loire-Atlantique, all families with limited resources could benefit from financial aid (called "Subsistence Aid"). Since then, the amount has been divided in half (with a monthly cap of €457) and the allocation only lasts for one month. This change of regulation only applies to new applications. It would seem that these restrictions only applied to the Roma people, whose understanding of their rights is assured by a social structure reserved only for them.

In the Loire region, while the Roma families are easily granted rights to monthly financial aid by the area social workers (up to €125 per child), some families have begun to be refused benefits beginning in November of 2009 and appeals were made with the support of the Roma Solidarity Association of St. Etienne.

A Council of State decision on December 30th, 2009<sup>175</sup> should permit of a greater pressure on Department Councils to guarantee, among other things, successful access to school for children living in squats and shanty towns via the ASE. It forces the State to put in place the financial backing for child protection envisaged by the law of March 5<sup>th</sup>, 2007 which extends the Department Councils' powers.

#### 4) Inadequate Reception Facilities in Educational Establishments

Many of the Roma children have attended school rarely or not at all in their countries of origin or in France, and they have inadequate mastery of French. If they begin school after elementary grades, they have difficulty integrating into the standard school curriculum. They should therefore benefit from specific programs for integration of young foreigners who are new arrivals to the French education system.

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<sup>175</sup> Constraining the State to compensate for spending associated with child protection in the Sône-et-Loire and Seine-Saint-Denis Departments.

The programs and resources were supported by a series of measures taken in April 2002<sup>176</sup>. These measures were taken in response to a growing number of foreign youngsters arriving in France since the end of the 1990's who were older than previously, and had little or no previous schooling. These texts refer to different situations: foreign students, newly arrived children in France (ENAF - *enfants nouvellement arrivés en France*), children who had not previously been to school (NSA - *non scolarisés antérieurement*), children of Travelers and itinerant families, (whether for cultural, or job related reasons, or because of repeated expulsions).

There are two programs that make it possible to integrate them into the system: pupils from CP to CM2 (years 1 to 5) may attend a language class for newly-arrived foreign children (CLIN); at the secondary level, depending on whether they went to school in their country of origin, students may attend classes for those with no prior education (CLA-NSA) or regular classes for non-French-speaking immigrant students (CLA). These classes are small (with a maximum of 15 students) and flexible (students may be enrolled in them for certain subjects only, and may enter or leave them at any time).

However these programs are often not provided in sufficient numbers. As a consequence some non-French-speaking students, and even students without previous schooling, are enrolled in a regular class, perhaps because the district has no room in a reception class, or because they prefer to keep students in the same establishment even though there are no more room in the specialized class. In the town of Nantes for example, the number of students who needed CLA far exceeded spaces available, so much so, that the decision was made to divide students from one CLA into two groups: one group attending school from September to January and the second from January to June.

Integration of Roma students into an educational facility sometimes seems to be accomplished only through the personal investment of nonprofit organization volunteers, teachers and headteachers to register the child, provide assistance to the family, and support the child in its education. Certain facilities are obliged to make arrangements that are not always legal. A middle school headmaster interviewed during the study done on barriers to education of Roma children<sup>177</sup> explained that he was forced to use overtime for several consecutive years in order to compensate for the lack of resources to enroll Roma children. The scholastic success of the students depends a great deal on the volunteerism of teachers, who organize back to school meetings with the parents, explain the workings of the facility, and suggest that during the year the students consider their career prospects... Another school headteacher interviewed said he was embarrassed that all of the integration of the students in the school depended on volunteerism. In yet another school, the teaching team had chosen to ignore the one year time limit for a student's stay in CLIN, because some of the students still needed to be supported in a special manner. This volunteerism by

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<sup>176</sup> Circular No. 2002-063 of March 20, 2002: "Conditions for the registration and schooling of foreign pupils at the primary and secondary levels" (*Modalités d'inscription et de scolarisation des élèves de nationalité étrangère des premier et second degrés*); circular No. 2002-102 of Thursday, April 25, 2002: "Missions and organization of academic centers for providing education to newcomers and the children of migrants (CASNAV)" (*Missions et organisation des centres académiques pour la scolarisation des nouveaux arrivants et des enfants du voyage*); circular No. 2002-100 of Thursday, April 25, 2002: "Organization of schooling for pupils newly arrived in France with insufficient command of French or insufficient prior education" (*Organisation de la scolarité des élèves nouvellement arrivés en France sans maîtrise suffisante de la langue française ou des apprentissages*); Circular no. 2002-101 of 25th April 2002: "Providing education to children of migrants and non-sedentary families" (*Scolarisation des enfants du voyage et de familles non sédentaires*).

<sup>177</sup> Alexia Veriter, Romeurope, « Non-schooling of Migrant Roma Children in France. Study of the obstacles preventing the education of Migrant Roma children in France », January 2010.

teams of teachers and headteachers depends on the individuals, and this type of investment is not seen in all facilities. Others on the contrary, are reluctant to accept Roma children who might harm their image or lower the level of the elementary or middle-school. Notably there is a middle-school in Marseille which had nothing in place to support education of the Roma: no reception, nor financial aid. The results were quickly felt, and the students soon dropped out.

Teachers are demanding access to information and teaching tools in order to integrate the students in an effective manner. They feel at a disadvantage when they are not informed about the environment their students are coming from, living conditions, reasons for absence, or the absence of their parents to speak on their behalf... Certain CASNAV, or academic inspectorates (in Bouches du Rhone and Seine Saint Denis for example) have implemented training, for educational personnel, pertaining to integration of Roma children, and more widely, the integration of children from other cultural areas as well (for example training within the framework of the Departmental Educational Documentation Center; conferences, or even internships for teachers whose school requests it...).

## **D- Protection of minors from human trafficking and recognition of danger issues**

Countries participating in the International Convention on the Rights of the Child must protect *"A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment"* (Article 20-1). The Hague Convention of Thursday, October 05, 1961 provides, *"The authorities of the country of the minor's habitual residence may take measures of protection in so far as the minor is threatened by serious danger to his person or property,"* (Article 8). In case of emergency it adds, *"the authorities of any signatory country in whose territory the child or his property is, may take any necessary measures of protection,"* (Article 9). Article 375 of the civil code, evokes the *"danger"* associated with family behaviors likely to harm the health, morals and safety of the child, and that caused when the *"conditions of his education"* are seriously compromised.

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Until the 1990's, the most common use of the term "Unaccompanied foreign minor" ultimately proved inadequate when taking into account all the cases of minors within national territory. Living on the street, in precarious lodging situations, sometimes with unknown adults, or in clandestine workshops are equally dangerous threats to children.

But the definition relating to the isolation of a young person seems reductive and cannot relate to the principal criterion for intervention. Certainly, isolation tends, in a majority of the cases, to exacerbate the difficulties and dangers faced by the minor. In contrast, certain minors living within a community can be isolated in a legal sense, that is to say without a custodial parent in French territory, without the danger being recognized. On the other hand, some young people, in spite of the presence of a custodial parent on French soil, are not protected from recognized or potential dangers.

Therefore even if isolation remains the major alarm criterion, in the sense that it often exacerbates dangers and risks for a minor, it cannot be the only criterion. It is clear that too often in France, the protection of a foreign minor is only considered on the basis of this single item.

Many dangerous situations exist for minors. Human trafficking is one example: minors are not always separated, yet are in real danger due to exploitation by adults sometimes from within the family circle. Cases of trafficking minors are growing in France. The term "human trafficking" means recruitment, transport, transfer, housing, or receiving of persons, by threat or force or other forms of duress, by kidnapping, fraud, deceit, abuse of authority or position

of vulnerability, or by offer or acceptance of payments or benefits to obtain consent from person having control over another person for the purpose of exploitation.

Exploitation includes, as a minimum, prostitution of others or other forms of sexual exploitation, forced work or forced service, slavery or practices analogous to slavery, bondage, or organ removal. Exploitation cases are quite diverse and concern more than prostitution. Minors can be used to steal or beg for adults.

In these situations we have stated that child protection in France is inadequate. Removal from the physical place of exploitation must be accomplished as rapidly as possible. It is imperative to implement specific measures for the protection of minors who are victims of trafficking. By default, the solution most often considered by authorities, such as European countries, is the return of the minor to his country of origin. But returning these exploited minors is counter-productive, because the exploitation networks exist in the country of origin.

The return of an unaccompanied minor should be carefully supervised. It must be in the greater interest of the minor and include a life with an educational aspect (see recommendation CM/Rec 2007 of the Council of Europe Ministers Committee). The return can only be ordered by a Juvenile court judge who should obtain the consent of the juvenile and base the return on a preliminary evaluation of the conditions of the return of the juvenile to his country of origin.

One single bilateral agreement existed between France and another State: that signed with Romania. It provided for referral to the Juvenile Court judge, social surveys prior to any repatriation, follow-up with the minor after his return to Romania. When it expired, a new agreement was signed between the two countries in February of 2007. Notably it now allows the public prosecutor and not only a Juvenile Court judge to initiate the repatriation process for unaccompanied Romanian minors on simple validation by the Romanian authorities without any social study being performed on the family environment of the juvenile. This new agreement, far from correcting the unacceptable vacillations observed during the implementation of the first, may exacerbate the situation by opening the way for systematic returns with no guarantee of better supervision and safety of the minors in Romania. To date, this agreement has not been ratified, but the risk of expulsion of minors without guarantee of security is not out of the question.

## **V) SOCIAL WELFARE SERVICES FOR EUROPEAN UNION CITIZENS, EXCEPT FOR «THE POOR »**

The rights of EU citizens to social welfare services<sup>178</sup> should depend on an in-depth analysis of their individual situation

The question of access to welfare services is treated differently depending on whether the Roma in France have a residency card (which is very rare), are nonworking Europeans without a residency card (which constitutes the majority of cases) or they are citizens of a

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<sup>178</sup> In this chapter we will mainly deal with access to basic social welfare services for the Roma: health insurance (AME) or universal health insurance (CMU), family and housing allowances. We will also bring up the issue of being registered at an address, which is very often the condition for getting access to these services. We will not discuss services offered by groups that are independent of the government, including those open to foreigners who are illegal residents, such as social assistance for children (see "Childhood" chapter) or for housing (see "Housing" chapter).

non-EU country and are seeking asylum or are illegal residents. Indeed, the different social services provided by the CAFs and enrolment in a general health insurance program through the intermediary of CMU are contingent on the individual being a legal resident.

The Roma families who come from non-EU countries and who do not have a residency card are therefore not eligible for these. On the other hand, the right to social welfare is more difficult to establish in the case of Roma families from an EU member country who do not have a residency card. Indeed, the line between being legal and illegal in the case of the EU community members is complex.

It is up to the social welfare organizations themselves to evaluate the residency rights of the EU community members requesting services by referring to numerous criteria, and this without being able to require that they show a residency card or to direct them to the nearest prefecture so that their administrative situation be clarified, as this would constitute differential treatment with respect to other EU community members. In addition, and still on the topic of EU community law (we will see below that the French government's practices diverge considerably from this), it is not clear whether the very strict criteria imposed by directive 2004/38/CE, and carried over via the French CESEDA (especially the requirement that they have sufficient income and health insurance in order to not be an "unreasonable burden" for the French social welfare system), constitutes the only basis for determining residency rights for nonworking nationals of EU countries, and by extension their rights to social welfare on the same level as those of French nationals. Other texts could be cited<sup>179</sup> to establish the residency rights of nonworking nationals of EU countries based on broader criteria.

## Rigid criteria in order to systematically refuse services to nonworking EU nationals

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Until a few years ago, community law and jurisprudence was able to put pressure on the French authorities so that by the end of the 1990s, the situation was such that EU citizens, including nonworking ones, had social welfare rights similar to nationals (as GISTI has pointed out<sup>180</sup>) The legal status of residency for EU citizens was at that time taken for granted by the CAFs and CPAMs which followed official instructions that favored the assimilation of all EU nationals with the French by granting services to all of them without verifying their residency rights.

But the entrance into the European Union by the countries of central and eastern Europe starting in 2004 considerably modified the attitude of the authorities in France towards EU nationals with regard to social welfare. This was linked to the irrational fear that access to services would open the flood gates to populations that were perceived to be "parasites", most notably the Roma.

The directive of April 29, 2004<sup>181</sup> on free circulation and residency rights, articulated in France via the Entry and Residence in France and Right of Asylum Code (CESEDA), establishes the general framework for evaluating whether or not EU nationals are eligible for social welfare

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<sup>179</sup> The Treaty of Rome establishing the European Economic Community, signed in Rome on March 25, 1957

Regulation (CEE) n° 1612/68 of the Council, from October 15, 1968, relative to the free circulation of workers within the Community

<sup>180</sup> GISTI, « Les notes pratiques », The right to social welfare for EU nationals, October, 2008.

<sup>181</sup> Directive 2004-38 from April 29, 2004 relative to the rights of EU citizens and the members of their families to circulate and to reside freely on the territories of member States.

services. It states that, in a general way, the French and foreign EU nationals have the right to equal treatment with regard to social welfare (article 24) if the concerned individuals have residency rights.

But this directive establishes limits to residency rights, and this is the source of the main obstacle that excludes most Roma migrants from the social welfare realm, because residency rights are dependent on having medical coverage and on sufficient income. These conditions are difficult to meet given the limited access to the job market for nationals from countries that are subjected to this transitory period.

