

Collectif national droits de l'homme Romeurope :

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*) – Association de solidarité avec les familles roumaines de Palaiseau – CIMADE (*Comité intermouvements auprès des évacués*) – CLASSES (*Collectif lyonnais pour l'accès à la scolarisation et le soutien des enfants des squats*) – FNASAT-Gens du voyage – 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 Roms Saint-Étienne – Romeurope Val-de-Marne – Une famille, un toit 44 – URAVIF (*Union régionale des associations de voyageurs d'Île-de-France*)

Ainsi que les comités de soutien de Montreuil-sous-Bois et de Saint-Michel-sur-Orge, le Collectif de soutien aux familles roms du Val-d'Oise et des Yvelines, le Collectif Roms des associations de l'agglomération lyonnaise et le Collectif des sans-papiers de Melun.



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¹ Agence nationale d'accueil des étrangers et des migrations; National Agency for the Reception of Foreigners and Migration

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LIST OF ACRONYMS

REPORT SUMMARY

The *Collectif national Droits de l'Homme Romeurope* (CNDH Romeurope, National Human right group) was set up in October 2000 in Paris, with the aim of improving access to basic rights among Roma migrants on French territory, and of fighting the discrimination and human rights violations they suffer in France.

By Roma migrants in France, we mean people living on French national territory, mainly from the countries of Central and Eastern Europe (CEE), who define themselves as Roma. There are an estimated total of around ten thousand such people spread more or less uniformly across the whole country. However, since the enlargement of the European Union (EU), the situation of Roma who come from an EU Member State (most commonly from Romania, then from Bulgaria) should be distinguished from that of Roma from outside the EU².

In most of the countries involved in this emigration, it is not an exaggeration to say that the Roma are victims of segregation. They also suffer serious rejection in France, which occurs itself from time to time. For instance they were turned away from social restaurants in Lyon in September 2007, and they have been directly targeted by the adoption of anti-begging orders in several municipalities, victims of rumours and aggression in Marseille since June 2008, harassed by the police at their homes and evicted from one place to another. Information gathered by associations and support committees that are members of Romeurope, and that interact daily with Roma families, bears witness to all the violations of their rights, including of those who acquired European citizenship in January 2007.

The right of residence and the humanitarian repatriation operations conducted by the ANAEM³

A new legal framework for Europe's Roma. The accession of Romania and Bulgaria – where the vast majority of Roma migrants in France come from – to the European Union took effect on 1st January 2007. Nationals of these two countries therefore have the same rights as other EU citizens. These rights are enshrined in the Treaty of Rome, which in particular sets out the principle of the free circulation of persons, directly applicable in all EU countries: a single identity document is now all that is needed to enter another Member State, and a residence permit cannot be demanded as a condition of residence in any of the other Member States.

In France, however, **measures were taken to maintain the policy of repatriating** Romanians and Bulgarians: as of December 2006, a circular from the Interior Ministry, followed by a decree in March 2007, set out procedures for admission as residents and for the exclusion of Romanian and Bulgarian nationals who had become EU citizens.

These texts distinguish between different situations depending on the length of residence: with less than three months' residence in France, the right of circulation and residence can only be limited in certain specific cases⁴: once the individual has been present for more than three months, the right of residence is subject to the condition of having a job (paid or unpaid), being a student, or having medical insurance and

² Balkan Roma communities – sometimes former but smaller - are found in the North, Alsace, Tours, the Lyon conurbation, South-East France, and here and there in Île-de-France.

³ Agence nationale d'accueil des étrangers et des migrations; National Agency for the Reception of Foreigners and Migration

⁴ If the individual infringes labour law, poses a threat to public order, or places "an unreasonable burden on the French Social Security system". In the first two situations, prefectural removal orders or APRFs (arrêté préfectoral de reconduite à la frontière) can be served on Romanian and Bulgarian nationals, while the third can be invoked in justification of a order to leave French territory or OQTF (obligation de quitter le territoire français). The person involved has 48 hours in the case of an APRF and one month in the case of an OQTF to submit an appeal or leave the country. This can be done by crossing any border and returning afterwards without any other restriction. But if neither of these is done, he or she can be arrested after one month, placed in a detention centre and immediately expelled.

sufficient resources. But when access to employment for Romanians and Bulgarians is governed by rules as strict as those in force for third-country nationals, they rarely obtain permission to work and must therefore prove that they have sufficient resources and medical insurance so as not to be an “unreasonable burden on the French social security system”, without which they are considered to be illegal immigrants.

In practice, the instructions given to prefects were quickly extended. From the beginning of 2007, several prefectural removal orders or APRFs (*arrêté préfectoral de reconduite à la frontière*) were issued in respect of Romanian and Bulgarian nationals, most of which could be cancelled later. From mid-June 2007, the authorities changed “strategy” and began to issue orders to leave French territory or OQTFs (*obligation de quitter le territoire Français*) to people caught begging, after an eviction or a fire, etc.

The reasons given for these repatriation measures are almost always **very questionable from the legal point of view**; the main justification used is that of being an “unreasonable burden” on the social assistance system. In all these cases, the motive is preprinted, without reference to any factor that would make it possible to determine in what context the right of residence was checked. No other proof is added to the justification of having insufficient resources and being a burden on the French social security system apart from the fact that the families live in shanty-towns or squats: this is a presumption of being guilty of poverty. The fact is that in some cases they have not sought any assistance from social security.

Finally, the majority of OQTFs have been accompanied by “**threats**” of legal action (fines and/or imprisonment) if the people involved do not leave the country, although EU citizens cannot be criminally charged for not having legal residence status, as has been stressed many times by the courts. But it is certainly used as a means of applying pressure, and is cited in most OQTFs.

Although the aim of mass expulsion of migrant Roma in France has not been revised, the real new factor since the entry of Romania and Bulgaria into the EU is the need for the French government to change the procedures used to justify these expulsion operations against EU citizens. The circular of 7 December 2006 on **assisted repatriation**⁵ available to foreigners without legal residence status, or who are destitute, arrived just in time. On the basis of this text, it might have been hoped that genuine support would be given for planned repatriation, starting with information, preparing a resettlement plan, personalised support prior to departure, right through to arrival in the country of repatriation. But from the first repatriation operations carried out by the *Agence nationale d'accueil des étrangers et des migrations* or ANAEM [National Agency for the Reception of Foreigners and Migration] in August 2007 in Seine-et-Marne through to the present, all witness statements⁶ make it clear that firstly, in the great majority of cases, the consent of the persons concerned to take part in a repatriation operation was not the result of deliberate choice but was obtained as the result of a whole set of pressures and constraints, and secondly, that the conditions under which it takes place, and the damaging effects of the procedure, totally belie the description of “humanitarian”.

In most cases, **requests for assisted humanitarian repatriation are obtained under pressure** and not as part of a genuinely planned return; in fact these requests are signed:

- usually in a deliberately induced state of panic, often at very short notice, a few hours before leaving, or even afterwards;
- as a “lesser evil”, with the State authorities threatening the police station and prison;

⁵ Interministerial Circular DPM/ACI3/2006/522 of 7 December 2006 on assisted repatriation for foreigners without legal residence status or who are destitute. This circular distinguishes between two kinds of assisted repatriation managed by the 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.

⁶ For witness statements taken by Romeurope in June 2008 on the way humanitarian repatriation operations were conducted, see Appendix 1.

- frequently without an interpreter;
- with no chance of retracting, since identity papers are usually confiscated, and the departure and the journey usually take place in conditions that are akin to coercion (sometimes accompanied by oral pressure on people to dissuade them from returning to France);
- with a total lack of transparency, as outside observers are kept at a distance.

These repatriation operations belie what is generally understood by the word “humanitarian”:

- because their aim is clearly to evacuate a site without concern for the individuals living there;
- because this mass treatment has dramatic consequences for the people involved. What is “humanitarian” about children being left behind on the site or at the school gate; or about people who are seriously ill, and sometimes infectious, being sent back to Romania; or all their personal possessions being destroyed; or the individuals’ steps towards integration (schooling for the children, attempts to get work, medical care, ties to neighbours) being suddenly broken off?

But who cares? Because even if the number of Roma migrants in France is roughly constant, these “humanitarian” repatriations have sent the statistics soaring: **Romanians and Bulgarians are repatriated more often today than when they were not yet EU citizens**⁷. These figures have a not insignificant impact on the overall repatriation statistics⁸ triumphantly announced at the press conference held on 19 June 2008 by Immigration Minister Brice Hortefeux, who failed to mention – and with good reason – the distribution by nationality of those repatriated. When compared to estimates of the number of Roma migrants more or less constantly present in France – between 6,000 and 10,000 – we can already say that more than ever, it is the Roma who are paying the highest price for this policy.

The right to work

The accession treaties of Athens in 2003 (for ten countries) and Luxembourg in 2005 (for Bulgaria and Romania) made it possible for EU countries to impose on the new members a **transition period** during which restrictions could be applied to their nationals’ access to paid work. Several EU states decided to completely lift restrictions on access to their labour market, while others opened theirs up partially, especially for certain qualifications. But despite a report by the European Citizen Action Service (ECAS) in January 2008, which showed the need to bury the myth of the Polish plumber, as much for Romanians and Bulgarians as for the preceding wave of new EU members, in June 2008⁹ France decided to deny Romanians and Bulgarians the equal treatment with other EU citizens they had granted to the Central and Eastern European countries that joined the EU on 1 May 2004.

⁷ During 2006: 6,000 out of 24,000 people repatriated were Romanian or Bulgarian.

During 2007, 1,693 Romanians and 468 Bulgarians were repatriated in ANAEM humanitarian repatriation operations. Individuals removed other than as part of humanitarian repatriations must be added to this.

In the first five months of 2008, the office of the Minister of Immigration ordered the repatriation of 4,555 Romanians and 557 Bulgarians in humanitarian repatriation operations. Individuals removed other than as part of humanitarian repatriations must be added to this.

⁸ 14,660 people were removed in 2008.

⁹ Order of 24 June 2008 on issuing work permits to EU citizens subject to temporary legal provisions, without reference to the state of the labour market.

The principle adopted during this transition period in respect of the free movement of workers is that Romanian and Bulgarian nationals are subject to the same rules as foreign workers from outside the EU. In particular this means that: 1) they must apply for a work permit before they are taken on; 2) that the state of the French labour market (which in practice means unemployment) can be used against them (this is the condition that has been lifted for the list of jobs subject to labour shortage); 3) that the employer must pay a minimum fee of €893 to the ANAEM, a fee which is of dubious legality incidentally; and 4) that nationals of these countries cannot register as jobseekers with the *Agence Nationale Pour L'Emploi* or APNE [National Employment Agency] unless they have a residence permit¹⁰ – but they cannot generally get this permit unless they already have a job.

At the end of the mid-term review required from those countries that had decided to impose a transition period on the new EU Member States, France claimed to be making efforts to gradually lift restrictions on the free movement of workers. As part of the ideology of “managed immigration”, the major publicity that took place about the **lists of “open” occupations subject to labour shortages** (61 in April 2006, and 150 in December 2007), may have played a part in giving credence to the idea that EU citizens subject to the transition period now had almost as broad access to the local labour market as French nationals. Where these occupations are concerned, the poor state of the labour market cannot be cited as grounds for refusing a work permit, and the employer does not have to prove that he has already sought to fill the job without success. But the number of Roma from Romania and Bulgaria who have been able to get work is still as low now as it was two years ago.

There are still many **hurdles in the work permit procedure** which in practice limit the access of EU citizens to these 150 occupations:

- the list of documents that the employer must provide is in itself very demanding, if not dissuasive;
- the procedure to get a work permit takes at least three months and is enough to put off even well-intentioned employers;
- in most cases, part-time work is ruled out by the *Salaire minimum interprofessionnel de croissance* or SMIC, a guaranteed minimum income;
- the fee charged by the ANAEM is at least €893¹¹, which for small firms in particular is difficult to find. In theory this fee is an employer’s contribution to the costs incurred by the authorities in bringing foreign workers to France, or costs connected with the change in status of a foreigner taken on when already in France and who is acquiring a work permit for the first time. However, in the case of EU citizens already in France, the ANAEM does not provide any services; in any case the decree¹² relating to this fee was amended in 1994 to state that that if the worker engaged is a citizen of an EU Member State, the fee is not payable. Nevertheless, it is always demanded.

Access to social assistance

Although the difficulties of access to social assistance are similar in practice, there are differences depending on whether Roma in France have a residence permit (which is very rarely the case), are inactive EU citizens without a residence permit (the majority of cases), or are third-country nationals, who are applying for political asylum or are illegal immigrants.

¹⁰ Decree of 11 May 2007 on work permits issued to foreigners and on the special contribution due when a foreigner without a work permit is employed.

¹¹ €1,612 if the gross monthly salary is over €1,525.

¹² Decree no. 75-754 of 11 August 1975 setting the level of the contribution introduced by Article 64 of the Finance law for 1975 (no. 74-1129, of 30 December 1974) payable by an employer who calls on the help of the National Immigration Office when taking on a permanent foreign worker.

In the case of EU citizens, it is the directive of 29 April 2004¹³ on free movement and the right of residence that determines what conditions apply. Generally speaking, **French nationals and foreign EU citizens should be given equal treatment in respect of social assistance** (Article 24), **provided the person concerned has a residence permit**, which is granted subject to having health cover and sufficient resources (conditions that are hard for Romanians and Bulgarians to meet, given their limited access to the labour market).

In the case of Roma with Romanian or Bulgarian nationality, access to forms of social assistance that depend on having legal residence status (*couverture maladie universelle* or CMU [universal medical cover], family allowances, housing allowances, and *minima sociaux* or income support) has been fraught with confusion since 1 January 2007. With the inclusion of the first ten Central and Eastern European Countries in 2004, and then Romania and Bulgaria in 2007, the practices of the social security organisations towards EU citizens, and their circulars, shifted from a situation in which European citizens, including those without work, benefited from similar social rights to those of nationals, to an increasingly restrictive interpretation of their right of residence, limiting their right to social services as much as possible. This about-turn has been taking place gradually since the beginning of 2007, on the basis of instructions circulating within the social security offices, which are interpreted very variably from one *Département* to another, and often in a way that discriminates according to the nationality of the applicant, with Roma from Romania and Bulgaria finding themselves refused services at a much earlier stage than nationals of Northern European countries.

The situation with **universal medical cover (CMU)** is that up to the time when Romanians and Bulgarians became EU citizens, the instructions from the *Caisse Nationale Assurance Maladie* or CNAM [the French State Medical Insurance organisation] were clear: EU citizens can join if they have lived in the EU for three months¹⁴. However, right from the first three months of 2007, some *caisses primaires assurance maladie* or CPAMs [local offices of the CNAM] adopted the opposite interpretation, stating that these new Europeans did not have the right to either CMU or even to *aide médicale d'Etat* (AME) [state medical assistance]. It was not until the end of 2007 that a circular¹⁵ appeared which laid down the principle that basic CMU and complementary CMU (CMUc) were not available to inactive EU citizens without sufficient resources and/or medical cover. But the CPAMs cannot withdraw membership from those who have mistakenly been given access: they must investigate the possibility of giving them cover under another heading or maintaining their rights. However, in practice CPAMs often ignore this instruction: in a situation that varies randomly from one *Département* to another, and sometimes even within the same CPAM, many of those applying to have their membership renewed in 2008 have been rejected and told to apply for AME instead.

State medical assistance (AME) is open to people who have been living in France without legal residence status for more than three months (immediately in the case of minors). This condition, which makes it necessary to prove three months' presence, and the waiting period for access to medical care that it involves (a situation that is regularly condemned by associations and support committees), contribute to the delay in seeking medical help that worsens the diseases suffered by foreigners living illegally in France. In fact it is difficult to prove that a person fulfils this condition, given the insecure living conditions, which make it hard to obtain proof of residence, and even more so for EU citizens, who cannot

¹³ Directive 2004-38 of 29 April 2004 on the right of EU citizens and their family members to move and stay freely on the territory of Member States.

¹⁴ Point CMU no. 66, letter to the network of 27 February 2006.

¹⁵ Circular DSS/DACI/2007/418 of 23 November 2007 on the benefit of basic universal medical cover (CMU) and complementary universal medical cover (CMUc) for citizens of the EU, the European Economic Area, and Switzerland, living or wishing to live in France as inactive persons, students or jobseekers.

obtain any proof that they have crossed the border. Furthermore, in the case of EU citizens, several CPAMs delay work on applications, insisting that the applicant provide a form to show that they are not affiliated to social security in their country of origin. If we add to this the difficulty in obtaining a designated address (*domiciliation*) for the AME, the combination of measures sometimes leads to a delay of several months in getting the medical care the individual needs quickly. And it is known that AME beneficiaries are regularly refused medical care: a *Médecins du Monde* report¹⁶ found that outpatient medical care was refused in 37% of cases.

The only mechanism through which foreigners living in France for less than three months can get free medical care is the **medical emergency fund** (*fonds pour les soins urgents*) which hospitals can draw on. 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.

Being in receipt of **family allowance** or **housing allowance** is one of the conditions often imposed by local authorities and organisations who want to make decent accommodation available to Roma people. The vicious circle, which is often impossible to break, is that access to accommodation should be the preliminary to any integration process if it is to enable these families to acquire, through their own efforts, those resources which the *caisse d'allocations familiales* or CAFs [family allowances offices] currently set them as a qualifying condition from the outset.

Following the example of the CPAMs, the CAFs have reacted in a very inconsistent fashion to the situation of inactive EU citizens. Before 1 January 2007, most of them made allowances available to EU citizens systematically, without checking their right of residence, and the CNAF internal circular of 16 January 2007¹⁷ does seem to suggest extending this practice to Romanians and Bulgarians. Many Roma families were therefore granted family allowances during 2007. The December 2007 law on the financing of social security introduced the first restrictions¹⁸. Six months later, a CNAF¹⁹ circular, which has been contested on many points, set out a new framework under which these restrictions would be consistently implemented. Currently, associations and support committees are finding that CAFs are asking for residence permits before rights are granted or renewed, which is illegal in the case of EU citizens, and stopping payment of allowances that had already been granted, with the result that the integration process is broken off, especially the process of access to accommodation that had begun thanks to the family allowances and housing allowance. As for the income support measures (RMI or *revenue minimum d'insertion* [minimum allowance], *allocation de parent isolé* or API [single parent allowance] and *allocation aux adultes handicapés* or AAH [handicapped adult allowance]), these are almost always unavailable, except in a few isolated cases.

Finally, because of their living conditions, in squats or in shanty-towns, most Roma migrants in France do not have an address at which they can reliably receive and read letters, which is a required condition for most applications for welfare payments. One might think that this difficulty would be easier to get round nowadays thanks to the DALO law of 5 March 2007²⁰, which devotes a whole chapter to establishing a

¹⁶ Médecins du Monde, Observatoire de l'accès aux soins de la mission France de Médecins du monde [Report on access to healthcare by Médecins du Monde France], 2006.

¹⁷ CNAF circular no. 2007-005 on EU regulations.

¹⁸ Law no. 2007-1786 of 19 December 2007 on social security funding for 2008 – art. 95:

"Nationals of European Community Member States, of other States Parties to the Agreement on the European Economic Area and of the Swiss Confederation who satisfy the conditions governing lawful residence in France, such residence being assessed in the manner specified for the implementation of Article L. 512-1, shall be eligible for family benefits as of right, according to the procedures set out in the present book."