The interpretation of this very constrained legal framework by social security organizations is often erroneous. The evaluation of residency rights, which is tasked to the latter, is rarely carried out in a serious way. Instead of recognizing from the outset the residency rights of all European Union citizens, they nowadays take the opposite approach and presuppose they have no rights, especially in the case of individuals without a job.

The practice nowadays is that an EU citizen newly arrived in France, who has limited income, no job and with no ties to a family member who has residency rights -- which constitutes the situation for a majority of the occupants of squats and shanty towns -- has no chance of obtaining services that are dependent on legal residency.

Outlined below are the main documents generally required in the case of the Roma migrants in France depending on their administrative situation.

	<b>CMU</b>	<b>AME</b>	<b>Family services and benefits Housing</b>	<b>Means-tested benefits (RMI – AAH – API)</b>	<b>Legal Aid</b>
<b>Nonworking European Roma without a residency card (most often Romanians and Bulgarians) <u>Most common situation</u></b>	<ul style="list-style-type: none"> <li>- Address or designated address</li> <li>- Documentary evidence of residency rights</li> <li>- Medical coverage (apart from the CMU or AME)</li> </ul>	<ul style="list-style-type: none"> <li>- Address or designated address</li> <li>Proof of 3 months presence in France</li> <li>Proof of lack of medical coverage in native country</li> <li>-Documentary evidence of resources below threshold</li> </ul>	<ul style="list-style-type: none"> <li>- Address or designated address</li> <li>- Documentary evidence of residency rights</li> <li>-Medical coverage</li> </ul>	<ul style="list-style-type: none"> <li>- Address or designated address</li> <li>-After 3 months presence in France</li> <li>-Documentary evidence of sufficient income</li> <li>-Medical coverage</li> </ul>	<ul style="list-style-type: none"> <li>- Address or designated address</li> </ul>
<b>Roma (European or other) who have residency cards</b>	<ul style="list-style-type: none"> <li>- Address or designated address</li> <li>- Documentary evidence of residency rights</li> <li>-Documentary evidence of resources below threshold</li> <li>Proof of 3 months presence in France</li> </ul>	<ul style="list-style-type: none"> <li>-Not concerned</li> </ul>	<ul style="list-style-type: none"> <li>- Address or designated address</li> <li>- Documentary evidence of residency rights</li> </ul>	<ul style="list-style-type: none"> <li>- Address or designated address</li> <li>-Documentary evidence of 3 months presence in France in the case of Europeans (5 years or close to it for the others depending on the residency document)</li> <li>- Documentary evidence of residency rights</li> </ul>	<ul style="list-style-type: none"> <li>- Address or designated address</li> </ul>
<b>Roma from outside the EU or illegal residents<sup>182</sup></b>	<ul style="list-style-type: none"> <li>No rights</li> </ul>	<ul style="list-style-type: none"> <li>- Address or designated address</li> <li>-Proof of 3 months presence in France</li> <li>-Documentary evidence of resources</li> </ul>	<ul style="list-style-type: none"> <li>No rights</li> </ul>	<ul style="list-style-type: none"> <li>No rights</li> </ul>	<ul style="list-style-type: none"> <li>Accessible in certain cases</li> </ul>
<b>Roma applying for asylum (Roma from the Balkans)</b>	<ul style="list-style-type: none"> <li>- Address or designated address</li> </ul>	<ul style="list-style-type: none"> <li>-Not concerned</li> </ul>	<ul style="list-style-type: none"> <li>No rights (but retro activity in case they are granted refugee status)</li> </ul>	<ul style="list-style-type: none"> <li>No rights</li> </ul>	<ul style="list-style-type: none"> <li>- Address or designated address</li> <li>-To have</li> </ul>

<sup>182</sup> Roma whose asylum applications have been dismissed or who never applied for asylum.

-Temporary  
residency  
authorization

come into  
France  
legally

## A) Services from the CAF (Caisse d'Allocation Familiale)

### 1) Rights granted to families then suspended

Starting on January 16, 2007<sup>183</sup> the first internal circular of the CNAF appeared to indicate that it would be extending to the Roma and the Bulgarians the practice set up after the 2004 expansion, which granted family welfare benefits to new European nationals, since it directed the attention of the different services to the fact that these new Europeans, whether they had just arrived in France or were already in residence, had the same rights as other Europeans as of January 1st and did not have to present a residency card. No mention was made of the verification by the CAFs that they fulfill the conditions for residency rights.

As a result, during the course of 2007, several Roma families originating from these countries asked for and obtained family welfare services from the CAF (family allowances, APL, AAH...) which applied in their case the principle of considering that any EU national could automatically be eligible for residency rights.

The social security funding law of December 2007 introduced the first restrictions to this by limiting access to family welfare allowances to European nationals who are in the country legally<sup>184</sup>.

In June, 2008 a circular produced by the CNAF<sup>185</sup> established a new framework for implementing these restrictions across the board. Several CAFs then began to cut off funding and services that had been granted the previous year to nonworking EU nationals without verifying the state of their finances or their medical coverage. Starting in the summer of that year, this circular provoked numerous service cuts within several Departments which involved Romanians and Bulgarians as well as other EU nationals, and people were asked to provide proof of their residency rights.

In most of the CAFs, a family's residency rights were reevaluated each time they would come in to declare a change in status (births, changes of address, starting school...) and almost systematically the outcome was to cut their services. The letters mailed out to inform them of the service cuts often contained no justification: « your administrative situation does not give you the right to family benefits ». In some cases, such as in the Bouches-du-Rhone during the summer of 2008, the CAF started by asking them to provide a residency card, then designed a questionnaire for all welfare recipients who were EU nationals, and used this as a basis for denial of services to those who did not meet the criteria of having sufficient income and health insurance at the time of the survey. Supporting materials sent with the June, 2008 circular contained instructions that were even more restrictive. These were distributed to certain CAF workers, and provided a framework for an automatic refusal of rights in certain situations (for example, the fact that someone was eligible for state medical assistance was proof that the person was not eligible for residency), whereas EU law requires just the

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<sup>183</sup> CNAF Circular no. 2007-005 relative to community regulations.

<sup>184</sup> **Law n° 2007-1786 from December 19, 2007 on funding social security for 2008 – art. 95 :** « Benefitting with full rights to family welfare services within the conditions established by the present document European nationals from European Community member states, other States party to the agreement on European Economic Space and the Swiss confederation which fulfil the conditions required to reside legally in France, residency being evaluated within the conditions established by art. L. 512-1. »

<sup>185</sup> **CNAF Circular from June 18, 2008 relative to the residency rights of the EU nationals.**

opposite, an individual evaluation which takes into account the person's life history (prior work experience, previous residency in France,,,) )

Many non-Roma Romanians and Bulgarians who had been receiving welfare services since January 2007 also had their services cut off. This was also the case for many non-Roma Romanian families in Dijon who had been receiving welfare benefits for several years and who, at the end of March, 2009, received letters from the CAF stating that their rights had been "modified" without any further explanation. This hard-line position also affected other EU nationals, and aid associations began to deal with more and more Germans, Belgians and Portuguese... who had their RMI's or their AAH's suddenly taken away.

Certain CAFs required reimbursement of so-called "over-payments." One of the most extreme cases was in Dijon where the "undeserved" benefits from the CAF and CMU services by Romanian Roma families starting in 2007 and through mid-2008 was first the topic of a politically-motivated media campaign seeking to show that the social welfare agencies were being robbed by a well-organized Romanian mafia network and was then the subject of an unbelievable criminal investigation.

**Excerpts from *Blabla, Off print n°1, The Real Story Behind the Expulsions of the Roma in Dijon, February, 2010***

The main charges brought against all of the Roma who were arrested was to have received welfare benefits from the CAF (Family allowances) or from the CPAM (universal health coverage). According to the police, and its journalistic voice, this constitutes a serious theft. [...]

Of the 10 people indicted during this investigation in April 2009, who were presented as the leaders of the Roma mafia in Dijon, 3 were held in preventive detention for three to four months and another almost 8 months. All of them were under strict police surveillance until the end of January during which time they were not allowed to see one another and were barred from various streets in Dijon where they had lived or had friends. At the height of this absurd perversity was the fact that they were barred from going to Avenue Langres, a street that runs through at least a good third of Dijon because supposedly there was a house there that was occupied by Romanian women squatters, even though this very house had been destroyed by bulldozers over six months prior. In addition to numerous other injunctions, they also received an OTQF from the administrative tribunal and the local police, while at the same time being given an order from the local prosecutor's department (judicial review) to not leave the French territory. [...]

However, 9 months after their arrest, the case against them had completely collapsed. The case against them is quite slim after several months of police investigation, yarn spinning and large sums of money spent to add grist to the "Roma problem" mill. It is fitting to ask at this time how a judge was able to put people in preventive detention on such scanty evidence.

## 2) The consequences of denial of CAF rights for the Roma families from Romania and Bulgaria

The welfare benefits of family allowances and housing subsidies (paid out by the CAF and should not be confused with the different types of aid granted within the welfare system to children) is one of the basic conditions put forth by collectives and organizations that seek to provide suitable housing options for the Roma. The insurmountable paradox is that in most cases access to housing should be the prerequisite to any integration process that would allow these families access to the means to earn a living independently, and today the CAFs are automatically blocking their way.

For the families who had started the housing application process because they were eligible for CAF services, the suspension of welfare payments brought this process to a halt. Others

who had just moved into public or private housing found themselves suddenly without any money to pay their rent. And for those who were still waiting for housing, the stoppage of CAF payments had the immediate effect of preventing the children from attending school because they had to go back to earning money (begging, peddling, windshield washing) since this became essential to their daily survival.

**Testimony from the Roma Solidarity Network of Saint-Etienne – April, 2009**

Thanks to the CAF allowance in St. Etienne, Mr. XXX was able to move into housing on July 1st 2007. He had formerly been living in a squat. The rent with utilities included came to €380, all covered by the housing allowance which came to €394.78. The housing allowance was paid directly to the landlord. Mr. XXX also received family allowances for his four children.

Mr. XXX was in the process of preparing a free-lance business with the status of independent contractor as a "handyman." He speaks and reads French perfectly. The housing allowance payment was cut off in September, 2008 and the family allowance benefit was cut in October, 2008. This situation followed an internal circular at the CNAF in June, 2008 regarding foreigners who are EU nationals.

Mr. XXX tried over and over again to get a job. He came up against a denial of authorization from the prefecture and from the DDTE (*Direction Départementale du Travail*, Department Employment Office) because he had short-term contracts that were for part time work. He has signed up with several temporary agencies but has never been given an assignment.

Currently he has no resources except for the monthly allowance he receives from the Departmental Council for families with no income who have children: €125 per child per month.

His landlord has gone to court to have him evicted. He finds ways to put pressure on Mr. XXX and his family every day to get them to leave on their own.

**Testimony of the mother of a Romanian Roma family in St. Etienne during the national Romeurope meeting on September 20, 2008.**

Mrs. XXX has two children. She has been living in France for two years. After living in a squat she had just signed a sublease with the CCAS of St. Chamont for housing that belonged to the city. Up to that time she had been eligible for family allowances and for housing allowances, but when these were cut off she did not know how she was going to pay her rent.

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**Testimony of a social worker with AMPIL( L'Action Méditerranéenne Pour l'Insertion sociale par le Logement, Mediterranean action for social integration through housing) -- November, 2008**

The CAF closed the XXX family's file and indicated that the reason was "failure to present a residency card, therefore, loss of eligibility." The children in this family had been going to school since September, but when they found out they had lost their family allowances they were forced to take the children out of school...and now they are back to begging. It is difficult under these circumstances to come up with arguments that would persuade them to go back to school. Following the appeal that we filed, I am now waiting for the CAF to notify us.

**Testimony from Doctors of the World Toulouse -- May, 2009.**

The hospital applied for an allowance for F. (6 ½ years old) who was born in France severely premature and who needs regular neurological care. This was granted by the Commission for the rights and autonomy of disabled people. However, his parents just got a letter from the CAF on February 3, 2009 informing them that they were denying him the welfare benefit known as Allowance for the Education of a Handicapped Child for reasons that we do not understand, they said "you are receiving the basic CMU as an RMI and not for maintenance purposes due to one of life's accidents." The parents are Roma from Romania and have been living in France since 2002 and have been moving from place to place. They were evicted in 2007 and F., who was unable to continue getting treatment there, was very sick.

### 3) Collective Action and the initial results of legal appeals

Within several Departments (Loire, Bouches-du-Rhône, Haut-Rhin, Loire-Atlantique, Yvelines, Seine-Saint-Denis...) appeals made before the Commissions of amicable appeals of the CAF were undertaken starting in the Fall of 2008 against the stoppage of welfare payments, based on the principle of EU law, according to which a citizen of the EU who has been granted a benefit based on the condition of legal residency implicitly had the right to residency recognized by the authorities, who cannot then reverse this recognition. In certain cases (particularly St Etienne, Nantes and Strasbourg) the refusal of the CAFs to reverse their decision led to appeals before Social Security Tribunals (TASS).

These actions, carried out in parallel with referrals to HALDE, led the public authorities to review the position in the June, 2008 circular. On June 3, 2009, the Ministry of Work published a circular<sup>186</sup> that validated the legitimacy of the collectives' position: the CAF does not have to verify the residency rights of people who are already receiving family allowance welfare benefits and these people can continue to receive their allowances as usual. In October, 2009, the CNAF reiterated these instructions in a circular<sup>187</sup> that cancelled out the one dating from June 18, 2008 and was very clear on the reinstatement of benefits that had been suspended. Shortly after this, the appeals process started in 2008 in St. Etienne resulted in at least 4 decisions from TASS on November 30th<sup>188</sup> which recognized that the CAF was at fault on the basis of the International Convention on the Rights of Children and EU Directive 2004/38 for having suspended the welfare payments and sentenced the CAF to payments of damages and interests to the families.