¹⁹ CNAF circular of 18 June 2008 on the right of residence for EU citizens.

right to a designated address (*droit à la domiciliation*) for persons without a fixed address. The conditions under which this right is exercised were later laid down in detail by two decrees in May²¹ and July²² 2007, and then by a circular in February 2008²³. But against a background in which the organisations with the power to grant a designated address crucially lack the means to do so, and the *Centres communaux d'action sociale* or CCASs [local social welfare centres], which are supposed to issue these designated address documents (*attestations d'élection de domicile*) in the first place, seek any excuse to avoid their obligations, especially where Roma are concerned, this new legal framework paradoxically reinforces the way in which getting a designated address acts as a brake on access to social rights. Many private individuals have been obliged to give Roma families a document stating that they are accommodated at their own address, to enable them to get the allowances they usually need urgently, or so that their children can go to school.

Health

On arrival in France, Roma have to wait more than three months before they benefit from the medical cover they need to get medical care (see above), which further lengthens the delay in treatment that began in their country of origin, where they do not have access to social security, and where the practice of unofficial cash payments is still a constraint on access to treatment. In addition to the lack of medical care, further difficulties include poor knowledge of the healthcare system, the language barrier, the lack of health education among people with very limited schooling, or the fear of arrest which makes them put off any journey not judged to be immediately essential. Insecurity and multiple evictions do not make access to local healthcare services any easier, and break continuity of care. For those Roma who became EU citizens in 2007, the residence permits that were previously issued for medical reasons are no longer granted or renewed, and many seriously ill people have been served with notices to leave the country. With little or no treatment, Roma also suffer living conditions that worsen their state of health, or can even be a cause of disease.

Nevertheless, there are no diseases that are specific to the Roma, despite what some people want to believe. All the diseases found are caused by the following factors:

- tuberculosis is very common, as in all migrant and/or homeless people. Too often, getting screening is like an assault course;
- all infectious diseases are made more likely or worsened;
- psychological problems are only rarely treated, despite being very common because of the constant stress in which these people live, and their distress at being exiles in a country that does not make them welcome;
- obesity, and metabolic diseases related to an unbalanced diet, are common;
- maternal and child health is a particular worry: multiple pregnancies without antenatal care, often in very young women or even adolescents, repeated abortions, and so on.

²⁰ Art. 51 of Law no. 2007-290 of 5 March 2007 instituting the right to go to court to apply for housing and including various measures to promote social cohesion – Art. L 264-1 et seq. of the Code de l'action sociale et des familles [French Code of social action and families].

²¹ Decree no. 2007-893 of 15 May 2007 on the use of a designated address for persons with no fixed address.

²² Decree no. 2007-1124 of 20 July 2007 on the use of a designated address for persons with no fixed address.

²³ Circular DGAS/MAS/2008/70 of 25 February 2008 on the use of a designated address for persons with no fixed address.

Children

Contrary to the common prejudice about people who live on the edge of society, in Roma families the child is the centre of attention. Nevertheless, begging by children – or with children – is a reality which is often cited to give credence to the image of abusive parents (and they are often arrested for this reason). We feel there is a more urgent need to protest against the traumas connected with insecure living conditions, evictions, police brutality, arrests etc. The children who witness these acts of violence by the forces of law and order are particularly affected, or are even arrested themselves, placed in police custody and in some cases taken to detention centres.

Furthermore, in view of their family living conditions, most Roma children living in France ought to benefit from *aide sociale à l'enfance* (ASE), which does not depend either on legal residence status or even on a minimum period of residence in France. In actual fact, where Roma families are concerned, some regional councils use this mechanism from time to time to pay for nights in a hotel, or to give material help by granting sums of money or vouchers, but the social and educational support side of the care provided is completely lacking.

The obstacles that prevent Roma children from attending school

Despite what people think, the great majority of Roma families want their children to go to school, and after a few months' education the reports are generally very positive (good attendance, rapid progress, especially in learning French, making friends, etc). In contrast, it is usually necessary to remind the local mayors of the basic principle of compulsory schooling, despite the fact that they are responsible for seeing it is respected, and despite a February 2007 ruling by Halde, the *Haute autorité de lutte contre les discriminations et pour l'égalité* (High Authority to Fight Discrimination and to Promote Equality), in relation to a case in Béziers²⁴ in which Roma children were refused enrolment at school. In Lille, Méry-sur-Oise (Val d'Oise), Wimille (Pas de Calais), Saint-Ouen (Seine-Saint-Denis), Rezé (Loire-Atlantique), Lyon, and elsewhere, children are still not enrolled in school or have only been enrolled after major protests. In fact, going to school is the first step in an integration process that the local authorities do not want to accept. Various arguments – all illegal – are put forward to refuse school enrolment to Roma children. Even though under the law it is not necessary to show proof of a home address or of a designated address (*domiciliation administrative*) in the commune to be able to enrol a child there, the local councils often insist on this. Other councils argue that the Roma are not likely to stay in the commune in the long term and that it is not worth starting up a new class that will only be closed again later. Some also claim that it is pointless to enrol them, on the assumption that that they will not be able to pay for school meals or school transport. And children under 6 or over 16 are rejected even more often, despite the fact that although schooling at these ages is not compulsory, it is still a right.

The education of Roma children is often severely disrupted because of their extremely insecure living conditions, in squats or shanty-towns, repeated evictions, fees in connection with schooling, lack of school buses and so on.

Finally, it is to be regretted that the national education service does not make specific means available to include these children, many of whom have had little schooling in their country of origin or in France, or none at all, and who do not speak French well enough. In fact, starting a preparatory class for newly arrived foreign children²⁵ is not something that happens systematically, and Roma children are sometimes placed straight into the normal school curriculum, where they risk failing.

²⁴ Ruling no. 2007-30 of 12 February 2007, Béziers.

²⁵ Classes d'initiation (CLIN) [initiation classes] in primary school and classes d'accueil pour élèves non scolarisés antérieurement (CLA-NSA) [reception classes for pupils with no prior schooling] or classes d'accueil ordinaires (CLA) [ordinary reception classes] in secondary schools.

Living conditions

Throughout Europe, the **right to housing** is one of the areas in which discrimination against the Roma is seen most clearly. The considerable increase in recent years in the number of evictions of Roma must be vigorously condemned. The Council of Europe's Commissioner for Human Rights and the UN Special Rapporteur made a joint statement on the reinforcement of segregation and ghettoisation in housing in October 2007²⁶. In France especially, the overall housing situation is such that a recent report by the Council of Europe's Committee on Social Rights went so far as to find France guilty of violating the right to housing as defined by the European Social Charter. In this national context, the framework of the DALO law, which is still new, is supposed to provide further protection for people who are homeless or in poor housing, at least those who are legally resident. For Roma who have become EU citizens, the right to decent, independent housing depends on assessment of their right of residence, and it must be repeated that possession of a residence permit cannot be made a precondition²⁷.

Roma from the Balkans and the countries of Central and Eastern Europe have almost all been sedentary for generations, in some cases for centuries. So their way of life has nothing in common with that of French travellers, who are seasonal nomads. In their countries of origin, the Roma live in shacks, houses or flats, usually on the outskirts of country towns or villages, where they form ghettos. In France, because of the difficulty of getting access to any form of housing or accommodation, they use their initiative to find shelter, in old dilapidated caravans, makeshift accommodation, squats, lodging with friends or family, in hotels and so on. Everywhere the same observation can be made: degrading living conditions, together with the constant threat of eviction.

The lack of sanitary facilities on sites is the aspect the Roma find hardest to live with, and the first thing they ask for. There is usually no access to water, or only one tap, often off site, for groups of a hundred to two hundred people – depriving them of water is a strategy often used by local authorities to get them to move on. Makeshift solutions to cope with the lack of electricity and heating are a constant source of danger: as in previous years, 2007 and 2008 witnessed a series of fires. Usually, none of the public services (delivery of mail, refuse collection, social and health services in the home, etc) are provided, and the location of the sites, often far from the centre, makes the families' daily lives even more difficult.

Since the majority of Roma acquired EU citizenship, Romeurope has observed the use of a strategy of intimidation and harassment, which – because they cannot all be legally expelled from France, and in order to force “voluntary” repatriation – has resulted in **systematic eviction from their homes**, backed up by the police out in force, and often with violence, creating a climate of terror among the families. Romeurope²⁸ recorded at least 80 evictions from squats or sites between 1 January 2007 and 30 June 2008. In two thirds of cases they involved groups of more than 50 people, often half of them children.

Various strategies are used to clear these sites. From August 2007, evictions from squats or shanty-towns have very often been combined with the handing out of expulsion orders (OQTFs and/or APRFs), and the ANAEM is also involved, offering (or imposing) “humanitarian” repatriation – so that it is difficult to

²⁶ Joint declaration by the Council of Europe's Commissioner for Human Rights, Mr. Thomas Hammarberg, and the UN Special Rapporteur on Adequate Housing, Mr. Miloon Kothari, on 24 October 2007.

²⁷ Decree no. 2008-908 of 8 September 2008 on permanent residence conditions for beneficiaries of the right to decent, independent housing, amending the regulatory part of the Code de la construction et de l'habitation [building and housing code].

²⁸ This survey was not exhaustive: other evictions have taken place, on a smaller scale or against groups which were not well known to the associations and support committees, and of which we have not been informed.

deal with the two aspects separately. Some evictions take place after a legal decision at the request of the landowner. But the *Préfectures* do not always respect the time allowed for leaving the site. Prefects can also clear a site without getting an eviction order if they decree that the occupation of the site is a threat to public order or a health risk (sometimes caused by the authorities themselves leaving rubbish to accumulate so that the site genuinely becomes unhealthy). In other cases, the police do not take the trouble of following any procedure and chase families out quite illegally, or intimidate and harass them so that they leave their homes.

Even when they are within the rules from the procedural point of view, these evictions are still not legitimate or even legal if you look at it from the point of view of the right to housing that the families could claim, as is recognised under international charters (the International Pact on Economic, Social and Cultural Rights, the European Social Charter, the European Convention on Human Rights, etc.) and by the French constitution. Apart from the few cases in which a site is evacuated after a selection process during which some families are chosen to join a reception project, the families are not offered any new accommodation. After an eviction, it is therefore common for groups to wander from place to place for several weeks, being turned away on all sides. What is more, these evictions are often accompanied by the destruction of personal possessions, as under police pressure to leave the site as quickly as possible, families have to abandon most of their things, sometimes even their medicines and their papers.

However, in some cases for several years, some public sector stakeholders have taken **initiatives at the local level** to provide a decent welcome and an integration process for Roma families. Depending on the stakeholders concerned, the tools and the funds that may be used, and the partnerships formed, vary considerably. The public sector bodies that initially become involved are either municipalities (e.g. Tours, Bordeaux, Bagnolet), urban communities (Sénart New Town Authority, Nantes Métropole), or regional councils (Val de Marne). Regions may also play a role, as when Ile de France made use of the official objective of shanty-towns clearance, or even the State (the subprefecture of Saint-Denis launched three Urban and Social Project Management projects (*maitrise d'oeuvre urbaine et sociale* or MOUS)).

Depending on the individual situation, various means of accommodating and housing people have been tried out.

- **Emergency accommodation**, financed by the State, the regional councils (under the heading of *aide sociale a l'enfance*), or more rarely, by the CCASs [local social welfare centres], is intended to give people temporary shelter. It should be noted here that there is open discrimination against Roma applying for it, and that most often the people housed are very soon put back on the street.
- **Accommodation in a centre d'hébergement et de réinsertion sociale or CHRS** [centre for emergency housing and social reintegration], **housing in dispersed accommodation that is registered for allocation de logement temporaire or ALT** [temporary housing allowance], or in **social housing or a hostel (foyer)**, are other options that have already been used for Roma families, who ought to be eligible, whatever their administrative status. Families accepted into this kind of arrangement set out on a pathway to housing that is enshrined in common law, and particularly in the case of *hébergement d'insertion* [supported housing], benefit from customised support, which is preferable to the communal treatment that is the unavoidable result of collective management.
- **Settlement on sites with facilities** (using modular buildings, caravans or mobile homes, etc.) enables the residents of a shanty-town to be quickly rehoused, taking care of dozens of people together, without placing a burden on the housing capacity of the area. However, Romeurope believes that this emergency response should be used for a limited time, so that the families can benefit from their rights under common law as soon as possible. This type of arrangement has been set up on three sites in the Nantes conurbation, and also in Tours, Bagnolet, Saint-Denis, Aubervilliers and Saint-Ouen.
- **Making available vacant buildings or miscellaneous dispersed accommodation** (especially housing compulsorily purchased for road projects and destined for demolition) has been tried out since 2004 in Val-de-Marne by the local council of Choisy-le-Roi, and later on a larger scale by the regional council, which entered into an agreement with the housing association *Pour Loger* in 2007 to support the families accommodated. These initiatives, which do not encroach on social

housing resources, are nevertheless an improvement for the Roma who thus acquire a roof over their heads and normal private bathroom facilities.

- **Access to social housing** is certainly the best way to make a start on the integration process, as is confirmed by the rapid integration of those families who have been able to be rehoused in this way over the past few years in places such as Lieusaint, Achères, and Saint-Michel-sur-Orge. But in most *Départements*, applications for social housing made on behalf of Roma without residence permits are not even looked into and receive no response (despite the fact that a residence permit cannot be demanded in the case of EU citizens).
- Finally, **access to private sector accommodation** is not an unrealistic hope in some areas, as around ten families who had been squatting in Saint-Etienne managed this in 2007 and 2008.

Enough time has now gone by since the results of the first reception and integration projects for Roma families for us to appeal to more public authorities who have hung back, and to enable such experiments to be tried more widely.

DEMANDS OF THE CNDH ROMEUROPE

Housing

URGENT MEASURES

1. An end to evictions without a decent, permanent alternative solution. These absurd measures only shift the problem elsewhere and reinforce the insecurity of the families involved, resulting in the interruption of medical care, social support and schooling.

2. Provision of services at sites to prevent health and fire risks.

In camps, the families, adults and children together, are crammed into makeshift shelters or salvaged caravans. The lack of the most basic hygiene (taps, bathroom facilities, electricity, refuse collection, etc.) increases the risk to health.

Living conditions at these sites are usually degrading or even dangerous, as is dramatically illustrated by the fatal fires that have occurred in recent years.

We ask that the following services be provided, however long Roma are expected to stay in a place, and even if a legal eviction process is under way: prompt, regular refuse collection, at least one tap on the site, installation of enough composting toilets (at least one per 20 people, which is the norm for refugee camps), access to electricity using outdoor meters, and depending on the situation and the season, measures to enable cabins or caravans to be heated with minimal risk.

BASIC MEASURES

Romeurope aims to promote the creation of a nationwide **group of local elected officials** who have personal experience of hosting Roma families in their area and who could share their expertise with other elected officials faced with the same issue.

1. An in-depth assessment of each family's situation and plans

It is only once this assessment has been made that customised solutions can be proposed to respond to each family's needs. Some Roma families definitely intend to settle in France and look for work and housing. Some are able to achieve this quickly; others will need to go through various stages. Finally, in some cases, they do not yet have definite plans, and all the families intend in the short term is a series of short stays.

2. Individualised management

The diversity of situations and the disadvantages of collective management suggest that after the initial assessment, it is best for steps to be taken with each family separately, even if in some cases collective management may be required temporarily.

3. Projects to eliminate and replace squats and shanty-towns without selection of the occupants

While a range of solutions is needed, Romeurope believes that eviction without offering any solution for the families not selected for any reception and integration project set up to close an unhealthy site is contrary to the declared objective of eradicating degrading living conditions.

4. Compassionate measures to support families and help them integrate

Considerable social support is also necessary; this should be provided by professionals, and as far as possible should fall under common law.

5. Modes of accommodation that enable families to settle

Temporary requisitioning of premises or accommodation in hotels used as a protective measure must be followed up by proposals for long-term accommodation or housing, to avoid the repeated moves which break all the social connections every time, making it much more difficult for families to integrate. The

principle of continuity of accommodation set down by the DALO law (Article 4) must be respected, whatever the administrative status of the people involved.

6. As a priority, the development of solutions provided for in common law: supported housing, temporary accommodation or social housing.

The mediation committees set up under the DALO law must be able to deal with applications for accommodation made by Roma families, because accommodation is independent of administrative status. Furthermore, organisations in charge of *habitations à loyer modéré* or HLMs [subsidised housing] must be clearly informed about the situation of EU citizens in respect of access to social housing, so that a residence permit is no longer demanded.

If not enough accommodation or social housing is available to provide a quick solution for a large group of families, temporary alternative solutions can be used:

- requisitioning or making available empty housing or buildings;
- accommodating some households on sites where mains services can be provided, in prefabricated bungalows or modular buildings, with decent sanitary facilities.

7. Better communication at local level

It is important that elected officials are fully committed to the projects they undertake to benefit the Roma, and communicate honestly with their electorate about it from the outset, so that they can continue to offer their support in the long term. Too many good initiatives have come to nothing as a result of pressure from a local population or a town council that is not in favour.

8. Joint projects with charities and support committees

It is still regrettable that when projects are designed and run, consultation with the Roma and the charities working to help the families should be so patchy. Although in some cases, the charities and support committees that were first involved in supporting families do retain a role on the project steering committee, in other cases they are totally sidelined. Understanding of the history and situation of the families is then totally neglected, and mutual misunderstandings proliferate. Designating clearly-identified contacts who have a genuine understanding of the problems of Roma migrants makes communication between the families and the voluntary sector easier. For instance, Nantes Métropole has appointed a policy officer and recruited a representative specifically for Roma affairs.

Respect for the rights of the child

While immigration policy and its effects on the living conditions of Roma families are generally criticised from the point of view of respect for children's rights, Romeurope also makes some more specific demands:

Education and training

1. Prompt enrolment of all children in school, with strict regard for compulsory schooling.

2. Compliance with the right of minors to education before and after compulsory school age (nursery school and after the age of 16).

3. Access to **vocational training** funded at regional level or by the *Centre National pour l'Aménagement des Structures des Exploitations Agricoles* or CNASEA [French National Centre for Farm Planning], and use of the network of **local missions** to provide pathways to integration into the world of work for young people over 16.

4. **Systematic use of measures** for newly-enrolled children whose French is poor and/or who have not been to school in their country of origin: special reception and integration classes (CLIN or classe

d'initiation and CLA or *classe d'accueil*), including classes for children who have had no prior schooling (*non scolarisé antérieurement*, NSA), or any other **specially dedicated class**.

5. **The development of a genuine reception and support policy** for these children and their families within the school: systematic assessment of what they have learnt, and the development of contacts and tools to improve mutual understanding between schools and families.

6. To succeed at school, children must be able to access **extracurricular benefits**.

- Appropriate charges, which may include free **school meals**, below a certain income level.
- **Help with transport** especially when the child's home is a long way from the school. This may be achieved through the use of special transport or existing services.
- Provisions for **school insurance**.
- Easier access to **homework support, school-holiday leisure facilities, and sporting and cultural activities**.

7. The recognition of Romeurope and its members at local level as partners with the state education system and the local authorities.

Child protection

An end to evictions without rehousing. This demand applies above all to families with children. It is unacceptable that newborn babies should be brought up in shanty-towns after they leave the maternity ward.

A commitment by the regional councils, who have responsibility for child protection, by **providing material assistance and above all by establishing measures for social support under ASE**. Initiatives should also be developed to train social workers about the reality, rights and culture of Roma groups.

The abolition of the offence of begging with children and, when such situations are discovered, immediate action to offer social support and material assistance under the *aide sociale à l'enfance* (ASE) – but with improved access to work still remaining the main demand to help families integrate in the longer term.