Other CAFs (in Nantes, Montreuil, Dijon...) started to follow new instructions as of the summer of 2009 and reinstated the few families who were informed about their rights and who were accompanied by the collectives when going in to apply. But within certain Departments, discrimination seems to be so embedded within their administrations that in spite of the clear instructions from the hierarchy, these CAFs were willing to risk being taken to court and sentenced by the HALDE rather than reverse their decision to deny rights to Roma families. In the case of Val-d'Oise, the explanation of the new circulars by the collectives did not lead to the review of applications, and in Yvelines, the negotiations between the collectives and the CAF have been interminable and have not yet ended.

**Testimony from a member of the Human Rights League and of the Collective for Support to Roma Families in Triel and Chanteloup -- February, 2010**

Among the families that we know in Triel and in the surrounding area, at least 3 families and perhaps others that I am not aware of are in this situation: they were receiving family welfare allowances in 2007 in the Val d'Oise. In 2008 these benefits were transferred to Yvelines for 2 of the three families and cancelled for the 3rd. In 2009, the two families that were still receiving CAF benefits received notification that their benefits would be cut off and that they needed to reimburse large sums of money (the entire amount of allowances paid out over a full year!). I want to point out the children in these three families attend school, and that the only reason given for revoking their family benefits was that they "did not meet the residency requirements." In spite of several procedures that were put in place (the concerned parties went directly to the CAF offices, either alone or accompanied by activists; written amicable appeals filed with the CAF, which received no response; involvement of a social worker from the Department Council to assist with the CAF), the CAF is still holding on to its position. We advised the 3 families mentioned above to present their case to HALDE. They did this with assistance from us and from the social worker. One of the claims has already been filed with HALDE. The two others will be filed shortly. I spoke on the phone with the person in charge of the case at HALDE. This person said that we were not the only ones to run up against the CAF's refusals. That HALDE had already received several claims for the same problem from

<sup>186</sup> Circular no. DSS/2B//2009/146 from June 3, 2009

<sup>187</sup> CNAF Circular no. 2009-022 from October 21, 2009

<sup>188</sup> no. 643/09, no. 646/09, no. 647/09, no. 648/09

different departments. The HALDE is going to intervene, but the CAFs may very well drag their feet as much as possible before complying.

## B) Health Insurance Cover

### 1) Most Roma in France are directed to AME ( state medical assistance)

As for most of the cases regarding Roma with Romanian or Bulgarian citizenship, after 2007 – a year of confusion during which some CPAMs continued to grant universal health coverage (CMU) to all Romanians and Bulgarians, as they had done for other EU citizens – a circular<sup>189</sup> ultimately stated that **basic CMU and complimentary CMU (CMUc) were not available** to inactive EU citizens without sufficient resources and/or medical insurance. But CPAMs cannot terminate the enrolment of those who were mistakenly given access to CMU – they must explore ways to grant them coverage on some other basis or maintain their rights.

**It is therefore state medical assistance (AME)**, intended for people living in France without legal residence status for more than three months (or immediately, in the case of minors), which is available to inactive EU citizens without a residence permit.

### 2) Difficulties accessing state medical assistance

Most Roma migrants in France do not have medical coverage for reasons that they share with all migrants without residence permits, but in addition there are specific administrative obstacles – paradoxically connected to their status as citizens of the European Union – which complicate their access to state medical assistance.

It is probably firstly a lack of knowledge of their rights and lack of guidance and direction regarding the complex procedures for requesting state medical assistance that account for the very low rate of coverage in the Roma population. Set against the backdrop of extremely precarious circumstances, the concerns of daily life take priority: “First comes putting food on the table! Next comes job-hunting in an uncertain environment.”<sup>190</sup> However, obtaining AME benefits presupposes planning ahead for various deadlines by gathering proof of residence in France in order to provide evidence of three months residence in France, request a meeting with social services or another organization in order to make a request for AME by the end of the three-month waiting period and request an appointment for renewal two months before the expiration of benefits... As a result, benefits are often sought only when the need for medical care arises (childbirth, illness of a child). “It is rare for people to initiate the administrative procedures for obtaining health insurance without a specific need inasmuch as they require guidance. On the one hand, people are hampered by a critical lack

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<sup>189</sup> Circular DSS/DACI/2007/418, dated 23 November 2007, on the benefit of basic universal medical coverage (CMU) and complimentary universal medical coverage (CMUc) for citizens of the EU, the European Economic Area, and Switzerland, who live or wish to live in France as inactive persons, students or jobseekers

<sup>190</sup> Farid Lamara, Doctors of the World, Romeurope Project - Access to care and wellness among Roma/gypsy migrant populations in a state of great exclusion in three European countries: Spain, France, Greece; Qualitative study – ethno-sociological approach (*Médecins du Monde, Projet Romeurope - L'accès aux soins et à la santé de populations Roms/tsiganes migrantes en situation de grande exclusion dans trois pays d'Europe – Espagne, France, Grèce, Etude qualitative – approche ethno-sociologique*), June 1999

of information regarding their rights; in addition, the particularly high rate of illiteracy does not favor an adequate understanding of the various procedures."<sup>191</sup>

Moreover, people are likely to waive their rights quickly when attempting to tackle the many administrative hurdles on their own – denial of election of designated address by CCAS (cf. next paragraph), essential for those without a fixed address in order to obtain AME benefits; rejection of offered proofs of residence (deemed too old or questionable); problems with vital records; denial of unlawfully-obtained AME (for instance, on the ground that the person returning to France had previously received assisted humanitarian repatriation); difficulties accessing AME for minors who are unaccompanied or in the care of adults other than their parents...

**Since 1 January 2010, proof of AME benefits is not just a simple paper certificate, but a forgery-proof plastic-coated card. Obtaining this card requires that all of the beneficiaries travel to CPAM centers (which are limited in number), provide identity photos (some centers equipped with webcams can take the photos) and then return to the center in order to take possession of the card. It is kept for only two months, after which time the entire process must be repeated! This system, which has been evolving over time, may result in a higher percentage of people willing to waive their eligibility for AME benefits.**

The three-month residency requirement and the attendant waiting period for access to medical care – conditions that are regularly condemned by support organizations – contribute to delays in seeking medical care that worsen the diseases suffered by foreigners without legal residence status. It is in fact difficult to demonstrate that the residency requirement has been fulfilled, given the insecure living conditions that make it hard to obtain proof of residence – and even more difficult for EU citizens, who do not receive any proof of having crossed the border. Lacking proof of entry into France, people are forced to seek such proof after their arrival. And some CPAMs present the most arbitrary criteria for authenticity and validation. In some instances, people must provide documents that are ninety days old, plus or minus a few days – but not three and a half months old – which requires going through the screening process for the case at a very specific point in time. In some Departments, new proof of three months residency in France is required each year in order to renew AME benefits. In Seine-Saint-Denis, the CPAM rejected a certification of residency that was signed by a nurse on behalf of a well-known organization (the Comité d'Aide Médicale).

Furthermore, as part of the coordination among insurance entities within the EU, verification of the absence of coverage in the country of origin constitutes an obligatory prerequisite to each request for CMU or AME, ancillary coverage that can be granted only if there is no other coverage. Without documents of proof (EU social security card, statement of coverage from the country of origin), it is in theory up to the CPAM, by means of its international relations service, to question the agency of the country of origin to find out if the person is covered or not. However, by demanding that the persons concerned supply the form themselves, several CPAMs (Loire, Alsace, Seine-Saint-Denis, Rhone...) have used this as a way to delay processing requests.

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<sup>191</sup> Farid Lamara, Doctors of the World, Romeurope Project - Access to care and wellness among Roma/gypsy migrant populations in a state of great exclusion in three European countries: Spain, France, Greece; Qualitative study – ethno-sociological approach (*Médecins du Monde, Projet Romeurope - L'accès aux soins et à la santé de populations Roms/tsiganes migrantes en situation de grande exclusion dans trois pays d'Europe – Espagne, France, Grèce, Etude qualitative – approche ethno-sociologique*), June 1999

Lastly, in some instances, Romanian and Bulgarian Roma may fear the link that might be established by the prefecture between their enrolment in AME and the length of their presence in French territory. When they are arrested or figure in deportation procedures, they must in effect argue that they do not have to meet the stated criteria for resources since they have not been present in French territory for more than three months.

#### **A specific questionnaire for EU nationals**

Account by the Support Committee for Romanian Families on the Saracen Industrial Wasteland (*Comité de soutien aux familles roumaines de la friche industrielle Sarrasin*) Houilles – Yvelines – April 2009

The CPAM ran us through the gauntlet for two months in order to discourage us. I went there the first time in order to explain the problem – about fifty Romanians, all in the same situation, wished to submit applications for AME. There was little information, and no reception procedure was explained to me.

When I went back there to help five families with their application, I was asked for my ID card ("to verify your name") before being given a number. We returned the next day, the five families with their applications prepared. We were told that we should have made photocopies beforehand and that only two applications would be reviewed in each half-day period. In addition, a photo was required of the applicant, the person who signs and is moving. The next day, their applications were deemed incomplete... two photos were needed, of the two adults. I was asked to provide a sworn statement that I was a "reference for the Romanians" along with my contact information. I refused to do it! Twice, the CPAM cancelled our afternoon appointments, which disrupted our work. We wanted to submit applications for the children of the families that couldn't prove three months presence in France. To the best of my knowledge, children are entitled to AME coverage prior to three months of residency – with a personal certification. But the person we spoke to didn't seem to understand the issue, even though it was stated several times. Despite our requests, the families were not given any acknowledgment for their request to submit applications. No timeframe for a response....

After complaining to the manager of the centre, the application was given to PGAS, (*pôle de garantie d'accès au soin* - service for guaranteed access to health care). Things seemed to be getting better after that. But now there's a new problem – in addition to the traditional application, a special questionnaire has to be completed by EU residents! This questionnaire asks for information that people cannot provide. We have been working on these applications for nearly two months and the end is not in sight.

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#### **Marseille – Account by Médecins du Monde – October 2009**

Since June 2009, we've gotten many (or even only) denials of AME requests for Roma families. They have to produce an EU social security card, documents proving presence on French soil... In the end, the responses are unfavorable. Many families find themselves without any medical coverage and are not treated by medical facilities or they are treated and come away with bills...

#### **St Etienne – Anonymous account from a social worker – September 2009**

After corresponding with colleagues in other Departments, it would seem that the CPAM in Saint Etienne has a curious practice regarding AME applications for EU residents – namely, it conducts a systematic review of potential benefits in the country of origin. The consequence is a five- to six-month-long application procedure.... and denial of care for children by AME since many of them have coverage in Bulgaria or Romania (as per CPAM's international relations office).

### 3) Fund for urgent and emergency care

Foreigners living in France who lack proof of three months presence or whose AME benefits have not yet started have only one mechanism for getting free medical care – the emergency medical fund that hospitals can draw upon. The only care dispensed under this arrangement is "urgent care whose absence would be life-threatening or which could lead to a serious and

lasting compromise of the state of health of the individual or a child awaiting birth” (CASF, article L.254-1).

A circular issued early in 2008 stated that “EU citizens without legal residence status, ineligible for AME, may take advantage of the plan for urgent care, following the example of foreigners who are citizens of non-EU countries”<sup>192</sup>, but some hospitals do not always allocate treatment to this fund and seem to prefer to send bills to Roma families that are clearly insolvent, even if this results in accumulating debts that will never be paid.

#### 4) The number of AME recipients provides no information regarding immigration to France

France is one of the European countries with the greatest disparity between the number of undocumented persons who are in theory eligible for medical coverage (88%), the proportion thereof who have been told that they are eligible (76.7%), the proportion thereof who were actually able to file applications (54.7%), the proportion thereof whose medical care was covered (24%) and lastly, the proportion thereof whose care was covered properly (9%).<sup>193</sup>

**Account taken from the 2008 investigation** by the European Observatory on Access to Healthcare of Médecins du Monde: Access to Healthcare for Undocumented Migrants in 11 European Countries, September 2009

C. has been in France for six months. She gave birth, in hospital, three months ago and her baby is covered by the maternal and child care (PMI). Since her arrival, none of the health professionals that she has met (doctor, midwife, hospital staff...) have suggested that she request state medical aid (AME) for herself and her family. She showed us several invoices for medical consultations and medication, with the social security healthcare costs forms, but she doesn't know what these forms are for. The request for healthcare coverage was done the day she went to Médecins du Monde in Paris. *C., Romanian woman, 21, living in France for six months*

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The ratio of persons whose medical care is actually covered by AME is not higher within the Roma population. This demonstrates – if proof were needed – that in the vast majority of cases French social protection benefits are not the reason for immigration; Roma do not come to France for medical care... but they do need medical treatment. Similarly, taken in the context of the low rate of medical coverage for foreigners, the decline in the number of AME recipients – which thrilled the French Ministry of Immigration – indicates, contrary to what was claimed, nothing regarding the decline in the number of people without legal residence status. Accordingly, supposing that the set of administrative intricacies described above limiting people's access to health insurance and care (along with all social rights) is intended to discourage Roma from applying for French immigration, one should bear in mind that restrictions on social rights have no impact on migratory patterns.