The right to health

Apart from the right to health insurance, Romeurope demands:

1. **The provision of health's diagnostic** at all settlements, followed by action by healthcare organisations for appropriate care.

2. **Tuberculosis screening programmes:** at present, the State has responsibility for this. It is essential that despite their living conditions and their forced moves, the Roma should benefit from the protocol²⁹ set up for all residents in France; this would require specific measures to keep people in their homes at least long enough for screening and treatment.

3. Specially trained **health mediators** who would improve access to care by providing better information to both healthcare organisations and to individuals.

4. **Access to health education**, part of which could be allocated to specially trained health and social mediators.

²⁹ Intradermal test and x-ray for all, including treatment for tuberculosis carriers who are not ill.

The right to work

1. The **immediate end of the transition period** imposed on Romanian and Bulgarian nationals, both to achieve equality with nationals of the other countries that joined recently the European Union, and also from a pragmatic point of view, as this measure encourages illegal working, and deprives the French economy of human resources that it cannot do without if demographic predictions are taken into account.
2. As a minimum, if this transition period is maintained:
 - a. putting off the work permit application procedure until after a job is found, so that this will not be compromised by the delays in examining an application;
 - b. abolition of the fee taken by the ANAEM from those employing Romanians and Bulgarians;
 - c. greater flexibility in the criteria of the duration of a contract and the level of pay;
 - d. registration with ANPE as jobseekers.
3. Making **combating discrimination** a genuine priority in employment policy.
4. **Developing vocational training measures** that would enable foreign jobseekers to learn appropriate skills.

Social services

HEALTH COVER

1. **Grant universal medical cover (CMU) to all individuals living on French territory**, because AME is a measure that leaves an entire group without the cover granted under common law.
2. As a minimum, **revise the 23 November 2007 circular** which follows the maximum restrictions authorised by Directive 2004-38 of 29 April 2004 to the effect that in practice it has become impossible for inactive EU citizens to get CMU. These provisions give responsibility for assessing the right of residence of EU citizens living in France to the CPAMs, obliging them to take decisions on very complex questions every day.
3. If that is not possible, then **make it possible to grant the right to AME promptly, and abolish the three-month waiting period**. AME must be available **without charge**. Information about beneficiaries must also be guaranteed to remain **confidential**, so that Roma families who do not meet right of residence conditions will not be reluctant to make an application.

FAMILY ALLOWANCES

1. Grant the **right to family allowances, housing allowances and income support for all EU citizens living in France**. In fact, qualifying for family allowances and housing allowance is the minimum condition often imposed by local authorities and organisations that want to make decent housing solutions available to the Roma, as a precondition to any integration process that would enable these families to finally achieve through their own efforts the income conditions that the CAFs currently demand of them from the outset.
2. As a minimum, the **principle of maintaining and renewing allowances** already granted by the CAFs since 1 January 2007, so that the work the families and their supporters have put into achieving decent living conditions should not be reduced to nothing.

THE RIGHT TO A DESIGNATED ADDRESS (DOMICILIATION)

1. **Recognition of *domiciliation* as a right** (having an address when you live in insecure housing conditions) and not as a precondition for access to social services, because when individuals are able to give a postal address, whether or not it corresponds to the place where they actually live, it is unjustifiable for their application to be rejected 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, **mail distribution should be organised directly on site**, so that people have a genuine address. This happens in Nantes, for instance, at a site registered with Nantes Métropole.
3. In other cases, **the CCAS must provide themselves with whatever means are necessary**, without relying on approved organisations, so that this “right to domiciliation” should be effective throughout the country and for all, without discrimination.
4. **In cases where people do not have an address, this right to a designated address must also be extended to foreigners without legal residence status** (EU citizens and those from outside the EU), since an officially declared address is necessary for other rights requiring an address, besides AME and legal aid (schooling for children, family allowances in some cases, opening a bank account, the right to vote in EU elections, marriage, and so on).
5. Finally, the recommendations of the February 2008 circular on **setting up dedicated outposts** in distant areas to make getting a designated address easier for those living in “makeshift accommodation, in caravans or even tents in out-of-the-way places, a long way from towns”,³⁰ must be implemented. As far as we know, no action has been taken anywhere in this respect.

Right of residence and assisted repatriation

1. **An end to the use of measures to expel people from the country (OQTFs and APRFs) issued under current conditions** (applying to a whole group of people; without any inquiry into individual circumstances especially in respect of the notion of being an unreasonable burden and without taking account of individuals’ resources; wrongful interpretation of the notion of threat to public order or use of the grounds of breaking labour law for issuing APRFs; threats of legal action stated on OQTFs, and so on).
2. The definition and publication of broad criteria to ensure that administrations and organisations assess EU residents’ **right of residence** according to the most favourable provisions of EU law and not the most restrictive ones. The practices of administrations which, particularly in the case of the Roma, disregard the ruling that EU citizens do not need to show a residence permit, or rely on a presumption of illegality without undertaking any serious examination of the individual’s situation, must be condemned.
3. In the case of Roma who are citizens of the Balkan countries, an **in-depth examination (or re-examination) of statelessness and asylum applications** together with the **regularisation of the position of Roma whose asylum applications were ruled out of court** and who have lived in France for several years.

³⁰ Circular DGAS/MAS/2008/70 of 25 February 2008 on the use of a designated address for people with no fixed address.

4. Re-establishing the principle of unambiguously **voluntary, individual choice** in **humanitarian repatriation**, help with drawing up **realistic plans for return** before departure, **social support** and help with putting their plan into action once there, and the appropriate use of suitable **funding**.
5. Respect for the **principle of freedom of movement** within the European Union, preventing and condemning all the oral threats used to forbid people return to France or to leave Romania or Bulgaria.
6. Cancellation of the **biometric identification system** for beneficiaries of assisted humanitarian repatriation as provided for in the law of 20 November 2007.

INTRODUCTION

1) Roma migrants: countries of origin

Roma migrants in France are defined as persons living in France but coming essentially from countries of Central and Eastern Europe (CEE), and identifying themselves as Roma.

Following the enlargement of the EU, a distinction needs to be made between the situations of Roma from EU member countries (most Roma are from Romania, followed by Bulgaria) and those from non-EU countries.³¹ In the former case, access to European citizenship has had consequences for nationals' freedom of movement and for settlement and the ability to work in France. In the case of non-EU member countries, the creation of the Kosovo international intervention and peacekeeping force (Kosovo Force, or KFOR) in 1998 helped Roma from Kosovo to acquire refugee status. However, most Roma from Balkan countries who have requested asylum have had their applications rejected and are currently illegal residents.

The reasons for migrating have not changed, because discrimination, humiliation and violence, sometimes of a racist nature, remain prevalent in the countries of origin. In most countries affected by this emigration, it is not an overstatement to describe Roma as victims of segregation, which encompasses:

- **the impossibility of finding employment:** in Romania, for example, while job advertisements specifying that "Roma need not apply" are illegal and are tending to disappear, discrimination remains alive at the hiring stage against those described as "brownies" due to the colour of their skin. A 2007 report from the European Roma Rights Centre (ERRC)³² notes that victims are discouraged from lodging complaints because employers in both the public and private sectors are not seriously threatened in cases of discrimination: the penalties imposed under anti-discrimination legislation are not sufficiently dissuasive, especially for large companies. According to a study carried out in Romania by the Max Weber Sociology Professional College and the Research Centre on Inter-ethnic Relations, 60% of persons questioned agree with the following statement: "If I had my own business I would not employ Roma because most of them are lazy and are thieves."³³ In Bulgaria, the *2005 Annual Report on Youth in the Republic of Bulgaria* noted that 77% of employers refuse to employ Roma in the building industry, agriculture and other sectors using unskilled labour;³⁴
- the difficulty or **impossibility of obtaining identity documents:** many Romanian Roma have no personal identity documentation and are unable to obtain any;
- **the lack of social assistance** (as a direct result of the two preceding problems), leading for some groups to extreme poverty including in some cases the impossibility of providing food for their children;
- **discrimination and humiliation at school**, to the point where parents prefer not to send their children to school even though they are aware of the importance of schooling for a

³¹ Roma from the Balkans are also present (in smaller numbers, though their presence dates from earlier times) in the North, Alsace, Tours, greater Lyon, the South-East of France and from time to time in the Ile-de-France region.

³² Danova-Russinova, ERRC (2007), Tackling the Systemic Exclusion of Roma from Employment.

³³ Max Weber Sociology Professional College and Research Centre on Inter-ethnic Relations (2006), *Relatii interetnice în pragul integrării europene. Câteva tendințe comentate / Inter-ethnic relations prior to European integration: Interpretation of some trends*, Cluj Napoca.

³⁴ Bulgaria/Министерски съвет (2005), *Годишен доклад за младежта на Република България за 2005 г. 12април 2006 г.*

child's future. Under the communist regime, attendance at school meant prohibition of the Romani language and no doubt other measures to enforce integration, which have left traces;

- very considerable **difficulty accessing care**, due to lack of money and social assistance;
- **banishment into squalid accommodation** on the outskirts of urban areas, without services or access to sanitation;
- **bans on entering certain areas**, which are signposted as "Roma prohibited;"
- **police harassment**, or even violence;
- **public, racially-based abuse** from the dominant population;
- in the case of Roma from the former Yugoslavia, there are the additional consequences of population movements linked to recent conflicts.

Thus, most Roma find themselves denied fundamental rights in their own countries, including employment, culture, health, housing, services and social service entitlements. It is therefore understandable that some of them (very few, in relative terms) choose exile in the hope of finding a better future for their children.

2) Roma in France

While it is always difficult to make an accurate estimate of the total number of Roma migrants, that number appears to be relatively stable and is in the order of several thousand, at most, throughout France. This is despite numerous expulsions to originating countries, since many return quite quickly.

Since 2002, Romanian and Bulgarian nationals have not required visas for entry into France. Thus, with over five years of experience it is apparent that the expected inflow following on from the opening of borders has not really occurred.

The main settlement areas are Ile-de-France (about 3,000 persons, many of whom are in Seine-Saint-Denis), Bouches-du-Rhône (between 1,500 and 2,000 persons, 80% of whom are in Marseille), greater Lyon, the Lille area (there are about 1,000 persons in the North, including almost 800 in the Lille metropolitan area), greater Nantes (about 600 persons), greater Bordeaux (about 500 persons), greater Toulouse, Béziers (about 250 persons), St Etienne (about 250 persons), Strasbourg (150 to 200 persons), Boulogne-sur-mer (about 130 persons), Montpellier, Tours (about 80 persons), Clermont-Ferrand, Isère, Haute-Savoie, Gard, Var, Allier and many other administrative districts...

Roma rejection is also very strong in France, and shows up from time to time. For example, Roma were refused entry to canteens in Lyon in autumn 2007;³⁵ they have also been directly targeted by the adoption of anti-begging decrees in several municipalities;³⁶ victims of rumours

³⁵ In Lyon, during the summer and autumn of 2007 and following these rejections, associations brought action in the Lyon Council to enforce the law. These practices are common in many other cities.

³⁶ In 2008, the Human Rights League obtained the annulment of the anti-begging decree in the Pas-de-Calais district, which had been issued by the Boulogne Town Hall. Clearly, the decree had been issued following the arrival of a group of Roma in the area.

and attacks in Marseille since June 2008;³⁷ harassed by the police where they live and pushed from pillar to post, etc.

➤ **Communiqué – Ligue des droits de l’homme, Mrap, Cimade, ANGVC (Association nationale des gens du voyage catholiques), Rencontres Tsiganes – June 2008 “CRAZY RUMOUR”**

On Saturday 22 June, very serious incidents took place in the Bricarde district of Marseille. A group of youths attacked three Romanian Roma, threatening their lives. The Roma were seriously assaulted and forced to take refuge in a bar, and only vigorous police intervention enabled the worst to be avoided. It will be up to the legal system to attempt to clarify the reasons for such violence and to determine where responsibility for the incident lies.

Our associations believe that this incident was not a random one or the unfortunate result of a simple argument that got out of hand. For many months, if not years, we have been drawing the attention of public officials, so far in vain, to the particularly poverty-stricken conditions in which foreign Roma families are living in Marseille and the surrounding administrative district. Operations to expel Roma from the vacant allotments or squats they occupy in the city only defer the problem of their housing conditions and exasperate the population living nearby, because the areas where these families take temporary refuge pending their next expulsion are already largely impoverished. Their way of life, culture, language and record as perpetual outcasts make their relationships with their neighbourhood particularly difficult.

For many months now we have been witnessing an increase in tension, which is often fostered by a few individuals and sometimes echoed (at times excessively) in the media. It was only very recently that Marseille’s city councillors and national officials began to take account of our concerns and to contemplate taking some emergency action. We fear that these projects are too little, too late - as demonstrated by the recent odious rumours circulating in the city [the Romanian Roma were accused of child kidnapping and organ trafficking], directly targeting the Romanian Roma. [...]

➤ **Account by the Procom association of discrimination suffered by Roma in Bordeaux - 2008**

- Roma are allowed to open accounts at post office counters, but their requests are then systematically rejected by officers in the financial services area.
- On 18 July last, a police officer annotated a young Romanian’s passport because he was distributing leaflets, even though the Director of Public Safety, Albert Doure, has issued instructions that this type of practice should cease.
- In a squat in Cenon, a police check took place at 1.30am, which is illegal in the absence of public disorder.
- A Bulgarian Roma, who had been given a large sum of money by ten or so families in advance of a trip to Bulgaria the next day, was robbed by a police officer. The association supported him while he lodged an official complaint in relation to this affair. The police officer was found guilty and dismissed.

The information collected by associations and support committees that are members of the Romeurope group, which provides day-to-day support to Roma families, testifies to the full range of rights violations to which the Roma are subject, including those who gained European citizenship in January 2007.

³⁷ In addition to the attack on the three Romanian Roma on 22 June, mentioned in the press release quoted here, associations have observed an increase in violence against Roma in Marseille, including: trashing of their vehicles, stone-throwing, a petrol-filled bottle thrown into a squat, verbal abuse, etc.

These observations have been collected together in numerous reports that have recently been published or are about to appear, including:

- In February 2008,³⁸ the National Consultative Commission on Human Rights drew authorities' attention to the worrying situation of Roma migrants in France and conveyed several concrete remedial recommendations to the French Government. For its part, the Higher Authority for Combating Discrimination and Fostering Equality (Halde) has begun a series of hearings, in which several members of Romeurope have participated, concerning the situation of migrant Roma in France;
- On 17 April 2008, the European Roma Rights Centre (ERRC) brought action against France in the European Commission for violation of the Union's Charter of Fundamental Rights. The organisation alleges violation of Articles 16 (right of the family to social, legal and economic protection), 19 (right of migrant workers and their families to protection and assistance), 30 (right to protection against poverty and social exclusion) and 31 (right to housing). It has also been demonstrated that France has not taken the measures required for improving the living conditions of Roma migrants coming from other member states of the European Union;
- The Council of Europe's Commissioner for Human Rights, Thomas Hammarberg, will shortly present a report following his visit to France on Wednesday 21 May 2008 to enquire into, notably, the situation of Travelling People and migrant Roma.³⁹ He obtained comments from the associations in Romeurope that carry out field work with these two groups.

3) Roma in the European Union

On 1st January 2007, Europe was enlarged to include Bulgaria and Romania, meaning that three million additional Roma became European citizens, bringing their total number in the Union to six million. Even prior to future enlargements taking in the Balkan countries and perhaps even Turkey, Roma thus represent the largest ethnic minority in the EU, larger than the populations of Luxembourg, Belgium and the Netherlands. As the enlargement was occurring, considerable optimism was afoot :

➤ *Extract from a press communiqué issued by CNDH Romeurope – 1st January 2007*

[...] Can it be that we are about to enter a period where a stand will be taken against Romaphobia, as the European Parliament has been requesting since 28 April 2005?
Will we see an end to the shameful arrests and repatriations that use media-hyped and exorbitantly costly charters to send these people back to the country shown on their passport?
Are we about to allow free circulation by European citizens, whether Roma or not, throughout the territory of the Union, doing away with the fiction of Roma tourism?
Are we about to stop stigmatising poverty by enabling Roma – who are now our fellow countrymen – to have universal access to education, employment, and accommodation and health services?
Will we put into practice the lip service we have paid to cultural diversity by recognising Roma history, language and culture? [...]

³⁸ National Consultative Committee on Human Rights, "Study and Proposals on the situation of Roma and Travelling People in France," text adopted in plenary assembly on 7th February 2008.

³⁹ Following a visit in September 2005, Alvaro Gil-Robles, his predecessor, had firmly denounced discrimination suffered by Travelling People in a report on the effective respect for human rights in France.

Eighteen months have passed and we need to acknowledge that the opportunity opened up by the new enlargement has not changed our policies of distrust and hostility towards Roma and gypsies. Wherever they travel, Roma remain the most victimised and rejected of people, perhaps because they are the most misunderstood but also perhaps because Europe remains too afraid to acknowledge their history, which is a history of four hundred years of slavery and hundreds of thousands of victims of Nazi genocide.

Without entering into details, there are countless reports, opinions and recommendations heavily critical of the situation of the Roma in Europe:

- The European Parliament, following on from its resolution on 28 April 2005, adopted a new resolution on 31st January, calling for urgent action to implement a global strategy to integrate these populations and to protect them against the discrimination to which they are subjected everywhere;⁴⁰
- The European Union's Council of Heads of State and Government on 14 December 2007 declared itself "aware of the very specific situation of Roma across the Union" and called on member states of the Union to do everything possible to improve their integration. To this end, it tasked the Commission with preparing, by June 2008, a report on existing policies and instruments and on progress achieved in each of the twenty-seven European countries. This report was submitted by the European Commission on 2 July 2008,⁴¹ and the Commission also announced the holding of a European Summit on Roma, to be held in Brussels on 16 September;
- Almost half of the 2008 Report of the European Union Agency for Fundamental Rights is devoted to discrimination and rights violations suffered by Roma;⁴²
- The results of the Eurobarometer "Discrimination in the European Union"⁴³ enquiry show that a quarter of Europeans would be uneasy at the idea of having a Roma for a neighbour (as opposed to only 6% if the neighbour were from another ethnic background).

France is President of the European Union for six months from 1 July 2008. A group of associations, including Romeurope, was formed in the spring of 2008 to call on the presidency and to request that France use this opportunity to take initiatives on this subject. On the one hand, it seeks to have France, as EU President, work in favour of a European blanket directive to include Roma and Travelling People and to remind member states of their commitments to equality. And on the other hand, France is asked to commit itself to exemplary action by taking rapid positive measures concerning *Gens du voyage* (travellers). (See the text in Appendix no.2).

⁴⁰ European Parliament, "European Parliament Resolution on a European Strategy on the Roma," 31st January 2008.

⁴¹ Commission of the European Communities, Commission staff working document, Non-discrimination and equal Opportunities: A renewed Commitment Community Instruments and Policies for Roma Inclusion, Brussels, 2 July 2008.

⁴² European Union Agency for Fundamental rights, Annual Report 2008.

⁴³ European Commission, Eurobarometer special no. 296, "Discrimination in the European Union," July 2008.

THE COLLECTIF NATIONAL DROITS DE L'HOMME ROMEUROPE (CNDH Romeurope) National Human Right Group

The CNDH Romeurope was set up in October 2000 in Paris, following a colloquium entitled "Roms, Sintés, Kalés and Tsiganes in Europe: Promoting the health and rights of a minority in distress", which presented the alarming conclusions of research into health promotion carried out on 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 with the vital links between respecting basic rights and responding to the serious health problems met by Roma populations, the national organisations involved in this initiative decided to join forces to found this *Collectif*[◊] in order to take specific action on the matter, while pursuing their existing commitments towards Roma migrants living in France, in their respective fields of humanitarian aid or human rights.

The CNDH Romeurope was set up with the aim of improving access to basic rights among Roma migrants on French territory, and of fighting the discrimination and human rights violations they suffer in France. Its members all work locally on tangible actions designed to support Roma families, who generally live in precarious or degrading conditions in squats or shanty-towns. The activities of the *Collectif* are thus mainly carried out locally, in the field, by the different structures that make up the organisation.

Until April 1st 2008, the CNDH Romeurope operated without any permanent salaried staff. A coordinator position was created on April 1st 2008 and should help with structuring and extending the network and with project management.

1) Why Roma migrants in France specifically?

The foreign origins of Roma migrants mean that their terms of admission and residence in France are controlled. Asylum-seekers or rejected asylum-seekers, European citizens with the right to circulate freely, persons holding visas valid for less than three months – there is a wide variety of situations, highly dependent on the country of origin. In all events, regardless of their status on the national territory, different legal or regulatory restrictions on their right of residence mean that there are numerous obstacles hindering access to basic rights.

For these reasons and with a concern for effectiveness, CNDH Romeurope has decided to focus specific mobilisation on the Roma families directly concerned, living in degrading conditions in shanty-towns or squats, mostly around the big cities in France. Working for and with these families, a large number of local committees have been formed and have joined the *Collectif*

The problems encountered by French populations known as *Gitan*, *Manouche*, *Tsigane*, or even "*gens du voyage* (travellers)" due to their nomadic lifestyle, who are considered by the European authorities as the French constituent of Roma minorities in Europe, do not fall into the

[◊] Collectif: French term that refers to an informal group of associations and civil committees

scope of the Association's work as such, although member organisations pursue their specific activities concerning these populations as part of other arrangements.

Romeurope only currently works on issues concerning Roma migrants, but maintains permanent links with the associations working with *gens du voyage* (travellers), in particular as regards the issues of places of residence and discrimination.

2) The action of the support committees and local associations that are members of Romeurope

The committees are organised differently according to the place and the situation. Actions differ depending on whether the Roma families are in a remote shanty-town with no public assistance or housed in premises provided along with social assistance... All the support committees are made up of citizens who may or may not be members of associations (human rights, humanitarian aid, charities, etc.), unions promoting solidarity or of political organisations fighting for the integration of the populations worst hit by poverty.

Often, these committees can help to unblock a situation, replacing the public authorities who abandon these people, thus leaving them in danger. These support actions also encourage action from the Roma people themselves, helping them better understand certain procedures. Committee meetings can also provide training in mutual assistance aiming to overcome the feeling (based on the reality) of being overwhelmed by their living conditions.

The committees' actions cover several aspects (which may result in the formation of working commissions):

- help with daily life to respond to urgent requirements: health, schooling, residence etc. (ref. the witness accounts here under),
- help with various partners (social services, CCAS (community centres for social action), charitable associations etc.) for food, clothing, bedding, heating, babies' nappies,
- organising training time for the Roma people (literacy, working groups to organise life at their place of residence, or to take responsibility for their actions),
- seeking out partners and calling on the State, the local authorities and public services to help with integration projects regarding housing (providing sheltered accommodation, hotels as part of the ASE benefit, facilities at sites (household waste disposal, water, electricity supply, toilet blocks, premises etc.), schooling (to overcome obstacles),
- help to fight repression from the State (eviction from sites with no alternative proposed, repatriation of undocumented people, harassment against Roma people, musicians, beggars, etc.) with legal support (the services of anti-racism, human rights and lawyers' associations),
- more global and political actions to improve the life of Roma migrants through actions in favour of persons without legal documents, a home or rights... for the application of basic rights which are not respected and which are essential to a decent, dignified life,

- actions within the framework of the Romeurope association on regional, national and European level, since the situation is similar in a number of European states,
- information and communication work with the Roma people to present their situation but also their history, their culture, their projects and their hopes, within the framework of public meetings, film showings, celebratory evenings with music, and also at demonstrations,
- communication via the press. The situation has changed a great deal. The written press and the audiovisual media now publish articles and reports on the Roma situation more often... but it is not always the right information! The committees organise press conferences and regularly issue press releases.

3) The network's structure

During this period, the Romeurope network has rapidly evolved to develop better structure in both territorial and cross-functional terms.

a) Introduction of national, local and theme-based distribution lists

Despite the seemingly virtual nature of the exchanges made possible through this channel, the information that circulates makes a valuable contribution to the training of people who support Roma migrants, while helping to ensure the coherence of actions and position-taking.

- A national Romeurope distribution list was set up in 2007:
 - It publishes a summary of local information feedback to national level every two days (evictions from sites, police operations, progress with reception projects, actions by different members, etc.), technical and legal information which may support members' actions, proposals for actions committing the whole Association, (press releases, challenging public powers, press conferences, etc.),
 - After a year's existence, this list today includes two hundred participants.
- A regional Ile-de-France distribution list was created in 2007:
 - It regularly publishes information which only concern the members of the Paris region network (registration of stakeholders in the field for events such as the Week of Equal Opportunities, organised by the Regional Council, conferences, seminars, events organised at sites where the Roma people live, etc.) This list also enables the coordination of actions between the different *départements*.
- Several theme-based distribution lists were also created in June 2008 to enable exchanges within the specific working groups (see below).
- Romeurope has helped the GISTI (immigration information and support group) to set up a distribution list named OQTF, which facilitates links with lawyers and people from support organisations helping to overcome the feeling of isolation and developing information exchanges concerning the residence rights of Roma migrants from Eastern Europe.

b) How the CNDH Romeurope works on a national level

Three times a year, **national meetings** are organised with all the member associations and local committees of the CNDH Romeurope (thirty to seventy participants). Each day-long meeting aims to take an in-depth look at current affairs and possible areas for progress⁴⁴.

Following the creation of a coordinator position, a **technical committee** now meets every two weeks to monitor actions and projects.

Some regions have set up a specific networking project **at regional level**, in particular to provide better coordination of inter-departmental movements of the Roma populations. **This is particularly the case in the Ile-de-France region** (the Rhône-Alpes region has embarked upon a similar procedure **and regular meetings are held**⁴⁵).

Finally, **at departmental level**, the action of the network set up by Romeurope has resulted in the emergence of the departmental coordinations which have opted for different forms of organisation. These committees, associations and action groups meet at least once a month. For example, to quote only the Ile-de-France region, during 2007 the following were founded:

- A "*département* 93" coordination group which holds monthly meetings, while setting up its own forum and up-dating the diagnosis of living quarters/sites in the *département*. It takes action regarding different, very local situations. Romeurope takes part in the meetings and all exchanges.
- A Romeurope 94 association merging all the *département's* local support committees.
- A support group for Roma families in the Val-d'Oise and the Yvelines.
- In the Essonne *département*, there is the association for solidarity with Romanian families in Palaiseau, active within Romeurope and which brings together initiatives for support to the *département's* Roma populations.
- In the Seine-et-Marne *département*, the Melun undocumented immigrants support group, which is also active within the Association, plays a similar role.

c) How the CNDH Romeurope works with regard to cross-sector themes

The creation of a permanent position enabled the set-up of specific working groups on different themes from June 2008 onwards. Themes cover the employment of Roma migrants, accommodation, social benefits and schooling. It was in fact noted that many local associations and committees were trying out local experiments which deserved to be extended, and that others within the network had highly developed skills in certain areas which were not sufficiently shared out within the *Collectif*. The idea was therefore to form different groups of resource people (ten to twenty people for the moment), working together on specific issues. For example, the discussions held over the first few months have covered very tangible action projects and research into specific areas to deal with difficulties such as residence, the refusal of sickness benefits, family allowances, schooling, the cost of schooling, the duty paid to the ANAEM at the time of recruitment, the eligibility of European Roma migrants for the opposable right to housing, the principle of continued accommodation, etc.

⁴⁴ 31st May 2008 in Paris, 26th January 2008 in Nantes, 29th September 2007 in Paris, 9th June 2007, 10th February 2007 in Paris.

⁴⁵ 18th June 2008, 23rd April 2008, 6th February 2008, 16th January 2008, 19th December 2007, 21st November 2007, 29th August 2007, 27th June 2007, 30th May 2007, 25th April 2007, 28th March 2007.

4) Communication actions

a) Website creation

The www.romeurope.org website was created in 2007. It includes:

- Briefs drafted every two weeks by a journalist from the network on the basis of press articles concerning Roma migrants.
- Information on events and different local situations (the up-date of this section still needs working on).
- Press releases and statements.
- European texts and French legislation.
- A few elements from the militant toolkit (or "Founding and running a support committee" for Roma migrants locally) are put on line.
- Links and photo exhibitions.

b) Several press releases have been sent to the full range of written press and audiovisual media organisations:

- 30th June 2008: "Expulsion statistics deliberately misleading", along with an important set of witness statements on how humanitarian repatriation operations are run by the ANAEM.
- 21st May 2008: visit of the European Commissioner for human rights.
- 7th April 2008: "Roma migrants abused by the ANAEM for Mr Hortefeux's statistics."
- 8th January 2008: "Romeurope received at the Elysée".
- 20th December 2007: "The winter emergency plan excludes the Roma populations."
- 24th October 2007: "Abbé Pierre: loss of a friend for the Roma people."
- August 2007: "European but poor and undesirable."
- 16th August 2007: "Could this be the end of the shanty-towns?"
- 5th July 2007: "Finding urgent solutions to do away with the shanty-towns in the Ile-de-France region."
- A press conference was organised on 28th September 2007: "The European Roma migrants (Romanian, Bulgarian or from ex-Yugoslavia) are scapegoats for Mr Hortefeux who wants to reach his expulsion objectives."

Alongside these press releases, Romeurope is now recognised and regularly called upon by the media as a leading source of information on the issue of Roma migrants.

c) Other communication actions

- 13th June in Vitry-sur-Seine: meeting organised by the European Association for Human Rights to discuss the issue of cultural and religious tensions.
- 21st May 2008 in Paris: Romeurope organised an inter-associative meeting with the Commissioner for Human Rights from the European Council.
- Set-up of an exhibition of photos by Louis Saadi-Freixas in June 2008 in the hall of Médecins du Monde's headquarters.

5) Actions challenging the public authorities

Following the publication of its 2006 report, sent to all the ministries and institutions concerned, Romeurope obtained different contacts and several meetings:

a) At national level

- *Presidency:*
 - o During the presidential campaign, questionnaires were sent to all candidates and replies were received from some of them.
 - o On 8th January 2008, Romeurope obtained a meeting with the President's Technical Advisor responsible for immigration issues.
- *Ministry of Health.* Three meetings have been held during which Romeurope has denounced the preoccupying situation of Roma families living in the shanty-towns: difficulties accessing AME benefit, long delays in getting care, alarming criteria on mother and child health, tuberculosis:
 - o On 15th January 2008 with the Technical Advisor from the Health Policies and Prevention division.
 - o On 29th January 2008 with the General Department of Health, the Sub-Department for the Prevention of Infections, and the infectious risk and vaccination policy office.
- *ANAEM:* Romeurope has called on this agency several times and met its director on 24th October 2007 and on 21st March 2008.
- *CNDH:* Romeurope was heard by the National Consultative Commission for Human Rights as part of its research and its proposals concerning the situation of Roma migrants and travellers in France, published on 7th February 2008.
- *Halde:* Different members of Romeurope have been heard by the Halde since springtime, with view to a publication planned for September 2008. This followed on from the deliberation adopted on 11th January 2008 in which the High Authority issued recommendations to the government on the fight against discrimination affecting travelling populations.
- Finally, in 2008 Romeurope developed different contacts with view to developing *an association of elected members* which could eventually form a group to challenge the State and to share experiences initiated by the local authorities regarding the reception and integration of migrant Roma populations.

b) At European level

- French presidency of the European Union: Romeurope helped to prepare a note calling on the French presidency of the Union European to look into issues concerning the Roma populations and travellers (ref. Appendix 2) and helped to prepare actions and meetings over these six months.

c) At local level

- Complaint lodged against the Halde by Romeurope on 2nd April 2007 regarding the refusal to accept Roma children in schools in Saint-Ouen.
- Complaint lodged against the Defender of Children's rights on 20th May 2008 concerning a case where children were refused at a school in Méry-sur-Oise and support for the *Agir avec les Roms* association to lodge a complaint against the Defender of Children's rights in July 2008, with regard to the refusal to accept children at a school in Wimille (Pas-de-Calais region).
- In October 2007: challenging the Prefect of Seine-Saint-Denis concerning the handling of humanitarian repatriation operations in his *département*.
- January 2007: challenging the Seine-Saint-Denis general council regarding projects with and for the benefit of migrant Roma families.
- Meeting with the Prefect of the Île-de-France region in July 2007 to raise awareness on the dangerous nature of the situation and regarding the measures to be taken.

I – RIGHT OF RESIDENCE AND HUMANITARIAN REPATRIATION OPERATIONS CONDUCTED BY THE ANAEM

1) A New Legal Framework

The accession of Romania and Bulgaria – whence originate the greatest majority of Roma migrants present in France – to the European Union, provided for in the accession treaty signed in Luxembourg on April 25, 2005, came into effect on 1st January, 2007. Their nationals thus have the same rights as other members of the European Community, as included in the Rome treaty, which sets out notably the principle of free movement of persons, directly applicable in every country of the Union. Limitations⁴⁶ may exist, but are only possible to protect a legitimate interest of a member State, for example.⁴⁷

Concretely, this principle of free movement means that henceforth only one form of identification is necessary to enter another Union member country: passport or ID card. No note or stamp must be inserted in the passport at the border crossing. Schengen measures are obsolete: a purpose for one's visit is no longer required, nor is the declaration of money in one's possession. In the entire 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, having only to justify the same conditions if staying for a period longer than three months). Furthermore, as for other EU members, the residence permit only realizes a pre-existing right that Romanians and Bulgarians henceforth acquire directly from the Rome treaty. It is not necessary for them to have a permit to have right of residence.

One week before welcoming the two new country members, a circular from the Minister of the Interior specified the **arrangements for admission to reside and for expulsion** of Romanian and Bulgarian nationals as of January 2007.⁴⁸ In 2004, the government had not judged it opportune to do the same at the moment of entry into Europe of ten new States. This circular then, in December 2006, was in anticipation of the arrival of the nationals of these two countries and provided for the legislative means of deporting them. The circular, of which the provisions are then registered in the legal part of the Entry and Residence in France and Right of Asylum Act (CESEDA) by an order of 21st March 2007,⁴⁹ differentiates between the situations in function of the seniority of residence, even while the date of entry can no longer be anything but declarative since no stamp was placed in the passport at the border.

For less than a three-month residence in France, the right to free movement and residence can only be limited in cases where people infringe on legislation regarding the right to work, or constitute a threat to law and order or “an unreasonable burden on the French social assistance

⁴⁶ In Community directives or regulations and the texts of transposition in national law.

⁴⁷ Directive 2004/38/CE of 29 April 2004 relative to the freedom of circulation and of residence of EU citizens and their family members.

⁴⁸ Circular NOR/INT/D/06/00115/C of 22 December 2006 relative to the arrangements for admission to reside and for repatriation of Romanian and Bulgarian nationals after 1st January 2007.

⁴⁹ Order no. 2007-371 of 21 March 2007 relative to the right of European Union citizens to reside in France, of nationals of other States party to the Economic European Space and of the Swiss Confederation as well as their family members, taken in application of the law of 24 July 2006 relative to immigration and to integration.

system.”⁵⁰ In the first two situations, APRFs can be taken out against Romanian and Bulgarian nationals, the third grounds being invoked to justify an OQTF.⁵¹ If the assault on law and order can be grounds for expulsion under EU law (where the notion is much more precise and detailed than under internal law), it is with the provision that it correspond to threats that are serious (acts of terrorism for example) and current (it cannot be an offense committed two years earlier if there is no reason to think that the person will reoffend). As for illegal work, this is highly contestable legal grounds in cases of EU aliens. But it is essentially the notion of unreasonable burden that will be invoked by prefectures as grounds for the OQTF. This notion, which had existed in community law since the 1990s, only appeared in France through the law of 24th July 2006, for stays longer than three months, and at the statutory level through the order of 21st March 2007 concerning stays of less than three months. It is highly contested and subject to improper use, on the one hand in the area of its legality regarding European texts and on the other hand due to the fluid formulation which, despite the numerous paragraphs of the circular and of the order that attempt to specify (social aid and assistance, health coverage notably), gives rise to varied interpretations. Furthermore, as the GISTI recalled on 30th July 2008 in an appeal before the European Commission (see Appendix no. 3, inter-associative communiqué of 22nd September 2008) with which the Romeurope *collectif* is associated: to constitute “an unreasonable burden on the social security system, notably health insurance and welfare” during the first three months proves to be virtually impossible given that access to most social services is predicated on one's presence in France for more than three months.

For more than a three-month residence in France, the right of residence is subordinate to the condition of employment (salaried or non-salaried), student status or having health insurance and sufficient resources. Concerning the first condition, it must be noted that 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 alien workers apply, which oblige those concerned to seek work authorization and employers to pay a tax, procedures the complexity and requirements of which generally block access to the workforce (see chapter "Right to Work"). If Romanian and Bulgarian nationals do not obtain work authorization, they must have sufficient resources available: no amount is specified, if only because resources beyond the RMI cannot be required. There again, the notion of unreasonable burden is used unjustifiably in regard to the texts and the jurisprudence that make of it a restrictive argument for the State, which invokes it to refuse the right of residence to a Community national. Indeed, the directive of 29 April 2004 indicates clearly that the very fact of having recourse to the social security system does not automatically entail expulsion: the authorities are supposed to study the situation on a case-by-case basis and to assess whether it is a question of temporary difficulties by taking into account the length of the stay, the personal situation and the sum of aid accorded.

On 28 June 2007 the Cimade, the Fasti, the GISTI and the LDH (Human Rights League) lodged an appeal before the Council of State against the circular of 22 December 2006 that denies the right to free movement of Romanians and Bulgarians, new citizens of the EU. The judgments

⁵⁰ Art. R. 121-3 of the CESEDA specifies: “Unless they become an unreasonable burden on the social security system, notably health insurance and social services, the nationals referred to in the first paragraph of Art. L. 121-1 [the nationals of the Member States of the European Union] as well as their family members referred to in Art. L. 121-3 have the right to reside in France for a period less than or equal to three months, with no condition or formality other than those provided for in Art. R. 121-1 for the entry into French territory [presentation of an identity card or of a valid passport].”

⁵¹ The person concerned has forty-eight hours in the case of an APRF and a month in the case of an OQTF to lodge an appeal or leave the territory, which he can do by crossing any border and then returning without any other restriction. But, if he has not taken one or the other of these steps, he can, after one month, be arrested, placed in a retention center and deported immediately.

rendered on 18 April 2008 following this request and that of SOS Racism⁵² are very disappointing: the circular was partly rescinded by a preliminary judgment on grounds of form, notably on the condition of not being an unreasonable burden and on the reference to the RMI, for these two points did not yet have a basis in French law (the circular dated from December 2006, before the order of 21st March 2007, and claimed to directly transpose certain provisions of the directive of 29th April 2004). Furthermore, this primary judgment validates the APRF targeting community members during the first three months of their stay, not only if their behaviour constitutes a threat to law and order but also in case of non-respect of work laws. A second judgment confirms broadly the legality of the order of 21st March 2007, including the condition of not being an unreasonable burden during the first three months (and of course beyond).