### C) Domiciliation (right to a designated address)

<sup>192</sup> Circular DSS/2A/DBAS/DHOS/3008/04 dated 7 January 2008, modifying circular DHOS/DSS/DGAS/2005/141 dated 16 March 2005, relating to coverage of urgent care provided to foreigners residing in France without documentation and not beneficiaries of AME

<sup>193</sup> Access to Healthcare for Undocumented Migrants in 11 European Countries, Médecins du Monde European Observatory on Access to Healthcare, 2008 Survey Report (*Observatoire européen de l'accès aux soins de Médecins du Monde, L'accès aux soins des populations sans autorisation de séjour dans 11 pays d'Europe, Rapport de l'Enquête 2008*), September 2009

## 1) A right with a far-from-ideal implementation

Due to their living conditions in squats or in shanty-towns the majority of migrant Roma in France cannot have an address which allows them to receive and read their correspondence on a permanent basis, as is required for most applications for social security assistance. It might be thought that this difficulty would be more easily overcome nowadays thanks to the DALO law dated 5 March 2007<sup>194</sup>, which dedicates a whole chapter to establishing the "right to a designated address" for the benefit of people without a fixed place of residence. The conditions under which this right can be exercised have since been specified by two decrees dating from May<sup>195</sup> and July<sup>196</sup> 2007, then by a circular in February 2008<sup>197</sup>. The general principle is that each individual must show proof of residency in order to gain access to his or her civic, civil or social rights. Those without a fixed address and unable to receive mail regularly because they find themselves in a precarious situation should be given the possibility to have recourse to a designated address, either in a district or inter-district social welfare center (CCAS/CIAS) or an approved association.

Studies show that the right to a designated address is effective when housing structures considered homogeneous and consistent with needs are allocated: "Most of the people who benefit from all the housing structures are without a doubt precarious families having difficulty finding lodging, including those without official papers, with the very rare exception of individuals who have difficulty taking care of themselves due to major psychiatric problems or the fact that they are running from creditors or the police."<sup>198</sup> Such statements contradict the reality experienced by associations that help the Eastern European Roma population which is overwhelmingly excluded from the right to a designated address in circumstances where public authorities and organizations authorized to grant a designated address lack sufficient resources to carry out this task and seek any pretext to avoid their obligations, particularly as far as Roma are concerned. Access to an address for Roma is the exception and the consequence of this regulatory framework paradoxically reinforces the hurdles in respect of address when seeking access to social rights.

## 2) Local Social Welfare Centres (CCAS) that default on their obligations

The regulation created a complex system where many address-granting procedures overlap and differ on the basis of the administrative status of individuals able to request it and the rights they seek: (1) right to a designated address as "common law"<sup>199</sup>; (2) right to a designated address with a view to applying for State Medical Assistance (AME)<sup>200</sup>; (3) right to

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<sup>194</sup> Art. 51 of the law no. 2007-290 dated 5 March 2007 establishing the enforceable right to accommodation and setting up various measures in favour of social cohesion – art. 264-1 et seq. of the Family and Social Action Code.

<sup>195</sup> Decree no. 2007-893 dated 15 May 2007 on the use of a designated address for people without a fixed address.

<sup>196</sup> Decree no. 2007-1124 dated 20 July 2007 on the use of a designated address for people without a fixed address.

<sup>197</sup> Circular DGAS/MAS/2008/70 dated 25 February 2008 on the use of a designated address for people without a fixed address.

<sup>198</sup> IAU île-de-France, *Administrative domiciliation* (proof of residency) of homeless people in Île-de-France in 2009, January 2010

<sup>199</sup> Art. L. 264-2 of the Family and Social Action Code (CASF), Art. R264-2 et seq. of the CASF, circular dated 25 February 2008.

<sup>200</sup> Art. L. 252-2 of the Family and Social Action Code (CASF)

a designated address with a view to applying for legal aid (law dated 10 July 1991)<sup>201</sup>; (4) registration in the district of attachment for travelers with a view to gaining access to certain rights or administrative procedures (identity card, inclusion on the electoral register); (5) and finally the right to a designated address with a view to applying for political asylum.<sup>202</sup>

Because the majority are considered undocumented migrants, Roma do not have access to the arrangements in the common law for a designated address (1), which provides entitlement to all social rights. The circular of 25 February 2008 (point 1.1.2 paragraph 3), erroneously states that "EU foreigners without legal status fall under the AME designated address procedure" because "foreigners without legal status (both EU citizens and those from outside the EU) are only entitled to the AME benefit". This circular thus ignores all the other rights for which those without legal status are eligible, such as the right to open a bank account, the right to request a residence permit and the right to initiate legal proceedings. But article L. 264-2 paragraph 3's exclusion concerning common law designated address does not apply to EU nationals without legal status because it only excludes "non-citizens of an EU Member State, EEA or Switzerland who do not hold a residence permit".

Independent of this right to a designated address laid down by the DALO Act, the CCAS at least have the legal obligation to provide them with the documents they need to apply for AME (2). In fact, the provisions concerning AME specify that people without a fixed address who are entitled to AME are required to declare a permanent residence to an approved organization or a CCAS in order to receive this benefit. The CCASs are therefore also required to grant them a permanent address.<sup>203</sup>

Nevertheless, the CCASs that were supposed to grant them a designated address according to the 2005 DALO Act and its implementing regulations, still only account for a small share of

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<sup>201</sup> Circular No. DGAS/MAS/2008/70 dated 25 February 2008 on the use of a designated address for people without a fixed address specifies that people without legal residence status who, in certain cases, have the right to legal aid, can benefit from the designated address provided for by the Housing and Rights Act (DALO) regarding legal aid.

<sup>202</sup> The terms are outlined in the Entry and Residence in France and Right of Asylum Code (CESEDA)

<sup>203</sup> Circular DGAS/DSS/DHOS No. 2005-407 of 27 September 2005 on State medical assistance: "Requests for AME can be made to French national health insurance offices (CPAM), CCASs and CIASs, and health and social service programmes of Departments and approved associations. The Department's prefect oversees the effective implementation of this regulation laid down by article L. 252-1 of the Family and Social Action Code. These agencies provide people with the information and assistance they need to submit an AME request and help them gather the required documents. They then send these requests to the appropriate CPAM office within one week for review and a decision on eligibility (article L. 252-1 of the Family and Social Action Code). In the event an applicant has no fixed residence, he or she shall obtain a postal address from a CCAS or CIAS or an approved association (article L. 252-2 CASF)."

Circular N°DGAS/MAS/2008/70 of 25 February 2008 on the designated address of people without a stable address: "Article L. 264-2 of the Family and Social Action Code (CASF) excludes from its scope of application the new designated address system for non-citizen foreigners living in a European Union Member State without a residence permit. This provision does not mean that the organisations responsible for granting designated addresses must verify the right of residence of those who come to them for assistance. Nor was it intended to deprive illegal immigrants of any possibility of declaring a permanent residence to become eligible for certain rights. In fact, illegal immigrants can make a request to declare a permanent residence in order to gain access to State Medical Assistance under the specific provisions stipulated in article L. 252-2 of the Family and Social Action Code under the same conditions as those prevailing before the reform of 2007. To that end, they will receive a designated address document different from the one mentioned in article L. 264-2 of the CASF.

this service (17%, for example in Ile-de-France<sup>204</sup>) and many of them do not provide this service at all (160 out of 419 queried in Ile-de-France in 2009 as part of the above-mentioned survey<sup>205</sup>), especially in small districts.

The CCASs can require immigrants to present proof of some form of connection to the district, which, in the case of those living in squats or shanty-towns, can be difficult to provide.<sup>206</sup> But whatever the case, most CCASs that refuse to grant a designated address do not take the trouble to explain the reason for their refusal, simply stating the lack of any connection to the district (and even less so in writing, even though this step is required). The excuses given do not even relate to this issue; instead, they usually blame a lack of funds for their inability to carry out this mandate. At best, they refer immigrants to approved associations. In certain cases, as in St Etienne for example, the non-profit sector takes care of all such requests but receives sufficient funds from the prefecture to meet its needs. This situation, however, raises issues of access when a single association covers a large area. But approved associations are frequently unable to manage additional requests. In late 2009 in Lyon, address-granting organizations, particularly ALPIL, reported they could no longer handle the massive increase in the number of address requests. As a result, they entered into negotiations with the town's central CCAS and sent out a mailing to redirect applicants to their own district's CCAS.

In certain cases, refusal to grant a designated address demonstrates real discrimination against Roma populations. The mayor of Dijon, for example, said the following during the Town Council meeting of 30 March 2009: "We are accused of not granting designated addresses at the CCAS, but those who constantly earn their living by fraud will not receive a permanent address; if they do, they will open bank accounts". Following pressure from associations and some elected officials, this CCAS has finally agreed to grant addresses to Roma families, but only for AME. This means that people who benefited from CMU must give up their rights in order to submit a request for AME.

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In October 2009 in the Bordeaux metropolitan area, about 10 appeals were filed with the administrative court, with the support of associations, against the Cenon Council. This town's CCAS refused to grant a designated address to Roma families living in a squat in the district even though an address was mandatory for access to State Medical Assistance for all of them, including a child who needed to be immediately hospitalized. Media coverage of this case forced the mayor to grant an address to some of the families, while the court has yet to render a decision about the others.

### 3) Exclusion from the right to a designated address with sometimes serious consequences

It is extremely rare for legal proceedings such as these to be brought against CCASs that refuse to grant designated addresses. In most cases, Roma migrants turn to a few associations that agree to provide them with an address, sometimes far from their place of residence (in Ile-de-France, mainly ASAV in Nanterre and Médecins du Monde in St Denis,

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<sup>204</sup> Institut d'Aménagement et d'Urbanisme de la Région Ile-de-France, *Domiciliation administrative* (designated address) of people without a fixed address in Île-de-France en 2009, January 2010

<sup>205</sup> Institut d'Aménagement et d'Urbanisme de la Région Ile-de-France, *Domiciliation administrative* (designated address) of people without a fixed address in Île-de-France en 2009, January 2010

<sup>206</sup> Circular DGAS/MAS/2008/70 of 25 February 2008 specifies the following requirements for granting a designated address to individuals without a fixed address: practicing a profession, participating in a work placement programme in the town, having a child who is in school, having family or friends in the town, lodging with a person living in the town, efforts undertaken by institutions or associations.

but only for AME), or simply give up exercising their rights. And when health insurance is at stake, the repercussions of this administrative complication can be particularly serious.

**When granting a designated address to a person in need of hospitalization requires a vote by the CCAS Board of Directors**

Information taken from the corporate and activity report of the *Agir avec les Roms* Association, Pas-de-Calais – January 2009

Several families had been living in Wimille since early June 2008 on land provided by the State. But the Council was fundamentally opposed to their presence in the district and had refused from the outset to provide them with an address or schooling for their children. Without an address, they could not request State Medical Assistance. For that reason, on 20 June, an action alert was issued to ensure hospital care for a child born with a cleft palate. In October, the associations concerned tried to find an alternative to the requirement to provide proof of a permanent address by installing a post box at the entrance to the camp, which became the families' stable place of residence. But the postal distribution manager stated that the post box was invalid as there was no known distribution point for this place on the land registry; because the post was sorted using software, a new distribution point could not be created. As a result, any post sent to the camp's address was returned to the sender. In late October 2008, the mayor was asked to grant a designated address to at least one person, a mother who urgently needed to establish eligibility for AME because she suffered from a disease requiring treatment at the Lille regional hospital. It was only on 2 December that the mayor informed the associations that the CCAS Board of Directors had approved her request for an address – with all members but one voting in favor.

Moreover, in the case of Roma migrants, the difficulty they experience in obtaining a designated address also regularly causes problems following the widespread distribution of expulsion measures (OQTF/APRF) or when they are summoned as part of an expulsion procedure. In these two situations, it is necessary to quickly find a lawyer who can defend them or file an appeal, which, given these families' destitution, means they will regularly need to request legal aid. And that will require presenting the legal aid office with the appropriate designated address document. The difficulty is much greater in this situation because in general dozens of people come seeking a designated address all at once, which does not exactly encourage the CCASs and approved organizations to open their doors. For lack of an alternative, a number of lawyers have been forced to provide addresses for people in their own firms.

In addition to social benefits, proof of a permanent address is often demanded of families without a fixed address (even if it is against the law) to register their children for school. People living in a squat or shanty-town thus find themselves caught in a vicious circle. Presenting a school certificate may be their only means of proving their connection with the district in order to receive a designated address from the CCAS, yet the district's school registration office requires parents to present a proof of local residence.

Lastly, with regard to people who are not eligible for a designated address under common law, those address provisions that do provide illegal immigrants with access to benefits do not cover all of the benefits of daily life for which a permanent address is necessary, such as opening a bank account, taking out a car insurance policy and filing income tax returns.

The continuing refusal to grant designated addresses, a problem that seems secondary at first glance, leads to the exclusion of Roma families from all of their social rights and a continuation of their marginal and anonymous existence in France.

## VI) EXCLUSION FROM THE HEALTHCARE SYSTEM

### A) The state of health of the migrant Roma population in France

It is currently difficult to accurately diagnose the state of health of the population as it has been defined above. This is due to an almost complete lack of figures which stems from the fact that gathering data to establish statistics linked to ethnicity is banned in France. It also reflects how little health institutions engage with this community.