2) In practice... the resumption of repatriations

These directions given to prefectures were rapidly spread. From the start of the year 2007, several APRFs were taken out against Romanian and Bulgarian nationals, primarily on the grounds that they were exercising salaried activity without being authorized or constituting a threat to law and order (a notion used entirely outside of the precise definition of the Court of Justice of European Communities). These expulsion measures were able to be rescinded, for the most part due to the absence of a deadline for leaving the territory given to the person concerned: until March 2007, this deadline was 15 days; it is one month since the order of 21st March 2007.⁵³

From mid-June 2007 on, the authorities changed "strategy": instead of APRFs, certain prefectures began to give OQTFs to people interrogated for begging, after expulsion from a squat or after a fire...

Initially, in a few *départements* like the Val d'Oise, no solution was proposed to people sent back to their countries: OQTFs or APRFs were widely distributed with neither any assessment of the real situation of the people concerned nor any proposal of accompaniment on the return trip.

Other prefectures, like that of Saint-Etienne, in the Loire, from the beginning matched the OQTF with a proposal of "humanitarian" repatriation with the ANAEM (see the developments below concerning this system).

In Lyon (Rhone *département*), the prefecture mandated an association to establish a field diagnostic following which a few families were held back for an insertion project. The other four hundred and fifty people received OQTFs matched with proposals of assisted repatriation from the ANAEM.

In Seine-Saint-Denis, a first wave of expulsions took place with distribution of OQTFs. The prefecture then decided on a MOUS (Urban and Social Control Unit) for the largest shantytown, situated on rue Campra, in Saint-Denis, beside the Stade de France - on the eve of the opening of the rugby World Cup. Out of around five hundred people interrogated for this at that time, only eighteen families were retained for an insertion project, the others received an OQTF with proposal of assisted repatriation from the ANAEM (but most of them left the shantytown before these expulsion measures were instituted in the other shantytowns.. which are growing all the more!).

⁵² The claim of SOS Racism concerned the circular of December 2006 and the order of March 2007

⁵³ Art. R. 512-1-1 of the CESEDA.

These OQTFs were on different grounds but always highly contestable from a legal point of view. The Paris prefecture indicates thus: "Clear from an examination of the situation that the person concerned does not dispose of, for himself and the members of his family, sufficient resources and health insurance;" and the admission to reside is thus refused. For other prefectures, there is no explicit decision of refusal of residence but only an OQTF. The principal argument remains, with no other grounds, "the unreasonable burden for the social security system in France," whether it is a matter of a residence of fewer than three months or of more than three months, the administration at times not even taking the trouble to specify the date of entry (It is said simply "date undetermined" or "less than three months"). In all of these cases, the grounds for the decision are pre-printed, make no reference to any element allowing for determination of the context in which visa control intervened, and never offers any explanation as to the reasons for which the administration was led to doubt the right of residence of an expelled community national. Thus, no proof is shown for the argument of insufficient resources and of unreasonable burden for the French social security system other than the presence of families in shantytowns or squats: it is indeed a presumption of guilt of poverty. Now it is proven that the majority of these families had not sought any social aid whatsoever.

It must also be noted that, in certain *départements*, such as the Val d'Oise, the prefecture's strategy, ascertaining that several OQTFs were cancelled, is to continue to deliver APRFs, against which appeals are more difficult due to time limits (forty-eight hours) even if the grounds are more easily contested (since, remember, this type of measure can only be ordered for infractions of work laws and threats to law and order, which is rarely the case in practice).

Finally, certain OQTFs are accompanied with a "threat" of criminal prosecution on the basis of Article L. 621-1, that is, imprisonment for one year and a fine of 3,750 euros for unlawful entry or residence. Under community law, it is clear that European citizens (including their family members) cannot be condemned to prison for unlawful residence. In the absence of any other infraction, even those from outside the European community are not prosecuted for unlawful residence. This mention of prison on the OQTFs distributed nevertheless frightens those concerned and would explain why a relatively small number of Roma first accepted to lodge appeals.

Thus, since the end of June 2007, European charters have begun to organize at the rate of one a week for collective returns to the country of origin.

If expulsion decisions have not diminished despite the access of Romanian and Bulgarian nationals to European citizenship, **the possibilities of obtaining a residence permit have declined significantly**. In fact, two grounds previously allowed for requests for residence permits, which can no longer be invoked: residence permits for care, in the case of people who are gravely ill, and regularizations after ten years of residence. In practice, except for when they are family members of a person already having legal residence, only having an employment contract with work authorization allows Europeans to obtain a residence permit. Advantages acquired are virtually nil (see chapter "Right to Work"). Associations of the network Romeurope such as Asav (Ile-de-France) state very clearly a decrease in the number of requests for residence permits since accession of Romanians and Bulgarians into the European Union. If they can have legal residence without having a residence permit, it remains in practice almost impossible to assert social rights subject to the condition of official residence without this permit (see chapters "Social Services" and "Housing").

3) Organization of appeals and primary cancellations

While several dozen APRFs were cancelled over the course of the first semester of 2007 by the administrative tribunals, several jurists and lawyers of the GISTI and the Cimade, with supporting members of Romeurope in contact with the Roma on the ground, began to organize themselves, as of mid-July of the same year, through a group of Internet exchanges baptized "OQTF," seeking to coordinate actions in view of lodging systematic appeals against these measures. Lawyers are volunteering juridical aid.

Help is thus available in the field, following massive distribution of OQTFs and APRFs, in order to conduct individual interviews with the people concerned and to fill out information sheets. These sheets are then given to the lawyers who split up the files so as to personalize the appeals for which models had been established (and regularly updated). The arguments developed in these appeals concern, in particular, the interpretation of the notion of unreasonable burden and the responsibility for the burden of proof.

One of the principal difficulties encountered is swiftly obtaining a designated address (*domiciliation*) (the CCAS refuse virtually systematically the *domiciliation* of the Roma – see chapter "Social services") allowing for a request of jurisdictional aid.

All the information concerning the jurisprudence allowing for completed model appeals circulates through a mailing list, which also associates jurists, organizations, and militants of support groups. This list, limited at the beginning to the Ile-de-France, then spread to other regions.

Thanks to these appeals, the administrative tribunals cancelled a few of these decisions of expulsion. Here are a few examples of arguments that permitted the cancellation:

1. **when the person concerned has not been able to present his observations** on an eventual measure of refusal of residence prior to the notification of an OQTF.⁵⁴ Following these cancellations, the Val d'Oise prefecture begins at the beginning of 2008 to give a document to people claiming to have been in France for more than three months that indicates that the prefecture envisages putting an end to their right of residence but that they have two weeks to share their observations,
2. in cases where the prefecture does not contest that the person concerned entered France fewer than three months prior to the date of the OQTF,
3. in the case of an APRF given for infraction of work laws to a Romanian national who admitted having done masonry work in France, the administrative court of appeal in Bordeaux cancelled the measure on the grounds that ignorance of the obligation to obtain work authorization prior to hiring for community nationals subjected to the transitional period does not figure among the cases authorizing expulsion measures against Europeans.

Numerous appeals against OQTFs given to Romanian and Bulgarian nationals were examined by the administrative tribunal of Cergy-Pontoise (*départements* of Seine-Saint-Denis and Val-d'Oise). The tribunal cancelled several of them, then suspended its decisions and the examination of new appeals to lodge on 15 April 2008 a request for opinion on a dispute with the Council of State on the right to residence of community nationals. The tribunal notably asks

⁵⁴ In accordance with the law of 12th April 2000 relative to the rights of citizens in their relations with administrations.

confirmation of the obligation to allow the person concerned to present his observations prior to the delivery of an OQTF even when he did not request a residence permit; it also asks who--the prefecture or the person--has to bear the proof of the date of entry into France, and finally it questions the notion of unreasonable burden in the case of an inactive community national who is without resources, but is not covered by the French social assistance system.

4) The set-up of a large-scale humanitarian repatriation support system, managed by the ANAEM

While the objective of massive repatriation of the migrant Roma in France has not been revised, the really new factor since the inclusion of Romania and Bulgaria in the European Union is the need for the French government to change the terms used to justify the expulsion of European citizens. The circular issued on 7th December 2006 concerning the aid for repatriation⁵⁵ available for undocumented migrants or those in socially deprived conditions thus came out on time. This circular distinguished between types of repatriation aid managed by the ANAEM: "voluntary" repatriation aid, for natives of third countries who have been refused residence or subject to an APRF and who would like to return to their home country; and support for "humanitarian" repatriation for European community citizens and natives from third countries in socially deprived or highly precarious situations. The European Roma migrants are therefore fully eligible for the second form of aid.

In August and December 2006, a similar system was tested for around one hundred Roma migrants living in Réau (in the Seine-et-Marne *département*). This fell into the framework of a circular dated 30th March 2006 asking Prefects to extend "the experimentation with repatriation aid run since September 2005 in 21 *départements*" to the whole of the country and above all to make it more effective. At that time, in its 2006 report, Romeurope denounced the lack of preparation surrounding these two operations, which in no way guaranteed the durable integration of the persons returning to Romania. In fact, most of the families concerned have since returned to France.

The 7th December circular could have brought hope of true assistance for repatriation projects, as it set out a complete procedure for implementation: information, preparation of a resettlement project, personalised assistance prior to departure and, where necessary, upon arrival in the home country. However, since the first repatriation operations led as part of this framework, which took place as from August 2007 in Seine-et-Marne and up to the present day, all the information that we have received confirms that, on the one hand, in a very large majority of cases, the parties concerned did not give their consent to join the repatriation operation as the result of a conscious decision, but after different forms of pressure and various constraints put upon them. On the other hand, the conditions of implementation and the perverse effects of this system absolutely contradict its qualification as "humanitarian".

The facts recounted here below refer to a set of witness accounts. They cover the period from September 2007 to June 2008, and come from persons working in the field (associations or support committees) who have had first-hand experience of the implementation of these operations.

⁵⁵ Inter-ministerial circular DPM/ACI3/2006/522 dated 7th December 2006 concerning the repatriation support system for undocumented migrants or those in socially-deprived situations.

Firstly, in most situations, the applications for humanitarian repatriation support do not result for a real repatriation project since they are:

- 1) most often signed in a deliberately provoked situation of panic.

This is the case when support is offered during police custody (as in the Porte de Clichy [75] example, Dec 2007); or when, prior to a visit from the ANAEM, the police force is used to harass potential returnees on a daily basis (as in Saint-Étienne [42], Sept-Oct. 2007, Bessancourt [95], Oct. 2007); or when a regiment of riot police and police officers surround a camp, sometimes early in the morning (Palaiseau [91], May 2008); or when the police and the ANAEM confuse their respective roles (Saint-Étienne [42], Sept-Oct. 2007) or they arrive and together issue OQTFs (obligation to leave French territory) and repatriation support forms (Saint-Denis, Quai de Saint-Ouen [93], April 2008).

- 2) signed as the "least worst" scenario when the ANAEM's services brandish the threat of the police and prison (Bondy [93] Sept. 2007; Saint-Denis, Quai de Saint-Ouen [93], April 2008; Alès [30], April 2008);
- 3) sometimes signed without the assistance of an interpreter (Bondy [93], Sept. 2007; Saint-Étienne [42], Sept-Oct. 2007);
- 4) very often signed at the last minute a few hours before departure (Saint-Denis [93], Oct. 2007)... or even after the event (Bondy [93], Sept. 2007), proving the lack of detailed screening of "applications";
- 5) signed without the possibility of retraction, as identity papers are usually confiscated (Saint-Denis [93], Sept. 2007; Saint-Étienne [42], Sept-Oct. 2007; Bessancourt [95], Oct. 2007);
- 6) signed without the possibility of retraction, when the conditions of departure and the journey are similar to custody conditions (Lyon [69], Sept. 2007; Bondy [93], Sept. 2007; Saint-Ouen [93], May 2008).
- 7) signed in very opaque conditions, with outside observers kept at a distance (Saint-Étienne [42], Sept-Oct. 2007; Saint-Denis, Quai de Saint-Ouen [93], April 2008).

In addition to these different forms of pressure, false information is sometimes provided by certain of the ANAEM's services in France or by the local authorities in Romania, who tell people that they are not allowed to return to France immediately, while in fact **receiving repatriation support does not under any circumstances require people to surrender their right to free movement within Europe**. Firstly, they are entitled to leave Romania as soon as they wish⁵⁶, and secondly, they are also entitled to enter France at any time (they are only forbidden to enter French territory in the event of a criminal conviction or a breach of the peace). The witness accounts in the appendices (see Appendix no.1) include the case of a Romanian who returned to his country with the help of the ANAEM and who was forbidden from returning to France for a period of five years. The witness account here below confirms these breaches of the principle of free movement.

⁵⁶ The Court of Justice of the European Communities (CJEC) was referred a case concerning a Romanian citizen sent back to his country by Belgium, and whom the Romanian authorities forbade from leaving the country (CJEC, Gheorghe Jipa case, C33/07).

➤ **Support Committee in Meudon – Hauts-de-Seine *département* – May 2008**

At the start of 2008, a couple that we were assisting applied for repatriation support along with the €300 (twice €150) announced by the ANAEM: one of their mothers was very sick. Departure was scheduled within three weeks, but only actually occurred a month and a half later. They then wanted to return to France, but the husband was stopped at the Hungarian border and sent back to Romania. He was told that he was not allowed to return to France. Nobody had warned him.

Moreover, whatever meaning we give to the word, these repatriation operations follow a certain pattern and the consequences are the complete opposite of what the word "humanitarian" implies:

- 1) since they are clearly intended to evacuate a site without actually looking into the situation of the individuals occupying it.

This intention is very clear in the cases where pre-completed OQTFs are wrongly filled in and people's identity is rectified on the spot by the police (Saint-Denis, quai de Saint-Ouen [93], April 2008); in cases where people merely passing through a site targeted by a repatriation operation are forcibly included in the convoy (Bondy [93], Sept. 2007); cases where people having already benefited from repatriation support are forced to apply for it again (Saint-Denis, Quai de Saint-Ouen [93], April 2008). This objective was pretty much clearly stated when, prior to the rehabilitation of her establishment, the Director of a residential centre applied the pressure felt from the ANAEM on the Roma migrants housed there, when they refused to sign the repatriation support application form (Alès [30], May 2008).

- 2) since this sort of mass treatment has traumatising consequences for people, or even a dramatic outcome.

How can a repatriation operation be qualified as "humanitarian" when children are left behind at sites or at the end of school (Saint-Denis [93], Oct. 2007; Porte de Clichy [75], Dec. 2007)? When seriously ill, sometimes contagious, people are returned to Romania (Villabé [91], Feb. 2008)? When no housing solution is offered to families awaiting departure (Porte de Clichy [75], Dec. 2007; Saint-Ouen [93], May 2007; Palaiseau [91], May 2008)? When all a person's belongings are destroyed (Saint-Denis [93], Oct. 2007; Porte de Clichy [75], Dec. 2007; Palaiseau [91], May 2008)? When a family's attempts at integration (children's schooling, steps towards professional integration, medical care, links forged in the neighbourhood) are brutally interrupted?

- 3) since the colossal sums implemented through this channel (estimated at over €100,000 for the Villabé operation [91] in February 2008) have the perverse effect of developing a mafia-style system in France and Romania.

This is a particularly serious consequence with destructuring effects on populations. In fact, with regard to the socio-economic situation in Romania, the amount of aid offered is highly attractive. The sum offered by the ANAEM was €153 per adult and €46 per child when the system was implemented in 2007. It was revalued in February 2008 and today stands at €300 for an adult and €100 for a child. A family with four children can thus obtain up to €1,000. In March 2008, the average wage in Romania was €194 per month. The unemployment rate among the Roma people was still over 70% in certain regions. For families who only have low incomes, there is a great temptation to return to Romania to benefit from this sum. This is equally true for Roma

families resident in France for a number of years, even if they have to break the links they have established there (children's schooling, jobs, medical care, etc.) Vice versa, very poor families in Romania are aware of this opportunity and arrive in France to benefit from the ANAEM's payment, which is a small fortune for them. Some people have no qualms about leaving behind their job and interrupting their children's schooling. As in the case of Villabé in February 2008, we can see increasingly frequent movements of people who come to France just to benefit from repatriation support. If the system managed by the ANAEM is designed to reduce the number of people present in France and to encourage lasting repatriation, it is clearly a failure.

A great deal of information has been reported concerning the racketeering to which families returning with the benefit of this aid are subject, inflicted by customs officials and mafia-type networks right from the airport in Romania.

The support system, which has now been totally high-jacked, could provide an opportunity, on condition that applications are properly looked into and form part of a project for volunteer returnees, backed up by a system of "reintegration support" paid to families who have an economically viable project in their home country. In this case, once again, the reality is far removed from the promises. As was already the case in 2006, the financial aid (up to €3,660) that was supposed to be granted to support economic projects has actually never been paid out to the people concerned.

Moreover, the local association workers in the departure countries with which the ANAEM has signed agreements, and who offer social assistance and help with setting up and completing economic projects, lack the human and financial resources required to fulfil their mission. They work without any real coordination with the ANAEM's services, who sometimes do not even inform them of the number and situation of persons they are supposed to welcome. As a result, after a single meeting with a social worker upon arrival, practically no assistance is offered - no access to care or to schools for children, no help in obtaining identity documents (which are essential in obtaining aid, etc.). This role is sometimes fulfilled by other associations, who have nothing to do with the ANAEM.

There are numerous witness accounts from persons having returned to France after waiting months for a response from the ANAEM following submission of an economic project via one of the associations supposed to assist Romanian migrants returning to their country.

To get out of this deadlock situation, a real policy of cooperation with the home country should be implemented through programmes designed to fight against poverty and discrimination to which the Roma people are subject in their own country. In this respect, no tangible outcome is expected from the agreement that the Ministry for Immigration, Integration, National Identity and Co-development has undertaken to sign with the National Agency for Roma people in Romania⁵⁷, if we take into account the total lack of resources that this latter agency has at its disposal.

Romeurope has denounced the hypocrisy and perversity of this system since the outset. On a local level, other than the set-up of appeals against the expulsion measures, the members of Romeurope have continually informed the Roma people of their right to refuse to sign application forms for repatriation support and deportation measures. They have also - wherever possible - tried to act as observers during police and ANAEM interventions, so as to limit

⁵⁷ This agreement, which should have been signed during the visit of the Romanian Prime Minister, Calin Tariceanu, to France on 22nd April this year, has still not been signed today.

pressure and to try and obtain local political support for projects that are an alternative to expulsion.

At national level, a press release and a press conference were organised on 28th September 2007. Two meetings were obtained with the Director of the ANAEM, on 24th October 2007 and 21st March 2008. No specific, satisfactory response was provided to the grievances set out above. A press release was distributed on the eve of 8th April (International Roma day), denouncing the scandal of thousands of "repatriations" paid for, thanks to the ANAEM, by the Minister of Immigration, to reach his quotas. Letters were subsequently exchanged by the latter and Romeurope, but did not result in greater attention being paid to our observations. At the end of June, Romeurope issued a further press release summing up witness accounts collected since the end of September 2007.

Finally, Romeurope expressed its concern regarding the project to maintain a file of recipients of repatriation support. This measure was already included in the inter-ministerial circular dated 7th December 2006 which, with the aim of preventing the same person benefiting twice from repatriation support, announced the set-up of a "fingerprint system managed by the ANAEM, within the framework of the French "*Informatique et liberté*" law⁵⁸". The possibility of biometric listing was then included in the law dated 20th November 2007, authorising the use of "fingerprints and photographs⁵⁹" for beneficiaries of repatriation support. Pending the decree applying this measure, which is currently being prepared, only the identity of beneficiaries of repatriation support is listed in the central file by the ANAEM.