The few figures that are available are basically linked to Medecins du Monde's work with certain groups in a given area. In order to approximately estimate how important a given issue is for this population, it will be necessary to cross-reference other wider parameters and attributes given that this is a migrant community living in France under very precarious living and housing conditions.

All those working in the field note the worrying overall state of health of the migrant Roma population in France and of the need for treatment.

Although legislation in countries to which Roma communities emigrate technically allows access to healthcare for the most destitute, its effectiveness is far from a reality. In Romania, practices such as cash payments and unofficial transactions remain a barrier when it comes to getting healthcare treatment. The amount requested may not be very much but is still beyond the reach of Roma families who are generally poor. In addition these families are still frequently sent away on the grounds that they are Roma: or that is, at least, what they perceive to be the case. Furthermore, a key consideration when it comes to health prevention is that these families have no access whatsoever to health education, again as a result of the rejection from which they suffer. As a result **families arrive in France behind with their treatments and suffering from medical conditions which have worsened**. In some cases the illness and the need for treatment is the main reason that they have migrated.

There are no Roma specific medical conditions. The medical conditions encountered occur as a result of the living conditions and healthcare availability both here and in the country of origin.

#### 1) Maternal and child health

Of particular concern is maternal and child health: multiple pregnancies without antenatal care, often in very young, or even teenage, women, repeated abortions, etc.

- The average age for a first pregnancy is 17<sup>207</sup>.
- Only 8.3% of the pregnant women that MdM worked with in 2007 received antenatal care.
- Only 10% of women use contraception<sup>208</sup>.

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<sup>207</sup> Médecins du Monde, perinatal mission, Médecins du Monde working with Roma Women, March 2008

<sup>208</sup> Médecins du Monde, perinatal mission, Médecins du Monde working with Roma Women, March 2008

- By the age of 22 43.3% of women have already had an abortion. The average number of abortions per woman is 1.3 (that is to say a rate of 130%) and 3.3 (330%) in those women who had already had at least one abortion<sup>209</sup>.
- In comparison, the average abortion rate in France is 1% for 15 to 17-year-olds, 2.3% for 18 to 19-year-olds and 2.7% for 20 to 24-year-olds<sup>210</sup>
- Of note is that the lack of any follow up treatment after an abortion can have serious consequences on a woman's health: hemorrhages, infections, infertility and multiple miscarriages.
- On average women fall pregnant four times and only half of those pregnancies result in giving birth to a healthy child (risks linked to premature birth, insufficient antenatal treatment, miscarriages and abortions).

These facts can be in part explained by a study of the situation in the country of origin. In Romania, the ban on contraception and abortion which took place during the communist era goes some way in explaining the difficulties that Romanian women encounter today in terms of their birth control.

Due to lack of information only a minority of women receive antenatal care. The lack of awareness of contraception is exacerbated by the extreme financial, social and educational destitution these women face. This gap in information often results in abortion.

**Witness account - Médecins du Monde, Toulouse - 2009**

Médecins du Monde was able to draw the same conclusions regarding women's health as those that have come to light nationally. Over a period of two years, working with approximately 100 people, we encountered the following: One stillborn child, seven or eight pregnancies among 15 to 17-year-olds, a large number of women in their thirties with five or more children, pregnant women who had received no antenatal treatment until the eighth month, condoms as the main form of contraception, significant prevalence of hepatitis B infections. Mediation work with these women directing them towards healthcare treatment and prevention demonstrated that it is possible to change behaviors.

## 2) Low take-up rate for vaccinations

The take up rate currently stands only between 13 and 22% of people. This figure includes both adults and children<sup>211</sup>. It is rare to find an adult that can prove that they have up to date vaccinations against tetanus, diphtheria, tuberculosis and other conditions that they could be protected against. And yet, there is a high risk of injury and of contracting tetanus among many of the communities working in the metal industry.

Amongst children under seven, 18% are vaccinated against tetanus and scarcely 6% against hepatitis B; and out of five children aged between seven and 15, four are not protected against polio. A child's vaccination history is difficult to grasp in a situation where there are practically no health notes or vaccination records. However it would appear, although this is not proven, that most children in Romania are vaccinated against BCG, DT and polio, at least, at birth. In fact, the national program to fight tuberculosis (NPT) in Romania, has set a target of at least 95% for the vaccination of newborn babies. On the other hand, for

<sup>209</sup> Médecins du Monde, perinatal mission, Médecins du Monde working with Roma Women, March 2008

<sup>210</sup> Facts provided by INVS (Institut de Veille Sanitaire) (Healthcare watchdog institute)

<sup>211</sup> The Roma people that Europe leaves out in the cold - Witness accounts of teams working with Roma people - published by Médecins du Monde in October 2007.

children born in France, vaccinations very rarely take place for all the reasons outlined above: lack of awareness and integration difficulties in PMI

When organizations such as Comité d'Aide Médicale ou Médecins du Monde offer vaccinations on site, a small proportion of people are vaccinated, but the vaccinations often come to an end after certificates or medical notes are lost or destroyed following evictions. Likewise, the children do not benefit from vitamin supplements even though there are proven nutritional deficiencies: growth and development is not monitored in infants, neither is dental health.

The 'A' flu vaccine campaign of Autumn 2009, which those living in squats and slums should have had access to as priority groups, revealed just how insignificant a proportion of the population they were thought to be. There was such a confused and disparate approach to treating these groups of people dependent upon location. The common denominator being that the DDASS (Direction départementale des affaires sanitaires et sociales - departmental directorate for health and social affairs) to a great extent relied either upon direct intervention or the intermediary services of associations.

### 3) Tuberculosis

In France, in 2007, the number of confirmed cases of tuberculosis stood at 5,588, or 8.9 cases for every 1m inhabitants.<sup>212</sup> Whilst France remains a low-incidence country, there has been an increase of 5% on last year's figures when up until this point the figure had been regularly decreasing. Even if this increase appears to be linked to both an improvement in getting cases confirmed and a continuing increase in risk for certain communities, it should still be a cause for alert according to the BEH (Bulletin épidémiologique hebdomadaire - weekly epidemiological bulletin).

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The risk factors, which all directly affect the majority of Roma people from Eastern Europe living in squats or slums in France, are as follows:

- Being born abroad: In mainland France, the rate of confirmed cases was eight times higher in those who were born abroad compared to those born in France (42.0 vs 5.1/105,  $p < 0.001$ ).<sup>213</sup>
- Having recently arrived in the country: The risk of contracting tuberculosis decreases as the length of time spent in France from arrival increases. Thus, among the confirmed cases in 2007, the rate of confirmed cases stood at 237.9/105 among those who had arrived less than two years before tuberculosis was confirmed, whereas it stood at 15.8/105 for those who had arrived more than nine years ago.<sup>214</sup>
- Communal living
- Being without fixed abode
- And, especially, coming from a TB endemic country: The country of birth gives the best indication of whether a person is at risk of developing tuberculosis, and this is linked to whether or not they come from a TB endemic country. Incidences of tuberculosis

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<sup>212</sup> Delphine Antoine, Didier Che, from the healthcare watchdog Institute, confirmed cases of tuberculosis in France, 2007, Weekly epidemiological bulletin, March 24th 2009.

<sup>213</sup> Delphine Antoine, Didier Che, from the healthcare watchdog Institute, confirmed cases of tuberculosis in France, 2007, Weekly epidemiological bulletin, March 24th 2009.

<sup>214</sup> Delphine Antoine, Didier Che, from the healthcare watchdog Institute, confirmed cases of tuberculosis in France, 2007, Weekly epidemiological bulletin, March 24th 2009.

increase with the prevalence of tuberculosis in the country of origin. For the first few years, the rate is equivalent to the rate of incidence in the country of origin.<sup>215</sup>

**In Romania**, the poor socio-economic conditions after 1989 strongly influenced the tuberculosis epidemiology. Romania is one of the countries most affected by tuberculosis. The incidence statistics were relatively low in 1985 (55.8 per 1m inhabitants) and have almost tripled today (153 per 1m inhabitants in 2002)<sup>216</sup> Tuberculosis is one of the major health issues for this country. The possible causes of this backwards step are the low socio-economic level, poor control over the origins of the infection and the density of those sources. Each day there are 82 new confirmed cases of tuberculosis (57 of those are smear-positive and therefore contagious), as well as five deaths and five children registered as being diagnosed with tuberculosis.

The nation plan to tackle tuberculosis developed in this country places Roma people among those at risk.

#### 4) Infectious diseases

All infectious diseases thrive and are exacerbated by poor living conditions and low levels of hygiene. Listed here are some of the considerations :

- **Changes in climate:** children and adults alike live mainly outdoors, in winter as well as in summer. In the winter, changes in temperature between the inside of shacks which are often overheated and outdoors can often aggravate conditions.
- **Lack of hygiene:** most sites have no facilities.
- **Piles of rubbish**
- Waste is often of a **pollutant nature and can be harmful.**

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The conditions picked up during sessions with the Médecins du Monde team are as follows : **36%** of cases are **respiratory tract infections**, **25%** of cases are **gastrointestinal infections** and **14%** are **skin infections**<sup>217</sup>.

#### 5) Pulmonary and cardiovascular complaints

Adults have both pulmonary (linked in particular with smoking and changes in temperature) and cardiovascular complaints. According to Médecins du Monde's 2007 report on the Roma Mission in Ile-de France, the respiratory system accounts for 46% of diagnoses, cardiovascular problems account for 5.4%

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<sup>215</sup> DGS- WORK GROUP «TUBERCULOSIS AND MIGRANTS» Recommendations relating to the fight against tuberculosis in migrants living in France 07/06/05

<sup>216</sup> EuroTB, Healthcare watchdog institute, (*Institut de veille sanitaire*) European tuberculosis monitoring body : representation of the network and recent results, 2005, within the expanded European Union (EU), (*Surveillance européenne de la tuberculose : description du réseau et résultats récents, 2005 Dans l'Union européenne élargie (UE)*)

<sup>217</sup> The Roma people that Europe leaves out in the cold - Witness accounts of teams working with Roma people - published by Médecins du Monde in October 2007.

In Romania, the leading cause of death is cardiovascular problems, ahead of cancer. Respiratory complaints (such as acute infection of the upper respiratory tract and acute bronchitis) are predominant. These can be explained by the patients' living conditions: humidity, smoke from wood burners which heat the kitchen, poor ventilation, dust and dirt.

## 6) Saturnism (lead poisoning)

The proportion of children with elevated lead levels amongst those that have benefited from an initial screening is constantly decreasing. This figure has gone from 24% in 1995 to 4.7% in 2005.<sup>218</sup>

But healthcare teams' observations enable them to state that the risk to Roma children is still considerable given that traditional metal collecting and handling activities are carried out by parents where they live. Based on analysis of risk factors for children living in France who have lead in their blood as picked up in primary screening in 2003 and 2004, the INVS has noted that if lead poisoning cases are mostly identified by risk factors linked to where children live, the factors which carry the highest value in terms of predicting elevated lead levels are: the fact that other children in the vicinity are poisoned, presence of pica (a tendency to ingest non-edible substances) and the fact that the **parents are working in an at risk profession**. Working with metals close to living quarters of course fits into the final category.<sup>219</sup> For instance, several cases were identified among Roma families living in Aix-en-Provence where collecting metal is one of the main economic activities and metal is processed where they live.

## 7) Psychological problems

Psychological problems are only too seldom dealt with yet they are very much in existence. Prior to being in France, Roma people continually suffer from discrimination and racism in several eastern European countries; they frequently undergo violence, extortion and kidnapping forcing entire families to abandon their home and country. These expatriated men, women and children, who are also under pressure from the police, must then face permanent difficulty and stress in France. This is made all the more insurmountable by the fact that this follows the psychologically traumatic effects of being in forced exile in a country that does not welcome them.

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## 8) Dental complaints

Dental complaints are very frequent particularly in children and occur due to a lack of awareness of the importance of basic dental hygiene and in particular the practicalities of actually maintaining that level of hygiene. Therefore a quarter of the visits carried out by Médecins du Monde involve gum and teeth infections<sup>220</sup>.

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<sup>218</sup> INVS Healthcare Watchdog Institute - (*Institut de Veille Sanitaire*) Weekly epidemiological bulletin, November 18th 2008 / No 44, The screening of saturnism in children in France since 1995 : practices, results, progress and recommendations. (*Dépistage du saturnisme chez l'enfant en France depuis 1995 : pratiques, résultats, évolutions, recommandations*)

<sup>219</sup> INVS Healthcare Watchdog Institute - (*Institut de Veille Sanitaire*) Weekly epidemiological bulletin, November 18th 2008 / No 44, The screening of saturnism in children in France since 1995 : practices, results, progress and recommendations. (*Dépistage du saturnisme chez l'enfant en France depuis 1995 : pratiques, résultats, évolutions, recommandations*)

<sup>220</sup> The Roma people that Europe leaves out in the cold - Witness accounts of teams working with Roma people - published by Médecins du Monde in October 2007.

## 9) Accidents in the home

Mobile healthcare teams who visit homes frequently report back on injuries linked to the dangers that result from the living conditions: burns from dangerous heating systems, wounds, gas poisoning, fires...