Firstly, we can call into question the pretext used to justify this listing - preventing people from benefiting from support twice over – since repatriation support has been offered to (or imposed upon) several Roma migrants who had already received it (see Appendix no.1: witness account of a Roma migrant from the Quai de Saint-Ouen site in Saint-Denis [93] in May 2008), which is not surprising given the role of repatriation support in increasing the statistics on forced returns to the border (see *infra*).

Moreover, while biometric listing has not yet been implemented by the ANAEM, listing (often with photographs of individuals) is regularly used by the police for all inhabitants at a site as part of commissions to examine witnesses (this objective remains to be proved in certain cases), of which the real purpose is to carry out a census of people who, a few days later, are informed of expulsion measures (as is shown in the witness account from the Solidarité Roms network in Saint-Étienne in Appendix no.1). In at least one case, in Alès in the Gard *département* (see witness accounts in Appendix no.1), police proceeded with this listing after the events, and it only concerned people having signed up for repatriation support from the ANAEM (those who refused to sign were not called up) and included fingerprinting, photographs and DNA sampling.

⁵⁸ Inter-ministerial circular DPM/AC13/2006/522 dated 7th December 2006 concerning the repatriation support system for undocumented migrants or those in socially-deprived situations.

⁵⁹ Law no. 2007-1631 dated 20th November 2007 concerning immigration control, integration and asylum; art. L611-3 of the CESEDA (Entry and Residence in France and Right of Asylum Code).

5) How the humanitarian repatriation of Roma migrants – European citizens – has been used to inflate the statistics on returns to the border

In August 2007, the Ministry of Immigration acknowledged that he was slightly short of the objective of 25,000 returns to the border set for 2007. Explaining this shortfall, Brice Hortefeux highlighted the difficulty in deporting Romanians and Bulgarians, whose countries are now part of the European Union, with this membership making the procedures more complex. He did however confirm that "It is preferable to accompany" these citizens to their countries, and that they represent 6,000 of the 24,000 people deported in 2006⁶⁰.

The system of so-called "humanitarian" returns has progressively been used to meet this objective since 2007 and has gone even further, since Romanians and Bulgarians are more frequently deported now than when they were not European:

- Over 2006: 6,000 of the 24,000 people deported were Romanian or Bulgarian.
- Over 2007, 1,693 Romanians and 468 Bulgarians were deported within the framework of humanitarian repatriation by the ANAEM.⁶¹
- Over the first five months of 2008, the Minister of Immigration's cabinet indicated the deportation of 4,555 Romanians and 557 Bulgarians as part of the humanitarian repatriation process.⁶² To this, we should add deportation operations that do not fall within the framework of humanitarian repatriation.

Thus, in 2008, thanks to the ANAEM, in just six months, as many Romanians and Bulgarians (and we know that for the majority, they are Rom migrants) were sent back to their country as during the whole of 2006, on the eve of their entry into the European Union.

These figures have a significant impact on the overall deportation statistics announced triumphantly at a press conference on 19th June by the Minister, Brice Hortefeux, who - understandably - failed to give the breakdown by nationality of the people deported... Among the 14,660 people deported over the first five months of 2008, 35-40% were Romanian or Bulgarian, for the majority Roma.

If we compare these figures to the number of Roma migrants present in France, which is pretty much constant – between 6,000 and 10,000 – we can clearly state that these people are feeling the effects of this policy more than ever, since this year they account for over a quarter of the number of deported, as was the case before they became European. In view of the witness accounts collected on the conditions of deportation via the ANAEM system, the Minister of Immigration's remark, congratulating himself on the fourfold increase in voluntary repatriations in 2008, proof that "a significant number of illegal immigrants understand the need to comply with our rules⁶³" appears particularly cynical.

⁶⁰ Le Figaro, 21st August 2007.

⁶¹ Figures provided by the Director of the ANAEM during questioning at the Halde on 8th September 2008.

⁶² Figures provided by Guillaume Larrivé, Deputy Director of the cabinet of the Minister of Immigration, Integration, National Identity and Codevelopment, Brice Hortefeux, in L'Express, in an article by Laurent Chabrun: "Roma migrants: the end of the road? « 15th September 2008.

⁶³ Press conference held 19th June 2008.

Demands of the CNDH Romeurope

1. **An end to the use of measures to expel people from the country (OQTFs and APRFs) issued under current conditions** (applying to a whole group of people; without any inquiry into individual circumstances especially in respect of the notion of being an unreasonable burden and without taking account of individuals' resources; wrongful interpretation of the notion of threat to public order or use of the grounds of breaking labour law for issuing APRFs; threats of legal action stated on OQTFs, and so on).
2. The definition and publication of broad criteria to ensure that administrations and organisations assess EU residents' **right of residence** according to the most favourable provisions of EU law and not the most restrictive ones. The practices of administrations which, particularly in the case of the Roma, disregard the ruling that EU citizens do not need to show a residence permit, or rely on a presumption of illegality without undertaking any serious examination of the individual's situation, must be condemned.
3. In the case of Roma who are citizens of the Balkan countries, an **in-depth examination (or re-examination) of statelessness and asylum applications** together with the **regularisation of the position of Roma whose asylum applications were ruled out of court** and who have lived in France for several years.
4. Re-establishing the principle of unambiguously **voluntary, individual choice** in **humanitarian repatriation**, help with drawing up **realistic plans for return** before departure, **social support** and help with putting their plan into action once there, and the appropriate use of suitable **funding**.
5. Respect for the **principle of freedom of movement** within the European Union, preventing and condemning all the oral threats used to forbid people return to France or to leave Romania or Bulgaria.
6. Cancellation of the **biometric identification system** for beneficiaries of assisted humanitarian repatriation as provided for in the law of 20 November 2007.

II – THE RIGHT TO WORK

1) The transitional regime applied by France following European Union membership of Romania and Bulgaria

The Athens membership treaty in 2003 (for ten States) and the Luxemburg treaty in 2005 (for Bulgaria and Romania) gave European Union countries the possibility of imposing a transitional period for new members during which restrictions may be applied on the access of citizens from these states to paid employment⁶⁴. France chose to extend this period which will end on 1st January 2014 at the latest. Several European states decided to remove all restrictions on access to their labour market as early as 1st May 2006 (Finland, Sweden), while others opened the market partially, in particular for certain qualifications. When a delegation from Romeurope met with the French President's immigration advisor in January 2008, the latter declared that France was considering opening its labour market to citizens from these two countries (Bulgaria and Romania) when France took over the presidency of the EU on 1st July 2008. In the end, this was not the case: the transitional regime will be extended until 2011 at the earliest.

The principle adopted during this transitional period concerning the movement of workers is as follows:

- citizens of these last two member States are subject to the same rules as other non-Community foreign workers. In particular, this means that:

- 1) they must apply for a work permit prior to employment;
- 2) the labour market situation (i.e. unemployment) in France may oppose them (this condition was lifted for a list of professions in difficulty (see *infra*);
- 3) the employer must pay a minimum duty of €893 to the ANAEM (the legality of this duty is actually contestable (see *infra*));
- 4) citizens from these States can only register as job-seekers with the national employment agency (ANPE) without a residence permit⁶⁵ (to which they do not generally have access) on condition that they have already found a job.

a) The professions in difficulty "open" to new Europeans

After a half-way stage assessment required by the States having opted for a transitional period for new members of the European Union, France claimed to be making efforts to gradually lift the restrictions on the free movement of workers. Prior to the entry of Romania and Bulgaria into the European Union, a circular dated April 2006⁶⁶ set a list of sixty-one professions in difficulty for which the employment market was not restricted for citizens from the eight member States covered by the transitional period and, as from 1st January 2007, this included Romanians and Bulgarians.

⁶⁴ Concerning these transitional periods, the treaties exclusively refer to the restrictions imposed on access to paid employment while art. L 121-1 of the CESEDA, paragraph three, indicates: "However, citizens of the European Union who wish to carry out a professional activity in France must hold a residence permit during the validity of any transitional measures provided for in the membership treaty of the country of which they are citizens, unless this treaty states otherwise. The term "professional activity" refers to any salaried or non-salaried (freelance) activity. This point was highlighted when the Gisti lodged a complaint with the European Commission on 30th July 2008, jointly with Romeurope.

⁶⁵ Decree dated 11th May 2007 concerning work permits issued to foreigners and the special contribution due when employing a foreigner without a work permit.

⁶⁶ Circular dated 29th April 2006 concerning work permits issued to citizens from new European Union member States during the transitional period.

A second list extended to include 150 professions was adopted by the government in November 2007, during the inter-ministerial immigration control committee meeting and presented in a circular dated 20th December 2007⁶⁷.

In this circular, a sub-group of thirty professions was opened to third countries, and include highly qualified professions which are therefore relatively inaccessible to the majority of foreigners recently present in France. The first list of 150 professions "open" to Europeans during the transitory period is supposedly part of a process aimed at the free movement of European workers. The list of 30 professions "open" to citizens from third countries is above all symbolic of the "selective" immigration process and follows on from the law dated 20th November 2007⁶⁸ which also details the possibilities of regularisation on a case-by-case basis for citizens from third countries where they are likely to be integrated into French society through their work thanks to their sought-after skills.

These lists, which vary according to the country of origin⁶⁹, have led to a strong feeling of iniquity and have highlighted the community preference as a sort of "privilege" which is difficult to understand. An immediate implementation of the freedom of movement for workers when these new member states entered the European Union would no doubt have appeared more comprehensible and more logical.

As part of the "selective immigration" ideology, the widespread communication concerning the list of professions in difficulty "open" to foreigners may have helped to give credit to the idea that Romanians and Bulgarians now have almost the same access to the French labour market as French citizens themselves. These 150 professions now "open" to new Europeans are in sectors in difficulty which mainly correspond to poorly-qualified positions representing 40% of job offers available from the ANPE and cover almost all professional sectors. In fact, up to now, the number of Roma migrants from these two countries having found a job remains just as marginal as it was two years ago. Some people have been quick to incriminate the Roma populations ("*unsuited to the requirements of the world of work*"). It is therefore important to state here that nothing or almost nothing has been solved with these lists of "open" professions, with regard to the administrative obstacles to their employment.

b) Administrative barriers to employment

Regardless of the discriminatory connotation of these lists of professions, it should also be specified what is actually meant by the so-called "privilege" granted to the new European citizens. For these 150 professions, an employer who wishes to hire a citizen from one of the new member States is not required to first look on the national market and to prove this to the Department for Work, Employment and Professional training (the DDTEFP). This means that one of the restrictions on the work permit application procedure - the obligation to publish a job offer with the ANPE and to wait for one month, during which the employer shall receive

⁶⁷ Circular dated 20th December 2007 concerning work permits issued to citizens from new European Union member states during the transitional period and third States, on the basis of the list of professions experiencing recruitment difficulties. The list concerning Europeans was confirmed by the Order dated 18th January 2008 concerning the issue of work permits to European Union citizens subject to transitional measures, with no opposition of the labour market.

⁶⁸ Law no. 2007-1631 dated 20th November 2007 concerning immigration control, integration and asylum.

⁶⁹ Algerian and Tunisian citizens are provisionally excluded from the list of 30 professions, pursuant to

specific agreements made with these two countries. There is also the possibility of longer lists, depending on bilateral agreements with certain third countries outside the Union.

applications in response to his offer - has been lifted. Moreover, concerning these professions, the DDTEFP cannot refuse to grant a work permit by referring to the worsening local labour market for the profession or qualification concerned.

Even after taking these advantages into account, practice shows that there are still numerous barriers in the work permit application procedure set out in the circular dated 22nd August 2007⁷⁰, and enough reasons for refusal cited by the DDTEFP to limit access for Europeans to these 150 professions.

The documents to be provided

The list of documents to be provided, determined in the Order dated 10th October 2007⁷¹, is itself highly restricting or indeed dissuasive for employers, even more so where small companies are concerned, as they don't have the staff available to spend time on these procedures (particularly in the catering or building industries). Also, in the file to be put together by the employee, certain documents may be difficult to obtain. For example, a recent copy of the birth certificate, since the indications shown on a valid passport are not sufficient. Certain registers have been lost, during the Romanian revolution for example, and, in this case, the person has to go personally to Romania to obtain the document required.

The duration of the procedure

Getting all these documents for the file can often take several weeks. At best, the employer then has to wait between a month and a half and three months, between the submission of the file to the DDTEFP and obtaining the stamp on the employment contract granting authorisation, which is only given after summons to the ANAEM. This waiting time is often dissuasive for employers who hope to find a rapid response to their employment needs. This is in fact the minimum time required, because, in certain situations, applications can wait over six months before an answer is given. This is the case for example in the Val-de-Marne *département*, where people who submit a work permit application are given a receipt but no authorisation to work while the application is being processed, and this receipt is renewed indefinitely, until employers are discouraged from maintaining their promise of a job. As a reminder, the circular dated 29th April 2006 recommended that the Labour Department should: "process applications swiftly as proof of our desire to open up the market to new member States".

The duration of the contract

In theory, it is possible to apply for a work permit for a fixed term contract (CDD), as there is no text indicating that an open-ended contract (CDI) is required. However, some DDTEFP *départements* require this and refuse to grant work permits for short contracts. This seems to be the case in the Loire *département* and in certain *départements* in the Île-de-France region. Moreover, the circular makes a distinction between employment contracts of less than twelve months (thus fixed term contracts by definition) and those equal to or longer than twelve months (which may be fixed term or open-ended contracts). The duration of the employment contract determines the type of residence permit that is issued to the new EU citizen: a "temporary worker's permit" valid for the duration of his contract, or a "European Community" permit for an

⁷⁰ Circular DPM/DMI2/2007/323 dated 22nd August 2007 concerning work permits

⁷¹ Order dated 10th October 2007 stipulating the list of documents to be provided when applying for a work permit.

employment contract equal to or longer than twelve months. If the person obtains the temporary worker's permit, he will be required, at the end of his contract, to apply for a new work permit. However, if he is authorised to work for at least twelve months with the European Community permit, he will not be required to apply for a new work permit even if/when his contract is terminated.

The ANAEM duty, which is always payable, does not vary according to the duration of the contract. It is at least equivalent to a set amount of €893. As such, this limits access to short-term contracts or temporary contracts which make up the majority of job offers, as employers refuse to invest this amount for a few months' employment. Indeed, in the case of a first job, particularly for workers having just arrived in France, short-term contracts often act as a sort of test period, prior to long-term employment.

Payment terms

There is no requirement in the text regarding the weekly working times. A work permit can be granted for a part-time contract. On the other hand, it is a requirement that the salary is at least equivalent to the minimum wage. Thus, in certain sectors of activity, such as personal services, where part-time is the norm, this condition is almost impossible to fulfil. This particularly affects the work opportunities for women whose career ambitions are largely focused on home services (housework, home help for the elderly, child-minding, etc.) While in theory it is possible to submit two or more part-time contracts to the DDTEFP, in practice it is more difficult to find several employers who agree on the shared hours.

The duty collected by the ANAEM

The circulars issued in April 2006 and December 2007 concerning the professions open to citizens from new member States indicate that the duties payable to the ANAEM remain due (contribution and flat-rate repayment). They comprise a set rate of €893 for a gross monthly salary less than or equal to €1,525 or €1,612 for a gross monthly salary exceeding €1,525.

The justification for this duty is a contribution from employers for the expenses incurred by the authorities when bringing foreign workers to France or the costs related to the change of status of a foreigner already in France and who obtains a work permit for the first time. Concerning community citizens covered by the transitional period and already present in France, none of the services forming the basis of this tax is provided by the ANAEM (except the medical visit, which is mandatory, as for all foreigners).

In the past, the Office of International Migration (OMI), the ANAEM's predecessor, was condemned (Gisti action) for having made foreigners pay a duty where services were not rendered in return. Moreover, the decree⁷² concerning this tax was modified in 1994 to state that, if the worker recruited is a citizen of a European Community member state, the duty is not applicable; this was not contradicted at the time of the last modification to this decree in 2004 (after the inclusion of ten new States, eight of which are subject to the transitional period).

⁷² Decree no.75-754 dated 11 August 1975 determining the amount of the duty instituted by art. 64 of the 1975 finance law (no. 74-1129 dated 30 December 1974) payable by the employer hiring a permanent foreign worker

via the national immigration office.

This exemption for employers of European citizens was finally confirmed by a circular in 2005 concerning ANAEM duties⁷³. This circular, as well as a decree dated 1975 (modified most recently in 2004) exempts European citizens from paying the duty due by the employer when first applying for a work permit for a foreigner. Neither the circular nor the decree provides for an exception for citizens of new member states subject to a transitional period.

The ANAEM was informed on the illegal nature of this duty during a meeting with Romeurope but has not provided any explanation. However, this tax is a real restriction when it comes to employing Romanian or Bulgarian Roma migrants. All the support committees and associations forming Romeurope and who assist Roma migrants in their job-seeking procedures can testify that, regardless of their interest in employing the person, most employers go back on their decision when they discover the amount of this tax.

All of these measures, on a practical level and regarding the psychological effect of the cumbersome administrative processes, along with uncertainty over the response and the time required to obtain it, form an almost insurmountable barrier for Roma migrants who want to work legally. In reality, the Roma people have hardly any advantage at all over citizens from third countries on the job market.

➤ **Some examples provided by the Melun homeless support association and the Pas-de-Calais section of the Human Rights League**

- In the Seine-et-Marne *département* in January 2008, a man obtained an open-ended, full-time cleaning contract with a service company, to clean a school. The DDTEFP were highly zealous and investigated the company. They established that the cleaning contract signed with the town council for cleaning in a school did not justify the payment of a full-time worker and therefore decided that the company was submitting a false declaration. They did not take into account the fact that the company was considering the use of other contracts at the same time. Moreover, the labour inspector tried to find irregularities in the way in which the company was run. The employer was called to answer the DDTEFP several times. In the end, the work permit application was rejected.
- In the Pas-de-Calais *département* in 2008, Roma migrants no longer dare to apply for a work permit: for at least five of them who made such an application, an OQTF was swiftly issued by the Prefecture, even before the DDTEFP's decision was rendered.

The restrictions on the settlement of these new European workers are therefore as strong as ever, which only encourages undeclared work. Romeurope is therefore demanding that, at least, measures be taken so that, in the event of a positive outcome to a job interview, these formalities can be carried out *a posteriori* within a given time limit and that employers can count on their new employee straight away, as soon as the employment contract is signed.

On top of these administrative obstacles, there is of course the language barrier for a large number of Romanian and Bulgarian Roma migrants, along with their living conditions and expulsion operations which sometimes make it difficult to attend work regularly. Finally and above all, they are subject to very strong prejudices.

⁷³ Inter-ministerial circular DPM/DMI2/2005/542 dated 16 November 2005 concerning the taxes and duties due to the ANAEM (formerly the office of international migration) when granting residence and work permits to non-community foreigners.

2) When will the transitional scheme for Romania and Bulgaria end?

In January 2008, the European Citizen Action Service (ECAS) published a report⁷⁴ on the impact of Bulgaria's and Romania's membership on the free circulation of persons. This report demonstrates that migratory flows within the European Union remain low, even after the accession of 10 new Eastern European countries to the EU in 2004, involving less than 2% of the population. On 15th January 2008, Tony Venables, ECAS director, explained, "This report should finally put the myth of the Polish plumber to rest. There is no need to fear the latest enlargement of the European Union, no more than the previous ones. Migration from Bulgaria and Romania largely took place well before enlargement [...]." The restrictions placed on free circulation were based on projections that exaggerated the influx of job seekers and also overestimated the diversion of migratory flows to countries that have opened their labour markets.

Furthermore, the ECAS report demonstrates that the migration of workers boosts economic growth and generates more tax money than is paid out in social welfare costs. Many Roma have had job experience in their country origin; by forcing them to remain unemployed, our country is deprived of their skills.

➤ **Association Hors la Rue – Excerpt, 2007 activity report**

In their native land, many fathers worked in State-owned or semi-public companies in the manufacturing and agricultural sectors, and their families were relatively well integrated into the local socioeconomic fabric. Following the 1989 Revolution and the rapid disintegration of a large part of the State sector, their sources of income dried up. Those with a specific skill were able to move into a new line of work, others started their own business and a good number ended up living by their wits (like a large number of non-Roma Romanians of modest means).

Most of the people now living in caravans located on waste lands on the outskirts of industrial areas or under motorway interchanges were employed – sometimes as skilled workers – by collective farms, railways, large State-owned factories, etc. They lived in flats or houses and sent their children to school. With the fall of communism, families were forced to change their strategies, leading entire families to choose the path of emigration.

While temporary measures may be legal, they contradict the principles of European citizenship, which has gradually become established as a basic right of equal treatment and free circulation based on the case-law of the European Court of Justice. How meaningful can European citizenship be when workers are subjected to discrimination due to their nationality? In its report, ECAS recommends abolishing the transition measures for Romania and Bulgaria. There is little justification for these measures given that those applied to other new members have been gradually eliminated.

Similarly, the Romeurope delegation received at the Elysée Palace by Mr. Tandonnet, technical advisor, on Monday 7th January 2008, pointed out that the opening of 150 professions to Romanians and Bulgarians had already led to employment and successful social integration for a number of Roma, but that bureaucratic red tape still remained an obstacle that would be best to remove. In response to Romeurope's request for unrestricted, non-discriminatory access to

⁷⁴ Report on the impact of Bulgaria's and Romania's membership on the free circulation of persons, 15th January 2008

the labour market for all European citizens, the advisor announced the government's intention to move in that direction during the upcoming French presidency of the European Union.

This promise was not kept. On 1 July 2008, only citizens of the eight Eastern and Central European countries that joined the EU on 1 May 2004 (Estonia, Latvia, Lithuania, Hungary, Poland, Czech Republic, Slovakia, Slovenia) were given equal status with other EU citizens⁷⁵, while the restrictions for Romanian and Bulgarian nationals are being maintained at least until the end of 2011. Moreover, the implementing circular⁷⁶ for the measure that opens the labour market to the eight above-mentioned countries concludes with this threat: "The practice of an occupation by a Romanian or Bulgarian national in violation of the requirements laid down by article L. 121-2 of the CESEDA is sufficient cause to issue an expulsion order" even though these grounds are not stipulated in the law⁷⁷ that authorizes expelling an EU citizen⁷⁸.

To conclude, the following section is a response by a Solidarité Roms Saint-Etienne activist to a question that brought up the lack of employment among Roma families, a response that admirably sums up their situation.

➤ ***Solidarité Roms Saint-Étienne – A network activist's responses to the following questions: "Did these people register as job seekers? Do they have any qualifications? Have they ever worked? Do they know that you cannot live in France without paid employment or legally recognized income?" – July 2008***

YES,

"These people" are looking for a job. But "these people" cannot register as job seekers! To register at the ANPE, you have to have a residence permit and to get a residence permit, you have to have a job.

YES,

"These people" have worked. But French employers have no qualms about making them work illegally for pitiful wages.

YES,

"These people" have 150 so-called "open" professions, but in fact they don't have access to them (very cumbersome process, applications extremely difficult to complete, very high tax to pay to the French government – nearly €1,000).

YES,

"These people" meet business owners and employers.

"These people" have learned to read using so-called "free" papers – the job adverts – so their vocabulary and reading skills are very limited, but they call employers about certain jobs every day after reading the adverts. They get one interview for every 100 calls. And they don't get the job because of the mountain of red tape faced by the employer who wants to hire them.

⁷⁵ Decree of 24 June 2008 on the issuance of work permits, unless refused due to labour market conditions, to citizens of European Union States subject to transitional measures.

⁷⁶ Circular of 4 July 2008 on the new scheme regarding labour market access for citizens of EU Member States subject to a transitional period since 1 May.

⁷⁷ Art. L. 121-4 of the CESEDA.

⁷⁸ See chapter, "Droit au séjour": in February, the Bordeaux appeals court cancelled an expulsion order issued on these grounds (CAA Bordeaux, No. 07BX00962, Baranga, 14th February 2008).

At Réseau Solidarité Rroms, some people have made a daily job out of finding the Roma work. Several hours a day are devoted to it.

YES,

The Roma are tired. S. was hired two days before being evicted from Montplaisir. He called his boss to tell him that he was now wandering around Saint-Etienne carrying his two "Tati" (discount store) bags, staying in the streets or under a kiosk, not knowing where to rest or wash or what would become of his loved ones. In these conditions, how could he plan his day? How could he plan his life when he has to look for food in trash bins? In Romania, you can't even find anything to eat in trash bins. That's the tragedy in Romania and that's why France is considered an El Dorado.

The Solidarité Rroms Saint-Etienne network is not a charitable organization. Absolutely not. We know all the families and we work with them on a case-by-case basis, trying to teach them their rights based on their own life goals.

Health care, their children's schooling, help with homework, interviews with potential employers. All the children now speak French with a Saint-Etienne accent. That's a huge accomplishment, and we did all this without any subsidies and with our efforts solely focused on the rights that every human being needs to exist.

We're not naive do-gooders. I'm writing this a little quickly, with a sense of urgency and perhaps emotion. But I wanted to say that the "employment" goal is one of the Roma families' key goals. And it's not that simple.

Demands of the CNDH Romeurope

1. The **immediate end of the transition period** imposed on Romanian and Bulgarian nationals, both to achieve equality with nationals of the other countries that joined recently the European Union, and also from a pragmatic point of view, as this measure encourages illegal working, and deprives the French economy of human resources that it cannot do without if demographic predictions are taken into account.

2. As a minimum, if this transition period is maintained:

- a. putting off the work permit application procedure until after a job is found, so that this will not be compromised by the delays in examining an application;
- b. abolition of the fee taken by the ANAEM from those employing Romanians and Bulgarians;
- c. greater flexibility in the criteria of the duration of a contract and the level of pay;
- d. registration with ANPE as jobseekers.

3. Making **combating discrimination** a genuine priority in employment policy.

4. **Developing vocational training measures** that would enable foreign jobseekers to learn appropriate skills.

III – SOCIAL SECURITY BENEFITS

In this chapter, we basically will cover the access by the Roma to the most common social security benefits: health coverage (AME or CMU), family allowances and housing payments, the social minimums. We will also deal with the issue of the place of residence, which is often a determining factor in overall access to these benefits. We will not deal with benefits available outside of the administrative regulations, meaning those available to undocumented immigrants, such as welfare assistance to children (see the chapter on “Children”) or housing allocations (see the chapter on “Housing”).

Although difficulties with access to these social security benefits are similar in practice, the issue differs according to whether the Roma in France have a residency card (which is very rare), whether they are nonworking Europeans without a residency card (which constitutes the majority of cases), or whether they are citizens of a non-EU country, either seeking asylum or in unauthorized residence. As regards benefits, various criteria for enrollment are specified, in particular the length of stay in France, whether one has an address or place of residence and a residency card. This latter item must be proven by a residency card for non-EU citizens. As for nonworking Europeans without a residency card, they must prove their right to residency by showing that they have health coverage [private insurance or social security from their country of origin] and sufficient resources to not become “an unreasonable burden” on the French social security system. The table below summarizes the main criteria. Except for certain family allotments, all the benefits below are available to those with resources below certain limits, which Roma families virtually never surpass.

	CMU	AME	family allowances and housing allowance	min. requirements (RMI—AAH—API)	legal assistance
Non-working Roma w/o residency card [Romanian and Bulgarian Roma] the most common situation	-Address or place of residence -Adequate resources -Health coverage [apart from CMU or AME]	-After 3 months of presence -Address or place of residence -No health coverage in country of origin	-Address or place of residence -Adequate resources -Health coverage	-After 3 months of presence -Address or place of residence -Adequate resources -Health coverage	-Address or place of residence
Roma [European or other] with residency card	-Residency card -Address or place of residence -Resources below stated ceiling	-Not included	-Residency card -Address or place of residence	-After 3 months of presence [Europeans] [5 years or immediately for others, depending on the residency card] -Residency card -Address or place of residence	-Address or place of residence
Undocumented non-EU Roma ⁷⁹	No benefits	-After 3 months of presence -Address or place of residence	No benefits	No benefits	Available in certain exceptional cases
Roma requesting asylum [from the Balkans]	-Temporary residency permit -Address or place of residence/	-No included	No benefits [but retroactivity if legal status as refugee is granted]	No benefits	-Address or place of residence -entered France legally

⁷⁹ Roma whose request for asylum was dismissed or who never requested asylum.

1) New benefits for naturalized European Roma

Given that the majority of Roma in France are of Romanian and Bulgarian origin, we must focus specifically on their situation since January 2007.

Until recent years, EU law and jurisprudence were able to exert pressure on French authorities such that by the end of the 1990s, European citizens, including non-working ones, received social benefits similar to those received by citizens (as pointed out by GISTI in a guideline to be published on the right to social protection for EU citizens⁸⁰).

With the admission of the first ten countries of central and Eastern Europe, the procedures of the social security offices and administrations began reflecting a change of attitude, even before early French legislation that supported the denials of benefit payments formerly granted. For example, when a directive from CNAM in February 2006⁸¹ authorized the granting of benefits at CMU for European citizens in need, based on a simple verification of a lack of health coverage in the country of origin, certain offices began, in March 2007, to refuse CMU access to Romanian and Bulgarian Roma. The office in Seine-Saint-Denis even went so far as to deny all coverage (neither CMU nor AME).

The directive of April 29, 2004⁸² on free movement and residency rights sets the general framework to which one must refer in order to understand the conditions for access to social benefits by EU citizens. In a general fashion, it states that French and EU citizens get equal treatment in social protection (article 24), if the person concerned has a residency permit. But this directive sets limits on residency rights: this is where we find the main obstacle that blocks the large majority of Roma immigrants from receiving social protection, because these residency rights are dependent on the issue of receipt of social coverage and sufficient resources, conditions difficult to attain, due to limited access to the job market for citizens of countries in the transition period.

In fact, since the entry of Bulgaria and Romania into the EU, there can be no differences in treatment between citizens of these countries and those of other EU member countries as regards social protection. If specific measures are applied to citizens of countries in the transitory period, this applies only to paid work. Therefore it is completely illegal for certain 2007 CPAM instructions to have been written contrary to this principle, referring to some specific treatment for Romanians and Bulgarians.

During the year 2007, internal communications and letters circulated at offices repeatedly confirmed these practices and created a very restrictive framework for access to social benefits by EU citizens. This turnaround did not originate from a template text that set up basic new rules applying to the rights of Europeans to social benefits. Rather, it came about gradually, early in 2007, starting from instructions circulating internally at social security offices, interpreted with great variance among the *départements* and often in a discriminatory fashion towards applicants, depending on nationality, with Romanian and Bulgarian Roma experiencing the refusal of social benefits much sooner than citizens of countries in northern Europe.

⁸⁰ GISTI, "Social Protection for EU Citizens," guideline to be released in Autumn 2008.

⁸¹ Network letter dated 27th February 2006, entitled "Focus on AME/CMU," no. 66.

⁸² Directive 2004-38 of 29th April 2004, relative to the right of EU citizens and members of their family to move and reside freely throughout the territory of member states.

In practice, the interpretation of this legal framework, already restrictive, by the entities of social security is often erroneous. The evaluation of residency rights, left to these entities, is rarely subject to serious consideration. In particular, we note two points:

a) The evaluation of resources: Whereas the social security offices supposedly take into account all resources, including assistance in kind or in cash supplied by third parties [therefore including resources coming from begging], these latter sources are not recognized and the individual situation of the concerned parties is rarely considered. The fact that a family lives in a slum is taken to be proof that they have no resources, regardless of the life choices of the individuals.

b) The referral of files to prefectures: EU citizens are not required to present a residency permit⁸³; it is the responsibility of the administrative unit (CPAM or CAF) to verify and to monitor that persons are indeed in residence and that they have a residency permit. However, it is frequent practice to discourage benefit seekers by asking for a residency permit review from the prefecture, which generally makes a strict interpretation of this permit. This referral to prefectures, a procedure that instructions to the CPAMs⁸⁴ and the CAFs⁸⁵ recommend using for “disputed” cases, tends in certain locations to become systematic as concerns non-working EU citizens. If these practices, contrary to EU law, are intended to discourage applicants, they are definitely effective: anticipating this possibility of being referred back to the prefectures, some social workers hesitate to advise persons to file applications for family benefits.

2) Access to health coverage: a vital right whose exercise is not always guaranteed

Having the means to take care of oneself, including access to health coverage, undoubtedly constitutes the primary social right to be asserted; it remains far from fully recognized.

The chapter that follows on CMU deals exclusively with Romanian and Bulgarian Roma (Roma seeking asylum are supposed to have open access to it, and undocumented non-European Roma do not have the right to it). The difficulties set forth concerning AME in the following chapter apply to European Roma as much as to the others.

The question that arose in 2007 about knowing which health insurance plan covered EU citizens illustrates perfectly the confusion caused by the arrival of these new European citizens and the acrobatics that allowed them to be classified as undocumented.

⁸³ In particular, the directive of 29th April 2004, art. 25: “The possession of a registration certificate [...] of a document attesting to the filing of a request for a residency permit [...] or of a residency permit itself [...] may in no case constitute a prerequisite for the exercising of a right or the fulfillment of an administrative requirement, since the status of beneficiary of rights may be attested by any other means of proof.”

⁸⁴ Circular DSS/DACI/2007/418 of 23rd November 2007, relating to benefits of basic universal health care [CMU] and complementary universal health care (CMUC) for EU citizens, the European Economic Area, and Switzerland, residing or wishing to reside in France as non-workers, students, or job-seekers.

⁸⁵ CNAF circular of June 18, 2008, relating to residency permits for EU citizens.

a) Granting of CMU benefits to Romanian and Bulgarian Roma: a quickly-dashed hope

On 1st January 2007, the majority of Roma migrants in France attained EU citizenship. The EU directive of April 29, 2004⁸⁶, established a minimal base and allowed countries to modify restrictions on access to health insurance. France, however, in an apparent effort to not bog down the operations of the offices by asking them to evaluate the residency status of EU citizens, had decided to be generous by offering CMU (basic health insurance based on evaluation of resources for persons not affiliated through the basic socio-professional criteria or who are rightful beneficiaries) to all those who showed proof of insurance in their country of origin, including non-working persons, without questioning them on their residency status. But the circular of December 22, 2006⁸⁷, which introduces the notion of “unreasonable burden” on the French national health system, gave an indication that there would be a review of this open position.

Until then, the directions from CNAM were clear: “EU citizens may obtain this affiliation if they accumulate three months of residency in the European Union⁸⁸.” It was therefore possible to deduce from this that Romanians and Bulgarians would get CMU benefits like others, even if they had less than three months’ residence in France, since they had more than three months’ residence in the EU. Moreover, during an informal meeting with service organizations at the beginning of the year, representatives of CPAM from Paris had indicated that they did not wish to differentiate the Romanians and Bulgarians from other EU citizens. This would indicate an automatic swing towards giving CMU benefits to any person with AME for one year.

However, during the first quarter of 2007, some fund offices⁸⁹ on the contrary went in the completely opposite direction from this interpretation, affirming that these new Europeans had neither a right to CMU—because they did not meet the requirements on resources and medical coverage that would justify a residency permit—nor a right to the AME—since, being Europeans, they had the right to come to France and could not be undocumented.

While refusals of CMU coverage were piling up, the ministry delayed in clarifying the situation, leaving the offices, and later CNAM, shoulder the responsibility for this turnaround following the joining of Romania and Bulgaria to the EU. The DALO law of March 2007⁹⁰ had begun to transform a restrictive measure permitted by the 2004 directive that excluded EU job seekers⁹¹ from CMU benefits, but this arrangement applied only to marginal situations. Thus, out in the field, confusion reigns for these persons and for the organizations that work to serve them, for the organizations no longer know where to turn to get clear information.

⁸⁶ Directive 2004-38 of 29th April 2004, relating to the right of EU citizens and members of their families to move and reside freely throughout the territory of the member States.

⁸⁷ Circular NOR/INY/D/06/00115/C of 22nd December 2006, relating to procedures for gaining residency status and for pushing away Romanian and Bulgarian citizens beginning 1st January 2007.

⁸⁸ CMU update num.66, network letter of 27th February 2006.

⁸⁹ In Seine-Saint-Denis beginning in February 2007.

⁹⁰ Law num. 2007-290 of March 5, 2007 instituting the inalienable right to housing and bearing various measures in support of social solidarity – art. L 264-1 and those following, from the code on social action and families.

⁹¹ The concept of job seeker here is very precise: one must be registered at ANPE [National Employment Agency], have come to France seeking work, and maintain this status there.

➤ **Médecins du monde, Île-de-France suburbs – June 2007**

CNAM told me on the phone that a mailing was going out to CPAM 93 stipulating that nonworking Europeans were not entitled to CMU benefits, but since they couldn't be left without any medical coverage, CNAM asked that AME benefits be made available to them. This CNAM directive will be distributed *a priori* throughout French territory in the upcoming week(s). *Départements* that were doing CMU will without doubt switch to AME...

Nevertheless, CNAM is expecting the ministry to take a position. Therefore this situation could evolve in the upcoming months if the ministry adopts a different position.

Moreover, while I was calling CNAM, a militant from the ODSE (Observatory for Health Rights of Non-citizens) with whom we work was calling someone else at CNAM who said that CNAM was not taking a position on coverage for EU citizens and that pressure on the ministry was needed. Our view is that CNAM has indeed made the decision cited above but would like organizations to pressure the ministry so that CNAM is not solely responsible for the decision...

With two network letters, in August⁹² and September⁹³ 2007, CNAM formally pushes aside nonworking EU citizens who do not meet the CMU benefit conditions of resources and health insurance, but reminds them that they can claim AME benefits. This is a regression of rights, earlier granted to all Europeans, coming just after the entry of Romania and Bulgaria. The refusals must, however, be specifically justified and the assessment of the adequacy of resources must take into account the individual situation of the persons involved (once again, rarely are the procedures of offices in keeping with a serious evaluation of the situation of the persons involved).

Only at the end of this current year will there appear a circular⁹⁴ that sets forth “an automatic inaccessibility to the basic CMU and CMUc” for nonworking Europeans without adequate resources and/or medical coverage—since the CMU is available via a criterion of steady and regular residence of more than three months. Two exceptions are made to this principle. On the one hand, there is the notion of a life accident, which allows for extending CMU coverage to persons who might have in the past had medical coverage and adequate resources, but who have lost them. On the other hand, there is the principle of continuity of coverage: CPAMs cannot purely and simply terminate the enrollment of those to whom CMU was incorrectly given and must examine ways to grant them CMU on some other basis (by checking whether they may be eligible because of a permanent residency permit, a retirement permit...), in other words, continue their enrollment. In no case may these persons be sent back to AME, which would amount to reopening the issue of their *de facto* acknowledged residency permit. This arrangement is in accordance with the law and with EU jurisprudence which considers that **if the administration has previously granted to an EU citizen the right to a benefit, it has also given *de facto* recognition to a residency permit**, even if the person does not meet the conditions for the benefit. **The administration therefore is obligated to and must continue**

⁹² CMU update no. 73 of August 2, 2007.