Therefore, despite the lack of figures confirming this, the information provided by those working with the Roma community reveals a worrying health situation. The main healthcare problems :

- teenage pregnancies, lack of antenatal care and contraception, no monitoring of young children.
- High tuberculosis incidence
- Conditions linked to living conditions (infections, respiratory illness, psychological complaints, accidents in the home, lead poisoning)
- Conditions linked to lifestyle (dental hygiene, metabolic illnesses)

## B) Barriers to accessing healthcare

### 1) People lack information about the healthcare system

As well as the difficulties in accessing health insurance described in the chapter on social protection which in turn results in delayed treatment, a lack of awareness surrounding healthcare structures is also a major barrier. Several workers have noted that the effect of the general discrimination that people have suffered in their country of origin manifests itself as an «internalization of illegitimacy»<sup>221</sup>: being marginalized and excluded becomes such an integrated part of self that they no longer feel as if they are suffering the effects of exclusion but rather that they carry the feeling around with them. Also, as the healthcare system is set up very differently in Romania, most people will not consider the idea that they could access some treatments and medication free of charge<sup>222</sup>. Hence the tendency to self medicate linked to the habit of buying medication without prescriptions direct from pharmacies.<sup>223</sup> Even once state medical insurance is in place, some struggle to grasp that they can now go to the doctors and get an appointment, get a prescription without paying or putting forward any money up front. They tend to await visits from the Médecins du Monde mobile team in order to be seen.<sup>224</sup>

It is therefore essential that various information sharing exercises are put in place for the Roma population. These should cover, on the one hand, rights and information about how the health system is organized and, on the other, how to make use of healthcare institutions which are set up to provide a direct link to communal services for all. This is what, for example, the Médecins du Monde team in Marseille is trying to achieve when they declare

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<sup>221</sup> Interview with Katia Lurbe y Puerto, IRIS, November 6th 2008

<sup>222</sup> It is necessary to qualify this report depending on the region of origin: in the Nantes area, for instance, families are told how the healthcare system and health insurance works prior to their arrival

<sup>223</sup> Interview with workers from the Medical Aid Committee in Seine-Saint-Denis, October 29th 2008

<sup>224</sup> Interview with the mission head and Médecins du Monde coordinator in Strasbourg, November 25th 2008

that a squat is «closed» to show that the specific initial intervention work has enabled the inhabitants to gain enough independence to visit healthcare institutions alone.<sup>225</sup>

## 2) Language barrier

Although some people have mastered the language well, having lived in France for some time, most Romanian and Bulgarian Roma only settled here from 2000 onwards and some continue to go back and forth between France and their country of origin. The linguistic barrier affects the majority of people and it is essential to overcome this in a medical appointment setting both so that the patient and healthcare staff understand each other as best they can and so that the interview itself is confidential. It is still too rare an occurrence for medical institutions working with Romanian or Bulgarian Roma communities to use a professional interpreter or failing that to systematically contact Inter Services Migrants (ISM) (even if this telephone interpreting service can only deal with relatively simple cases given the limits of the telephone as a means of communication). However certain private matters cannot be brought up in front of members of the community or relatives, such as children who are often used as translators. Médecins du Monde Marseille made a strong plea to partners working in the healthcare setting which resulted in the hospital taking on a Romanian-speaking interpreter and developing the use of ISM at the PMI unit.

## 3) Living conditions

Medical treatment for Roma communities remains difficult because of living conditions and the pressure of being repeatedly evicted from sites.

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In 2007 Médecins du Monde interviewed 300 Roma people about their living conditions. These were people who were from five key areas in which MdM works. This piece of work resulted in the following breakdown : 53% of people live in caravans (which are generally not roadworthy); 21% live in converted squats (this usually means living in a disused warehouse) ; 21% live in huts (using salvaged materials with corrugated metal sheets for roofs...) ; of the remaining 5% some are in squats which have not been converted in any way, some are sleeping in tents or on the streets and only one person is living in a hostel, the only one to have actual accommodation.<sup>226</sup>

These living conditions make people's state of health worse and can even contribute towards developing conditions : basic hygiene is difficult when there is no access to water or to individual, clean facilities ; exposure to the elements ; surrounding land is muddy and swamp like ; food which is often based upon supermarket or market rejects ; constant stress and fear of police intervention<sup>(\*)</sup>; piles of rubbish which attract rodents and parasites, safety issues (unlocked windows, dangerous lighting and heating systems...).

In spring 2010 in Haute-Savoie several families living in a former pigsty contracted scabies. The children's schooling was delayed whilst they were treated. No steps were taken to provide alternative accommodation or to disinfect the area which meant that re-contamination was inevitable. The families were eventually evicted.

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<sup>225</sup> Health workshop, national meeting of the Commission National des Droits de l'Homme (National Commission for Human Rights) at the head office of Médecins du Monde on January 24th 2009

<sup>226</sup> Médecins du Monde (France Mission) Observatory for access to health care - 2007 report

#### 4) Interrupted treatment

Both **instability** and **multiple evictions** make it difficult to access nearby healthcare networks. In other words, each time there is a change in accommodation medical treatment is interrupted and the links that have been established with partners from healthcare access organizations and institutions are broken.

Therefore, without access to treatment and to follow-up appointments for chronic conditions (diabetes, high blood pressure, etc...), those concerned are likely to see their conditions worsen and this could potentially be life-threatening. The Médecins du Monde 2006 observatory report clearly shows this given that it demonstrates that **67.6 %** of patients that were seen in the context of health monitoring **were behind with their treatments**.

Furthermore, **if they cannot find alternative accommodation**, those evicted have to set up home elsewhere. They will then build another slum in another town, but this time without the facilities they had negotiated at some length such as refuse collection or access to drinking water.

It is common to **deport** sick people (some of whom are seriously ill). And amongst those who are deported despite having serious conditions, some will also be contagious.

#### 5) The lack of information provided to healthcare workers about people's living conditions

The reasons for the lack of understanding between healthcare professionals and the Roma community are multiple : Firstly, not attending appointments, being late or struggling to fit in with a surgery's set times, is frowned upon. You will often hear comments such as : "There is a sense of entitlement there. If they arrive just as we are closing and we turn them away because it is too late, they make a scene."<sup>227</sup> What is more, the common practice of attending appointments as a group bothers staff, or even worries them.

Prejudice, which is sometimes openly expressed as was revealed in several of the interviews, is often an underlying cause of intolerance when faced with objective behavior or situations. The usual judgments that are spread among the population are reflected here so that in this setting, as is the case everywhere else, Roma people are associated with activities such as begging with young children, petty crime, mafia like networks, etc. However, a mediator working in the Var insists on pointing out that this prejudice is "more often than not fear rather than actual belief" which makes it easier to deal with.<sup>228</sup>

A lack of information about the cultural grounds for certain behaviors regarding healthcare and wider issues can have direct consequences on a person's treatment. But this lack of understanding also stems from a lack of awareness about living conditions.<sup>229</sup> For instance, there is often no leniency where a lack of hygiene is concerned. Equally, an irregular medical history or absent vaccination records can upset normal practice.<sup>230</sup>

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<sup>227</sup> Interview with a former Romanian healthcare mediator, Médecins du Monde, November 5th 2008

<sup>228</sup> Interview with a social mediator from the organisation SICHEM, Var, December 2nd, 2008

<sup>229</sup> Interview with a former Romanian healthcare mediator, Médecins du Monde, November 5th 2008

<sup>230</sup> Interview with a former Romanian healthcare mediator, Médecins du Monde, November 5th 2008

Finally, it is well known that people with state medical insurance (AME) are regularly refused treatment : 37 % of outpatients were refused treatment in 2006, according to a Médecins du Monde report <sup>231</sup>.

**Witness account - Médecins du Monde, Toulouse - 2009**

The different teams from organizations and institutions working with the Roma communities living on sites or in squats have all drawn the same unanimous conclusion : medical treatment needs to be coordinated and this needs to be organized and considered in terms of both time and location because the institutions involved (PMI: maternal and infant protection unit, DDVLAT (*Dispositif départemental de vaccination et de Lutte Anti -Tuberculeuse*: tuberculosis unit), midwives working for the Department Council...) can get overwhelmed when it comes to supporting people entering the healthcare setting and putting the necessary links in place between health and social care. In the case of hospital appointments, it is important to use the existing interpreting services as much as possible, either with an interpreter on site or by telephone. A nurse on secondment from the university hospital (CHU) working with Travelers was able to make this link thanks to her experience of liaising with the hospital. In 2009 she also organized training for hospital staff to raise awareness of how to deal with Travelers in a hospital setting. 48 people attended the theoretical training which outlined issues of understanding, offered historic reminders and gave examples of daily problems. 29 people were able to attend the practical training, in particular a visit to a site in Flambère with MdM volunteers, and this was very well received. It enabled the staff to visualize living conditions, to exchange ideas, get a sense of reassurance. The training conveyed key messages. Unfortunately, this liaison work has not taken place since November 2009 because the nurse's maternity leave was not covered and there is no longer anybody in the coordination and medical liaison post.

## 6) Lack of healthcare education

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Most of the Roma people in France have studied a greatly reduced school curriculum, if any at all, and knowledge about disease prevention is very minimal. The demand upon healthcare professionals is often limited to supplying medicine. Certain lifestyle routines can make things worse :

- No set meal times
- Excessive amounts of fatty foods and sugary drinks (in some families, children are given meat when they come home from school because their mothers think that they have not eaten enough at the school canteen. Some children struggle to adapt to the canteen food at first)
- Insufficient dental hygiene
- Late nights for children

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<sup>231</sup> Médecins du Monde (France Mission) Observatory for access to health care - 2006 report

## **A) Introduction to the National Human Rights Collective Romeurope**

### **1) History**

CNDH Romeurope was founded in October 2000 in Paris, after the European colloquium “Roma, Sinti, Kale, Gypsies. Promoting the health and the rights of a minority in distress”, which presented the alarming conclusions of research into health promotion carried out at the initiative of Médecins du Monde by the Romeurope network in six countries in the European Union, including France.

On the basis of this work which concluded that there were vital links between respecting basic rights and responding to serious health problems encountered by Roma populations, the national organizations involved in this initiative decided to join forces and founded this group in order to take specific action on this matter, while pursuing their existing commitments towards Roma migrants living in France, in their respective fields of humanitarian or human rights.

### **2) Purpose**

The CNDH Romeurope was set up with the aim of improving access to basic rights of Eastern European Roma in France within the context of common law and fighting against the specific discrimination and racism of which these people are victims within the context of migration.

### **3) Composition**

CNDH Romeurope is composed of national and local associations and committees or groups with French support. All its members either act directly or support organizations involved locally in concrete actions of support and advocacy for the rights of Eastern European Roma in France. If some members are involved in the management of operational activities, they do not do so in the name of Romeurope. The Group shares its actions and communications in a timely manner with non-member individuals or entities.

### **4) Initiatives**

**The Romeurope Collective is composed of:**

- ⇒ **An observatory on violations of Roma fundamental rights in a context of migration in France:** In particular, it publishes an annual report, distributed in France and in Europe, on the situation of Eastern European Roma in France. The support committees and the associations that work directly on site can communicate at any time events such as: evacuation, arrest, detention, deportation, as well as the advances made possible in accessing rights and constructive initiatives of local authorities and institutions. Based on this information, it denounces abuses and discrimination by all means available, such as public meetings, press releases, open letters and forums.
- ⇒ **A platform for exchange and for sharing experiences for citizens and association stakeholders involved in supporting and defending the rights of Roma people**  
Through this platform, experience is exchanged between the Group members, skills are pooled, tools are developed and information is shared on various themes: residency, health, work, education, housing, etc. CNDH Romeurope mobilizes the skills which, within its network, may be helpful according to the situation.
- ⇒ **A political structure to challenge the political and institutional leaders at the national and European level and leading the fight in defending the rights of persons.**

## B) Main actions and initiatives of CNDH Romeurope

These actions were carried out from November 2008 to December 2009.

### **1) Expansion and structuring of the Romeurope network both territorially and thematically**

#### **a) The networking activities of the Romeurope Collective**

Since Romeurope was created in October 2000, it has made advances within the association network, with a significant expansion of organizations involved in support actions and the protection of the rights of Roma populations in France. This year, however, a growing number of group members (a fact for which congratulations are in order) has justified the reaffirmation of the common principles of engagement and operation and the drafting of a framework paper establishing the guidelines and organizational principles of the group. This paper was approved at the national meeting of 14 November 2009.

Many Roma living in squats and shanty-towns have been involved in the group's meetings. Moreover, various actions have been conducted during which a role of testimony and representation has been proposed to them.

Specific mailing lists have been created on various scales and themes to facilitate exchanges, and regular meetings have been organized:

The collective's current members are the following, many of which joined the group in 2009 (those underlined): **ABCR** (Association Biterroise Contre le Racisme) – **ALPIL** (Action pour l'insertion sociale par le logement) – **AMPIL** (Action Méditerranéenne Pour l'Insertion sociale par le Logement) – **ASAV** (Association pour l'accueil des voyageurs) – **ASET** (Aide à la scolarisation des enfants tsiganes) – **ASFR** (Association de Solidarité avec les Familles Roumaines) – **CIMADE** (Comité intermouvements auprès des évacués) – **CLASSES** (Collectif Lyonnais pour l'Accès à la Scolarisation et le Soutien des Enfants des Squat) – **MAC** (Medical Aid Committee) – **CCFD** (Comité Catholique contre la Faim et pour le Développement) – **FNASAT-Gens du voyage –Hors la Rue – Imédiat** – **LDH** (French Human Rights League) – **Liens Tsiganes** – **MDM** (Médecins du Monde) – **MRAP** (Mouvement contre le racisme et pour l'amitié entre les peuples) – **Mouvement catholique des gens du voyage** – **PARADA** – **PROCOM** – **Rencontres tsiganes** – **RomActions** – **Réseau de solidarité avec les Roms de St Etienne** – **Romeurope Val-de-Marne** – **Secours catholique** (Caritas France) – **SICHEM** (Service de Coopération Humanitaire pour les Etrangers et les Migrants) – **Une famille un toit 44** – **URAVIF** (Union régionale des associations voyageurs d'Ile-de-France)

And the Support Committees of Montreuil, Northwest Paris, St. Michel-sur-Orge, Meudon, the Romeurope Group of Nantes, the Rom Group of associations of the Metropolitan area of Lyon, the Collectif de soutien aux familles roms de Roumanie, the Collectif des sans papiers de Melun, the Collectif dijonnais de soutien aux Roms

**45 newsletters**, classified by Department and theme, have been distributed within the group, offering a summary of information from members of Romeurope and the Press.

**Three national meetings** were organized in 2009, including a 2-day seminar.

**24 January in Paris:** 85 participants

The question of **access to employment** was the central theme of this meeting. Practical information was given on the work authorization procedure and access to the status of sole trader necessary to declare self-employment. Actions were planned to demand an end to transitional measures.

Three themed workshops on education, health and health care access and housing (local experience of relocation, referrals of DALO commissions) were held in the afternoon.

**20 June in Bordeaux:** 60 participants

A morning plenary helped lay the groundwork for national action on the topic of **the exclusion of Roma children from the right to education** in France. The guidelines and the principle of this

campaign decided on in June in Bordeaux were made concrete at the start of the new school year with the creation of a Group for the right of Roma children to education.

Three themed workshops were held in the afternoon: **Residency** (of EU nationals and nationals of the former Yugoslavia), **Housing** (Eviction from living spaces, housing projects), **Health** (Reflection on the development of informational and educational tools for health, health mediation program). Romeurope and the Roma persons present were welcomed by the deputy for solidarity into the Bordeaux City Hall.

**14-15 November in Paris:** 80 participants

Group reflection was proposed in the morning on the **orientation and operation of the national Romeurope group**: principles, claims, initiatives, expectations of members in this regard and their possible contribution, authorities, decision making process, etc.

Three themed workshops were held in the afternoon:

1. **Employment/residency:** It was a question of organizing responses to the increasing instances of Roma being placed in detention, to re-launch national initiatives demanding the end of the transitional regime, in connection with HALDE's recent resolution to work on the development of a plea to the prefectures at the local level for easing the procedures for work permits, to explore the possibilities of appeal against refusal of access to employment centres and vocational training in the case of Romanians and Bulgarians and to develop access to residency through the status of sole trader.
2. **School:** the stages of the campaign for the rights of Roma children to education have been clarified and a practical guide outlining the steps to obtain an education has been submitted to participants.
3. **Aid and social protection:** access to Family Allowance Fund benefits, the challenges for opening up rights to State Medical Aid in the case of EU nationals and access to youth welfare benefits were addressed.

A workshop was organized on 15 November regarding the **Statutory Right to Housing**, in the specific case of nationals of new member states of the EU: Stakeholders, networks and tools that can be mobilized by activists to support appeals of mediation commissions

## **b) Setting up networking partners on certain themes**

### **b-1) Creating the Group for the rights of Roma children to education**

**Context:** Romeurope estimates the number of Roma children who will reach the age of 16 years without having been educated as between 5000 and 7000. Until now the disclosures regarding this situation have not been heard by the institutions. It therefore appears necessary to mobilize the action on the issue through a broader front than the associations working specifically within these populations, through, in particular, the involvement of various stakeholders in education (teachers' unions and parents) and advocacy for the rights of children.<sup>232</sup>

<sup>232</sup> The Group for the rights of Roma children to education includes the following organizations:

AFEV (Association de la Fondation Etudiante pour la Ville) – ATD Quart Monde – CGT Educ'Action – CLIVE (Centre de Liaison et d'Information Voyage-Ecole) – DEI-France (Defence for Children International – France) – FCPE (Fédération des conseils de parents d'élèves) – FERC-CGT (Fédération de l'éducation, de la recherche et de la culture) – ICEM-Pédagogie Freinet (Institut Coopératif d'Ecole Moderne) – Imediat – Intermèdes – Ligue de l'enseignement – RESF (Réseau Education Sans Frontière) – Sud Education – SNUipp-FSU – Solidarité Laïque

And the members of the Romeurope National Human Rights Group : ABCR (Association Biterroise Contre le Racisme) – ALPIL (Action pour l'insertion sociale par le logement) – AMPIL (Action Méditerranéenne Pour l'Insertion sociale par le Logement) – ASAV (Association pour l'accueil des voyageurs) – ASET (Aide à la scolarisation des enfants tsiganes) – ASFR (Association de Solidarité avec les Familles Roumaines) – CIMADE (Comité intermouvements auprès des évacués) – CLASSES (Collectif Lyonnais pour l'Accès à la Scolarisation et le Soutien des Enfants des Squat) – CAM (Comité d'Aide Médicale) – FNASAT-Gens du voyage – CCFD (Comité Catholique contre la Faim et pour le Développement) – Hors la Rue – LDH (Ligue des Droits de l'Homme) – Liens Tsiganes – MDM (Médecins du Monde) – MRAP (Mouvement contre le racisme et pour l'amitié entre les peuples) – Mouvement catholique des gens du voyage – PARADA – PROCOM – Rencontres tsiganes – RomActions – Réseau de solidarité avec les Roms de St Etienne – Romeurope Val-de-Marne – Secours catholique – SICHEM (Service de Coopération Humanitaire pour les Etrangers et les

It is in this sense that Romeurope has sought teachers' unions and various organizations to form a broader group on this particular issue. A meeting was organized on 23 September 2009 which helped these new partners to agree on the outlines of this campaign and an action timetable. Originally it involved 1) working together to include this issue among the various events planned to mark the anniversary of the International Convention on the Rights of the Child on 20 November 2009, and 2) defining joint actions during this period on the right to education of Roma children.

Actions led within the framework of the campaign for the rights of Roma children in education:

- 3 meetings were held: 23 September 2009 at Médecins du Monde, 9 December 2009 at SNUipp-FSU and 20 January 2010 at FNASAT-Gens de Voyage.
- A Google group was created to exchange email (70 members) and to share documents related to the campaign for the right to education and the school registration process. This group brings together teachers, national education professionals within the academy inspections, social workers and activists.
- A common information and analysis paper was prepared which is 8 A4 pages in color and supports communications throughout the campaign (1200 copies published).
- 3 open letters were signed by all members of the group for the rights of Roma children to education and addressed to the Minister, to the Assembly of the Departments and of France and to the Association of Mayors of France (all three received a delegation from the group in January 2010).
- Tools for sensitization and advocacy at the local level were prepared and distributed in networks of the various member organizations, :
  - Form letters to the Academy Inspector, the President of Department Councils and the Mayors
  - Information document
  - A list of member organizations of the Group for the rights of Roma children to education
  - Handbook on school enrolment procedures
- 4 November 2009: Press conference at the FCPE (Fédération des conseils de parents d'élèves)
- Petition launched calling for rights of Roma children to education, submitted for signatures at various events and posted online.
- 15 November 2009: Roma children participated in a roundtable discussion held every Sunday by the RESF (Education Without Borders Network) on the steps of Notre Dame – 12 children from a shanty-town of St. Denis in the process of being expelled came to demand their right to school.
- 21 November 2009: booth at the education exhibition.
- 22 November 2009: booth at the RESF (Education Without Borders Network) "Six hours for the State to comply with the rights of undocumented immigrant children and families" event.
- 26 November 2009: booth at UNESCO during the Symposium on homeless children.
- 29 November 2009: booth at the Association Village organized by CIMADE at the closure of the Migrant' Scene Festival.

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## **b-2) Start up of an action network concerning the protection of occupants without right or title**

**Context:** Evictions from premises that they occupy without right or title constitute, for Roma families, a recurring problem that is ruining all the efforts of associations and citizens to improve their access to all other rights (education, health, work, housing, etc.). These evictions are frequently carried out in the context of police harassment which is sometimes sufficient for the people to leave on their own. When they are carried out within the framework of an order or an administrative measure, the associations are often powerless to respond to requests of persons wishing to have recourse and also have difficulty determining whether the procedural steps have been respected. Indeed the complexity of procedures for evicting occupants without right or title and their misunderstanding by the majority of the stakeholders who work with Roma families in the field are the real difficulties for intervening in a reactive and relevant way. Moreover, even if they have been able to effectively work with attorneys on

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Migrants) – Une famille un toit 44 – URUVIF (Union régionale des associations voyageurs d'Ile-de-France) Et les Comités de soutien de Montreuil, du Nord-ouest parisien, de St Michel-sur-Orge, de Meudon, le Collectif nantais Romeurope, le Collectif Roms des associations de l'agglomération lyonnaise, le Collectif de soutien aux familles roms de Roumanie et le Collectif des sans papiers de Melun

the local level, there is no pooling of favorable decisions on which to build in similar contexts. In many places, activists lack contacts with attorneys familiar with these cases and who have the availability to work on them. In certain Departments in particular, access to legal aid is complicated by the requirements of an address and written proof of resources.

The first meeting of the associations was organized on 23 September, followed by a meeting with members of the Jurislogement group and DAL (Right to Housing Federation) on 6 October to consider setting up a network whose purpose would be to facilitate the coordination between associations working in squats and shanty-towns, and the jurists and attorneys who are able to provide training and ongoing counsel on procedures and handle appeals.

### **b-3) Joint actions with specialized structures on certain themes**

In 2009, Romeurope maintained privileged exchanges with certain organizations that are not members of the group but work as partners with it on various themes:

- **Residency:** The GISTI for monitoring appeals against deportation and access to residency, with joint actions undertaken to request early termination of the transitional measures.
- **Social protection:** The "equality of social rights for foreigners and marginalized persons" workgroup which provides a forum of exchange and information for social workers and members of various associations in regards to the access of foreigners to social benefits and protection.
- **Work:** *Solidarités Nouvelles contre le Chômage* (New Solidarity against Unemployment) has been enlisted to help the Romanians and Bulgarians to find a job. ADIE (*Association pour le Droit à l'Initiative Economique* - Association for the Right Economic Initiative) has provided training on the sole trader system and has provided their advice on these procedures. Several unions (CGT, CFDT, the Union Syndicale Solidaires, FSU, SNUipp) have joined Romeurope to demand an end of the transitional regime with respect to Romanians and Bulgarians.
- **Housing:** Several national and Ile-de-France associations (Fondation Abbé Pierre, FAPIL, FAPIL Ile-de-France, FNARS, FNARS Ile-de-France, Aurore, Emmaüs, DAL, Interlogement 93, National Federation of PACT, DAL, etc.) are associated with two statements denouncing the pursuit of evictions from shanty-towns during the winter truce and requesting the prefect of Ile-de-France to hold a round table.
- **Education:** Several teachers' unions and organizations working in the field of protection of children's rights have been associated with the Collective for the right of Roma children to education: AFEV (Association de la Fondation Etudiante Pour la Ville) – ATD Quart Monde – CGT Educ'Action – CLIVE (Centre de Liaison et d'Information Voyage-Ecole) – DEI-France (Defense for Children International-France) – FCPE (Fédération des conseils de parents d'élèves) – FERCCGT (Fédération de l'éducation, de la recherche et de la culture) – ICEM Pédagogie Freinet (Institut Coopératif d'Ecole Moderne) – Intermèdes – Ligue de l'enseignement – RESF (Education without Borders Network) – Sud Education – SNUipp-FSU – Solidarité Laïque

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### **b-4) The group of elected officials for the Rights of the Roma**

Finally, since September 2008, Romeurope has prompted the emergence of a **Group of elected officials for a policy of accommodation and access to the rights of Eastern European Roma in France** and has assumed the leadership for this group until now. In January 2009, this group of elected officials issued a call for Roma rights, which up to now has been signed by 175 officials (MEPs, French parliamentarians, regional and general advisors, municipal and community elected officials). This list of signatory elected members has many times facilitated the identification of contacts and intermediaries on the local level for the associations that work to support Roma families.

Two meetings of this group of elected officials were organized in 2009, on 3 March at the National Assembly and on 24 June at the Montreuil Town Hall, as well as two meetings of elected officials' staff on 7 July and 16 September.

Two main objectives unite the elected officials acting through this association:

1. to exchange experience in accommodating Roma populations (access to rights, communication with the local electorate, housing/lodging provisions mobilized, etc.). An email list has been drawn up, to which information is distributed in a timely manner. A framework for creating a blog of elected officials has been defined with the help of the elected officials' staff to meet the needs of several local authorities; various means are currently being considered for its implementation.
2. The joint inquiry of the government concerning in particular the anticipated end of the transitional regime. This inquiry must be developed with the publication of the appeal of elected officials when it has received a significant number of signatures. Two parliamentary members of the group of elected officials have acted to relay this demand to the government through written questions (question written to the Assembly on 4 November 2008 with response on 17 February 2009, oral question to the Senate on 26 January 2010). A deputy member of the group of elected officials has also relayed to the government the request for extension of the winter truce to squats, shanty-towns and mobile housing (November 2009).

## **2) Formalisation of means for supporting and defending the rights of Roma people living in France**

**Schooling:** A practical school enrolment guide for children living in squats or shanty towns was drawn up on the basis of work carried out by an exchange group on schooling for Romeurope. It is intended for association representatives helping Roma children from squats and shanty towns to enroll at school. The guide discusses enrolment procedures and implementation of material conditions to enable Roma children to attend school. The questions surrounding liaison between families and schools, and remedial education to be implemented, are an aspect which remains to be incorporated later on.

**Employment:** Two information sheets for association representatives helping Romanians or Bulgarians seeking employment have been drawn up and published online. They concern 1) help with work permit applications 2) creation of small businesses via the auto-entrepreneur system

**Stay:** In order to emphasize the right of review by lawyers against measures for removal of community nationals, a collection and summary of court and administrative appeal court decisions was compiled by Romeurope in partnership with the GISTI and the CIMADE

**Health:** The Romeurope (Ile-de-France) health working group has edited several information leaflets on the right to state medical benefits (one leaflet for the public and one for supporters), on maternal and child welfare and family planning services and health care services for the public and/or supporters,

**Family allowance:** Romeurope saw a number of applications for right of review submitted in 2008 and 2009, against interruption of family allowance payments for Romanian and Bulgarian families receiving allowance since 2007, notably thanks to a member of the GISTI, specialist in social protection, who created a right of review application template for use by the Romeurope network. The applications went by the principle of EU law which states that if benefits, subject to the condition that stay is regular, are allocated to a community national by the administration, this in itself admits right of stay and cannot then be revoked.

Further to right of review, in June 2009, an initial government circular stated that families having previously received family allowance, even by mistaken evaluation of their right of stay, should not have had these benefits removed. A circular from the CNAF in October 2009, confirms and describes this principle in detail, along with the procedure for recovery of benefits by the persons concerned. A letter template is currently being finalized by Romeurope to encourage associations to begin proceedings with the family allowance fund to enable those affected to claim back their rights.

### **3) Questioning of public authorities on the difficulties of access to rights or discrimination due to ethnic origin**

A delegation was met by the **Ministry for National Education** on 3<sup>rd</sup> December 2008. The comments in reaction to our questioning concerning the high number of Roma children not enrolled at school appeared to be sufficiently serious (questioning notably the actual “motivation” of the families to school their children) to deserve the attention of teachers’ unions, associations and the press.

A delegation, including a Romanian Roma from the Val-de-Marne region and association representatives, was met by the **Ministry of Health** on 15<sup>th</sup> December 2008. The main observations and recommendations of the Romeurope support group were brought up, notably concerning tuberculosis, lead poisoning, access to health insurance and implementation of systematic on-site diagnoses.

Romeurope was met by the Councillor in charge of entrance and stay of foreigners, and the Director General of the ANAEM at the **Ministry of Immigration** on 23<sup>rd</sup> March 2009. The delegation included a Roma from St Etienne and representatives of the Romeurope support group. A request for lifting of transitional measures limiting access to the employment market was reiterated, notably with regard to the considerable number of persons that such access would bring onto the said employment market. It was also requested that administrative changes be made urgently to simplify the work permit application procedure and to effectively reduce the time spent by the examining employment contracts. A memo should be sent to employment departments to this effect.

A meeting took place on 24<sup>th</sup> March 2009 with the **Secretary General for European Affairs**, posted at the Prime Minister’s office and responsible for negotiating EU law texts, preparing inter-ministerial positions, implementing EU law and managing litigation. The delegation included a Roma job seeker from the Val-d’Oise region and representatives of the Roma support group. The meeting essentially covered the difficulties of access to employment for community nationals during the transitional period. The Secretary General for European Affairs undertook to refer all failings denounced and our requests for improvements to the inter-ministerial committees: Immediate 3-month work permits, pending examination of the application by the DDTEFP, access to part time work on the basis of the minimum wage for a full time position, access to new-entry jobs and professional training, effective measures for shortening application examination times...

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In the last quarter of 2009, a collective approach was initiated by Romeurope in order to involve notably the principal trade unions on the question of restraints to access to employment induced by the transitional measures for Romanians and Bulgarians. An open letter was sent to the **Prime minister** on the basis of the debate by the HALDE no. 2009-372 of 26<sup>th</sup> October 2009, which recommends the anticipated end of transitional measures which it places at the centre of the contributing factors causing the exclusion of the Roma Romanian and Bulgarian population. In addition to the members of Romeurope signing it, were: the CGT (Confédération Générale du Travail-General Confederation of Labour), the CFDT (Confédération Française Démocratique du Travail-French Democratic Confederation of Labour), the FSU (Fédération Syndicale Unitaire-Education Trade Union), Union syndicale Solidaires (French group of trade unions), the SNUipp-FSU (Syndicat National des Instituteurs, professeurs des écoles et pegc-National teachers union) and the Abbé Pierre Foundation.

The delegate general for the **Children’s Commissioner** met with several members of Romeurope on 14<sup>th</sup> September 2009. They presented the various observations of the support group relating to the exclusion of Roma children from the right to education in France. Further to this meeting, four referrals were addressed to the ombudsman on 18<sup>th</sup> December concerning the various contributing factors to this situation, to request that it address the competent authorities. These referrals concerned:

1. Interruption of schooling relating to endless expulsions of Roma families from the areas they occupy with no rights or title
2. Absence of financial support for Roma families for guaranteeing minimum material conditions of regular schooling
3. Administrative obstacles put up notably by towns in school enrolment procedures for Roma children
4. Exclusion of young Roma people from the field of vocational training

The **French Data Protection Committee** was contacted by Romeurope on 10<sup>th</sup> April 2009 concerning use of the file containing the names of the beneficiaries of humanitarian return, known as "OSCAR". As stated in the inter-ministerial circular of 7<sup>th</sup> December 2006, this file has no other purpose than to prevent an individual from benefitting twice from humanitarian aid for return home. Nevertheless Romeurope received evidence indicating that the information in the "OSCAR" file was transferred to a number of third party administrations.

In April 2009, an open letter was addressed to all leading **EU election candidates**. It questioned candidates on the specific measures that they intended to promote to control implementation in Member States of the resolutions and recommendations by European institutions, which invite all to undertake concrete action to fight discrimination specifically against the Roma people. Around ten responses were received.

A hearing of the representatives of the Romeurope support group was organised by the **ECRI (European Commission against Racism and Intolerance)**, an independent body established by the Council of Europe) on 9<sup>th</sup> March 2009.

A delegation of 25 people was met by the **European Commission** in Brussels on 27<sup>th</sup> May 2009. This was an informative visit proposed further to the demonstration organized on 10<sup>th</sup> December 2008 in Paris, to request the end of transitional measures for Romanians and Bulgarians. 15 Roma people living in squats and shanty towns in various towns (St Etienne, Bordeaux, Toulon, Seine-Saint-Denis and Paris), members of Romeurope and local councilors took part. The delegation was met by two civil servants from the general directorate for employment, social affairs and equality: coordinator of the Roma action group, Mr Joachim Ott, and a member of the social security system coordination and free movement of workers unit, Mr Dragomir Iliev. The exchange concerned action to fight discrimination and the measures taken by the European Union to encourage Member States to accelerate lifting of transitional measures, limiting access to employment by Romanians and Bulgarians.

## **b) Public events**

### **Demonstration to request the end of transitional measures**

A demonstration was organized on 10<sup>th</sup> December 2008 upon request of a number of Roma people and with the support of associations from the Romeurope action group. They appealed for the end of transitional measures, limiting access to the employment market for Romanians and Bulgarians in France. Turn-out was significant: Around 300 Roma people from Ile de France and 150 associations gathered at place Edouard-Herriot in Paris. This event was covered by a number of press articles and reports: Métro, Politis, Rue 89, France info, Romanian public radio, Al Jazeera etc.

Of the two institutions questioned (Ministry of Labour and representatives for the European Commission in France), only the Commission delegation met with Roma representatives and associations and was attentive to the claims presented. Further to this meeting, it drew up a specific report for the European Commissioner in charge of employment and social affairs. An invitation to visit Brussels in a few months time to inform the European Commission of the situation of the Roma people in France was also put forward to the Roma people and their French support groups.

## **c) Observation and analysis reports concerning the situation of the Roma people in France**

**Schooling study:** During the national meeting in June 2009, launch of a study was announced. The study was to provide clarification as to the situation of non-schooling of Roma immigrant children in France. An attempt to clarify the problem (what scale? in what is it shown? who does it affect in particular? etc.) and to shed light on the various obstacles to schooling, in order to have the necessary tools to manage this situation and inform those responsible, were among the objectives. This study was carried out as part of a placement, with the support of the steering committee within the Romeurope Collective, and included a field survey of five towns. The study will be published on 10<sup>th</sup> February 2010.

**Health mediation report:** Upon request of the General Health Directorate, a study was carried out on the conditions of implementation of health liaison measures for the Eastern European Roma population in France. An assessment of experiences in France and abroad was established and a think-tank was set up to discuss the priority actions to be undertaken. The position of mediator and deontological framework was put forward.

A meeting to present this study was organized on 28<sup>th</sup> May 2009 by the General Health Directorate with the various institutions.<sup>233</sup>

The basis of an operational program to follow on from the study was also discussed. The INPES provided methodological support to help structure this health advertising project. A monitoring group was set up within Romeurope and a coordinator was recruited by one of the group's structures, the ASAV, as of October, to support the development and implementation of health liaison pilot projects in 4 regions: Var, Nord, Loire-Atlantique and Seine-Saint-Denis

A **collection of evidence and a memorandum** were compiled for the relevant bodies, **on the difficulty of access to employment** by Romanians and Bulgarians in France, in relation to the administrative work permit procedure.

#### **4) Communication**

##### **a) Press release publication**

**April 2009:** Drancy - The prefecture considers the Roma people to be undesirable at memorial services for the Nazi genocide

**May 2009:** Associations denounce the poor treatment of Roma people in Seine St Denis: Once more, the problems are moved on, and humanitarian distress accentuated

**June 2009:** Cesson - Host project. As Roma camp expulsions accelerate in the Ile-de-France region since the end of the winter truce, and notably in Seine-Saint-Denis, the small town of Cesson in the Seine-et-Marne region has gone against this by implementing a host and integration project for 4 Romanian families and by publishing the positive results achieved in just a few months.

**June 2009:** Illegal evacuation and police brutality in Grenoble

**July 2009:** Assistance for trauma victims: another solidarity offence? The signing parties declare that they support Doctors of the World, against which proceedings were instituted by the State for setting up a 6-tent camp in Saint Denis (93) for Roma families evacuated after the fatal fire in their shanty town last May in Bobigny.

**July 2009:** Police brutality multiplies to dissuade Roma people, citizens of the European Union, to come to or remain in France.

**September 2009:** Call by the Nantes branch of the group and the National Human Rights Collective Romeurope to a meeting

**November 2009:** Associations in the Ile de France region ask the prefect of the region to extend the winter truce to squats and shanty towns. Organization of a round table, in particular to find fit and lasting housing solutions.

**December 2009:** 2,220 shanty town inhabitants thrown out into the street in the middle of winter. This is intolerable!

**February 2010:** Two children die in fire in a shanty town near Paris: not just an ordinary "incident"!

**April 2010:** Once again, a child dies in a fire in a shanty and several people are seriously injured. We refuse to continue this macabre count.

**May 2010:** Press release from town councillors and organization of the action group for the right to education for Roma children.

##### **b) Web site**

A new Romeurope web site is online at the same address as the previous site

More comprehensive, the new site is mainly directed towards supporting and providing information for professionals and volunteers working to defend the rights of Roma families, through the development

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<sup>233</sup> DDASS (59), DRASS (Pays de la Loire), INPES, DRASS IDF, Ministry of housing and reception for Roma travellers, Acsé, DGS, DGAS

of a section entitled “texts and support for action” which includes resources, tools and practical information for direct application to situations encountered in the field. It is also intended to encourage experience-sharing between the members of Romeurope, thanks to a members space in which all non-public documents on the distribution list can be published on line. A press review is provided every two weeks (article summaries) by a volunteer journalist.

### **c) Support for communication action plans aiming to encourage prevention of racial discrimination**

The importance of information and awareness-raising campaigns for the general public, and notably for residents in areas in which Roma families have set up camp, have been mentioned many times in Romeurope meetings. The local electorate needs to be influenced, positive cover of the subject by the local press is required and the network of solidarity and existing action needs to be extended, by bringing together citizens or organizations that still know little of the situation of Roma families in France.

The Romeurope action group is regularly called upon by associations, local governments or teaching establishments for preparing various local awareness-raising and information events (public meetings, press conferences, training sessions etc.), based around the situation of the Roma people in France (networking, proposals for participants, information supports and diffusion of invitations).

To make scheduling events easier, the Romeurope National Human Rights Collective lends information support to campaigners and associations requesting them:

1. Opre Roma! Exhibition of photos and texts, available on the Romeurope website: <http://www.romeurope.org/Opre-Roma.html>

This exhibition was created by the Human Rights League, Doctors of the World and Solidarité Laïque. An additional panel was also created in 2009 to provide information on the living conditions of people in France following entry of Romania and Bulgaria into the European Union. The panel explains that the main part of the observations remains the same.

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This exhibition, previously up for purchase, is no longer available. 10 plastic-coated copies were therefore reedited by Romeurope for lending to action groups and associations.

2. Various DVDs are also available for loan for public diffusion

They can be sent by post upon request, and include the contact details of the producers from whom associations must request authorization for public distribution

3. Romeurope does not send documents or reports by post, but a selection is available on the Romeurope website, and can be bought or printed locally: <http://www.romeurope.org/-Documents-.html>