⁹³ CMU special update of September 28, 2007, on the protection of the welfare of nonworking EU citizens, which transcribes a ministerial letter of September 18, 2007.

⁹⁴ Circular DSS/DACI/2007/418 of 23rd November 2007, relating to the benefits for CMU and complementary universal health coverage [CMUc] for citizens of the EU, the European Economic Space, and Switzerland residing or wishing to reside in France as non-workers, students, or jobseekers.

and renew the benefit. This continuity of rights contradicts earlier CNAM instructions⁹⁵ regarding nonworking EU citizens who have already obtained access to CMU benefits, instructions which order the systematic cancellation of these benefits as of 31st March 2008, with the use of a standard form.

As things stand, the practices of CPAMs are based on the initial internal instructions from CNAM, going beyond the circular that appeared in the interval. Whereas in some *départements* (Val-d'Oise, Paris), the renewal of CMU is assured, persons coming to request the renewal of their enrollment in other *départements* find themselves redirected towards AME (Loire). This sometimes occurs in randomly within a single CPAM, according to officials and applicants (Seine-et-Marne).

b) Government medical assistance

Government medical assistance (AME) is available to persons residing in France under undocumented circumstances for more than three months (immediately for minors).

Stipulation and proof of three months' residency

This feature of AME, regularly denounced by aid organizations, leads to delays in getting treatment, thus worsening medical conditions suffered by undocumented foreigners. In three months, minor conditions become serious ones, and if left untreated, they can lead to a life-threatening prognosis. As a result, a delay of three months is especially dangerous in terms of public health when the condition is contagious. Attesting that one has met the stipulation of three months' presence is also difficult for those concerned who live in precarious living conditions that make it hard to get proof of residence; this is all the more so for Europeans who have nothing to prove that they crossed the border.

Complexity of procedures

As part of the coordination among the insurance entities within the EU, the verification of an absence of coverage in the country of origin constitutes a prerequisite to a request for CMU or AME, ancillary coverages which can be granted only in the absence of something else. Without documents of proof (EU social security card, statement of coverage from the country of origin), it is in principle up to 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. Several CPAMs have used this, however, as a way to delay processing the requests by demanding that the persons concerned supply the form themselves (Loire, Alsace, Seine-Saint-Denis, Hauts-de-Seine, Rhône...).

If this difficulty is added to that of getting a specific registered address suitable to AME (see above), the set of procedures sometimes ends up pushing back by several weeks the care that persons need promptly.

⁹⁵ CMU special update of 28th September 2007, on the protection of the welfare of non-working EU citizens, which transcribes a ministerial letter of September 18, 2007.

➤ **Network for Roma Solidarity, Saint-Étienne – May 2008**

M., 10 years old, is in 5th grade at the Monchovet school, and he can see NOTHING. He has a really serious vision problem, which handicaps him in school and daily life (he eats with his mouth 10 centimeters from his plate)...The situation has lasted long enough.

We took him to the ophthalmologist: he has a prescription, costing about €250, but no medical insurance. All procedures have been carried out, of course, but we are waiting for a reply from Romania, to learn if the family already has insurance there—this is the new procedure, and it should take about three months...the school year will be over.

Along with the family, we therefore decided to pay €250. We considered making a request for a monthly allocation (which, by the way, was accepted for two families without any resources, but, there's always a 'but', the social worker didn't want to take any chances (it's a dangerous job) and is waiting to get positive news about medical insurance, before doing the request, so...).

It takes too long, we're going to pay for it. The family agrees to give €50, charities have agreed to take part, so we're launching an appeal to your generosity to allow Marius to see clearly.

A Plan in danger

In December 2007, Thierry Mariani and Claude Goasguen submitted a bill of law⁹⁶ aimed at modifying the conditions for AME access; it was sent to the Commission on Cultural, Family, and Social Affairs. The text of the bill, which would establish that AME requests be henceforth turned in at the municipal offices, puts forth the goal of better “monitoring” of requests and a reduction in fraud. But it has been followed by a series of statements implying that it represents an obvious effort to limit access to AME. In the short run, even if these measures will not be voted in, it's the zero cost of this coverage that may be undermined gradually, if one believes the declarations of the Ministry of Health and the Social Security Administration, which are contemplating the creation of a lump sum to be paid by undocumented foreigners at the time of AME enrollment.

However, a report by the Ministry of Taxation and the Ministry of Welfare⁹⁷ noted in May 2007 that AME had been consistently under-budgeted since 2002 (233 million euros for an estimated need of 400 million, approximately), with ease of access diminishing. It concluded that there were no major abuses and justified the AME in terms of public health as well as the expenses billed to the government by medical insurance.

We are also aware of the refusals of service that regularly confront the beneficiaries of AME: 37% of the refusals of outpatient care in 2006, according to a report by *Médecins du monde*⁹⁸.

A discussion by Halde on this subject questions in particular the French Medical Association and the Ministry of Health⁹⁹.

⁹⁶ Bill registered at the presidency of the National Assembly on 5th December 2007, targeting reform of the government medical assistance, presented by Mr. Thierry Mariani and Mr. Claude Goasguen, deputies [sent to the Commission on Cultural, Family, and Social Affairs, in the absence of a special commission constituted within the time frame laid out in articles 30 and 31 of the regulation].

⁹⁷ IGF – IGAS, Audit Engagement on Modernization, Report on the Management of Government Medical Assistance, May 2007.

⁹⁸ Médecins du monde, Observatory on Access to Care by the French Mission of Doctors of the World, 2006 Report.

⁹⁹ Debate relating to difficulties encountered by beneficiaries of Government Medical Assistance [AME] in accessing care, num. 2007-40, 5th March 2007.

Request for AME held up as “proof” of irregularities in residency

Only 7.9% of undocumented persons make actual use of available medical insurance rights¹⁰⁰, due to, among other factors, the difficulties in the necessary procedures and the fears generated by contact with an official administrative entity. In the case of the Roma, this fear is based specifically on the link that could be established by the prefecture between their enrollment in AME and the length of their presence in French territory. When they are arrested or figure in deportation efforts, they must in effect argue that they don't have to meet the stated criteria for resources since they have not been present in French territory for longer than three months. CNAF also recommends that its fund offices inquire from CPAM how to oppose summary rejections of payments to AME beneficiaries.

c) Coverage of hospital care by the fund for urgent care

As a last resort, a fund can be tapped into by hospitals, to grant free care to undocumented foreigners who do not receive AME benefits (and who are numerous, since only 18% of requests for health insurance are granted¹⁰¹). This is therefore the only means of granting free care for EU citizens present for fewer than three months.

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 [Family and Social Assistance Code], article L.254-1).

However, some hospitals still do not grant care available from this fund and seem to prefer to send billings to Roma families who are obviously insolvent, even though it means piling up bills that will never be paid.

Until a new circular came out in early 2008 and specified that “undocumented EU citizens, ineligible for AME, may take advantage of the plan for urgent care, following the example of foreigners who are citizens of non-EU countries¹⁰²”, this issue was not really defined: for the first three months, during which access to urgent care meets a real need in the sense that persons do not yet qualify for AME, EU citizens can be in France under the freedom of circulation without having to meet the same conditions required for a residency permit.

3) Access to family benefits: routes to integration blocked by withdrawal of previously granted allowances

The benefit of family allowances and housing allocations (paid by the CAF and not to be confused with various aid granted within the framework of child benefit) is a minimal condition generally established by groups and organizations that wish to provide the Roma with suitable housing solutions. The frequently insurmountable paradox is that access to housing must precede any integration process that allows these families to access autonomously the conditions for resources that today are automatically brought together by the CAF.

¹⁰⁰ Médecins du monde, Observatory on Access to Care by the French Mission of Doctors of the World, 2006 Report.

¹⁰¹ Médecins du monde, Observatory on Access to Care

¹⁰² Circular DSS/2A/DBAS/DHOS/3008/04, of 7th January 2008, modifying circular DHOS/DSS/DGAS/2005/141, of March 16, 2005, relating to coverage of urgent care delivered to foreigners residing in France without documentation and not beneficiaries of AME.

Following the example of the CPAM, the CAF has reacted in very disparate ways towards non-working members of the Roma community. Prior to Jan 1 2007, most CAFs systematically offered benefits to the Roma, without verifying their right to stay, so all Roma had access to family and housing benefits as of date of entry in France (RMI, API and AAH, considered as assistance benefits, may only be requested following three months of residence).

The first internal circular of the CNAF, dated 16th January 2007¹⁰³, appears to suggest extending this practice to immigrants from Romania and Bulgaria as it limits itself to drawing the attention of services to the fact that these new Europeans, whether newly arrived or already resident in France, have as of 1st January the same rights as other Europeans and therefore do not need to present a residence permit. No mention is made of checking by the CAF to ensure they fulfil the conditions of a right to residence. Because of this, many families were able to claim family benefit in 2007.

The law of December 2007¹⁰⁴ governing the financing of social security introduced some initial restrictions by reserving access to family benefits to European citizens meeting the conditions necessary to live in France. Six months later, a circular from CNAF¹⁰⁵, mentioned earlier and contested on several points, imposed a new framework to introduce these restrictions consistently.

a) Illegal criteria retained to evaluate the right to stay

As a result of the new demands made in early 2008, certain CAFs began to demand documentary evidence of the right to live in France, i.e. – and this is contrary to the law – a residence permit. Without directly demanding a residence permit, the tendency of some CAFs, unwilling themselves to undertake a serious examination of an individual's right to stay, is to ask the prefecture [departmental administration] to undertake this task.

Other CAFs have not gone this far but take short cuts to evaluate the right to stay of Romanian and Bulgarian Roma. In this way, in spring 2008, the CAF of the Loire-Atlantique *département* began automatically to refuse to accept files if the applicants were recipients of AME – a practice that the CNAF circular of 18 June 2008 endorses and is extending as it considers even affiliation to the CMU as proof of irregular residence.

Finally, the conditions relating to sufficiency of resources is interpreted in an entirely abusive way in terms of the law: while in law the “amount [of resources] demanded cannot exceed the amount of RMI”¹⁰⁶, the CNAF circular demands resources “at least equivalent to the RMI amount”, and subject to ministerial instructions plans to raise the threshold still higher by demanding that “the applicant has at least six months of RMI equivalent”¹⁰⁷.

¹⁰³ CNAF Circular no. 2007-005 relative to community regulations

¹⁰⁴ Law no 2007-1786 of 19 December 2007 on the financing of social security in 2008 – art. 95: “Citizens of member states of the EU or EEA and Switzerland who fulfil the conditions required to reside regularly in France, this residence being assessed within the conditions set for the application of Art. L. 512-1, benefit fully from family allowances within the conditions fixed by the current book”

¹⁰⁵ CNAF circular of 18 June 2008 relative to the right to stay of community citizens.

¹⁰⁶ Art. R 121-4 of CESEDA

¹⁰⁷ CNAF Circular of 18 June 2008 relative to the right to stay of community citizens.

b) Halting payment of benefits already granted

In addition, even before the appearance of the June 2008 circular, and far more extensively since, a number of CAFs have begun, without checking the situation as regards resources and health insurance, to stop payment of benefits which had been granted the previous year to non-working Roma. Other CAFs, as is the case of the Loire-Atlantique, have on the contrary continued to respect the rule of support and renewal of existing rights, allowing the same reasoning as that mentioned earlier concerning the CMU (allowing the right to benefits constitutes an implicit recognition of the right to residence that subsequently binds the administration).

Apart from the fact that these interruptions to payments are illegal, they also disrupt the process of integration and notably that of the access to housing commenced the previous year thanks to family and housing benefits. Several families who recently accessed social or private housing accompanied by members of our network risk having to give this up because of the halting of family and housing benefit.

➤ Roma solidarity network of Saint-Étienne – April 2008

Residence permit demanded, and allocated benefits that risk being halted

Some very bad news has just been received that is indicative of the current policy of obstruction and driving out of foreigners, including “European citizens”. The CNAF has just sent a directive to all CAFs specifying the need for a residence permit to enable access to any allocations (notably family and housing benefits). In this way the CNAF is bringing the situation of citizens from other EU member states into line with that of foreigners from outside the EU.

Until now, a residence permit has not been required by the Saint-Étienne CAF for citizens of other EU member states. An identity card was sufficient. This allowed Romanian and Bulgarian families to benefit from a small income, favoured the schooling of children and also access to housing. Roma families have benefitted from these initial allocations since January 2007. Certain of them were granted single parent benefits and others benefits for handicapped adults.

Access to housing had in fact been speeded up recently (albeit in the private sector because social housing organizations that should normally ensure the right to housing, were already refusing, under prefectural pressure, any applications without accompanying residence permits). **Six families, with or without children, were able in this way to leave squats for apartments.**

We have a good relationship with the president of CAF who recently wrote to the prefect to demand a solution for these families. However we have met a CAF mediator who informed us verbally that, for newly arrived Roma, **benefits would only now be paid if they have residence permits.** There has already been one rejection based on community directive of 29 April 2004, No. 2004/38.

Yesterday, a social worker who contacted the CAF by telephone with regards to the follow-up of a Roma family learned that **benefits might no longer be paid to existing beneficiaries** as of the month of May 2008. The application would therefore have a retroactive effect. Warning – such a thing could be possible. We recontacted the CAF but to no avail; we will follow this up.

This CNAF measure destroys family life. It confines Romanian and Bulgarian families to wretched and dangerous squats, and worrying health situations.

Housing must be a right for all. It forms the basis of a dignified life. I believe that we must react very strongly against this type of measure, demanding that CAF benefits be paid to all families living on French territory. All children living on French territory must be schooled. That is the law. Well, the same should be the case for the payment of family benefits: all families living on French territory should have the right to access these.

4) Minimum social benefits: still inaccessible for the majority, with the exception of a few cases

The conditions of eligibility for social benefits (RMI, API and AAH – French income support, single parent allowance and adult disability benefit respectively) are very restrictive. To be precise:

- 1) Those who do not currently or have never fulfilled the criteria for obtaining a residence permit **are not** eligible for the RMI.
- 2) Those who do currently fulfil the conditions for obtaining a residence permit or who currently have a residence permit (even if the authorities granted the permit in error) **are** eligible for the RMI.
- 3) The following may possibly be eligible for the RMI (and therefore have a careful medical check-up):
 - a) Those who have, in the past had a residence permit, or the right to one (and this can be demonstrated by any means: an old payslip or payment of a benefit conditional upon a residence permit which indicates that another authority recognised in the past the right to reside in the country) but this was lost due to one of any number of reasons known as “life accidents”;
 - b) Those whose situation should be evaluated under different criteria: difficulties, temporary or not, which caused loss of the residence permit, length of previous stay, links to France, insufficient resources following an “accident of life” (of a family nature – separation, divorce, death etc – or other – road accident, decline in health, new handicap or disability, accidents and hazards of jobs etc and in particular any change resulting in a decrease in income).

Nevertheless, some families manage against the odds to obtain the right to RMI. For example, three families without residence permits managed to be granted the right to the RMI in the Loire-Atlantique region and one in Strasburg, after having been granted a residence permit.

➤ **One Family, One Roof 44 Association – Nantes**

The RMI was granted to a Romanian national who had, in the past, had a residence permit. His permit had not been renewed after he lost his job. The argument used was to establish the loss of employment as an accident of life and to assert the person's goodwill and chances of integration. The rejection by General Council 44 was followed by a hierarchical then an administrative recourse (Departmental Committee for Social Aid) which helped the person win their case. The General Council intended to appeal in the National Committee for Social Aid but did not go through with it (no doubt for fear that this decision would make case law). One other case requesting the RMI resulted in the development of the argument of accidents of life for a person who had just lost their spouse.

5) Domiciliation: an obstacle to the exercise of social rights more than a right whose exercise is guaranteed

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 consult 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 today thanks to the DALO law dating from 5th March 2007¹⁰⁸ which dedicates a whole chapter to establishing the "right to domiciliation" for the benefit of people without a stable place of residence. The conditions under which this right can be exercised have since been specified by two decrees dating from May¹⁰⁹ and July¹¹⁰ 2007, then by a circular in February 2008¹¹¹.

Nevertheless, in circumstances where public authorities and organisations approved for offering a designated address suffer from a severe lack of resources for fulfilling this task and seek any pretext to avoid their obligations, particularly as far as Roma are concerned, this new regulatory framework paradoxically reinforces the hurdles linked to domiciliation in gaining access to social rights.

a) The "right to domiciliation" is predominantly an obligation

In reality the "right to domiciliation" established by the DALO law essentially imposes two obligations.

On the one hand the obligation to show a designated address in order to claim for almost all social rights. This obligation already existed for the RMI, the APA, the PCH, the CMU and the CMUC, but it has now been extended to include the issue of a national identity document (national identity card, passport), registration on electoral registers, applications for legal aid, all legal services provided by the CAF (except, by definition, housing benefits), all the services provided by the old age pension scheme, affiliation to a social security programme (the AME, which stems from a specific programme from a domiciliation point of view, is not covered by the DALO law) and the benefits provided by the ASSEDIC.

On the other hand the mechanism means going to an approved organisation (CCAS or an association approved for the services requested) to elect domicile.

The CNAF has addressed this additional condition, which makes it even more difficult to take the steps required to file a claim, in a circular¹¹², which reminds its branch offices that "electing domicile" or specifying a designated address, is now obligatory not only for establishing rights to the RMI but also for the entire range of family and related benefits.

¹⁰⁸ Art. 51 of the law n° 2007-290 dated 5 March 2007 establishing the actionable right to accommodation and setting up various measures in favour of social cohesion – art. L 264-1 et seq. of the Code of Social Action and Families.

¹⁰⁹ Decree n° 2007-893 dated 15 May 2007 on the use of a designated address for people without a fixed address.

¹¹⁰ Decree n° 2007-1124 dated 20 July 2007 on the use of a designated address for people without a fixed address.

¹¹¹ Circular DGAS/MAS/2008/70 dated 25th February 2008 on the use of a designated address for people without a fixed address.

¹¹² Decree n° 2007-893 dated 15 May 2007 on the use of a designated address for people without a fixed address and circular CNAF n° 2008-002 dated 16th January 2008 relating to the election of domicile.

b) Demands made of the CCAS are too low

Although the Community Centres for Social Action (CCAS) are primarily supposed to issue election of domicile certificates, the Act and the regulatory texts which followed all seem to conspire to allow them to pass on responsibility to other organisations (to which they are supposed to send people, which is not always the case), which they have been doing happily for a long time.

All the texts which follow the DALO law do not insist on the obligation of the CCAS to domicile people without a stable residence, but do in contrast go into great detail on the conditions which allow them to refuse this election of domicile. In particular the condition of having a link to the local borough, which is not restricted to the fact of having accommodation but to having settled there, refers to a set of criteria which are generally difficult for Roma to meet: exercising a professional occupation or being in a work programme on the precinct of this borough, the fact of having a child in school there, the existence of ties to family or friends in the borough, accommodation with a person resident in the borough, having registered with or approached institutions or associations there¹¹³...

Moreover, the circular states that foreigners from outside the European Union without a residence permit are excluded from the right to a designated address, as are citizens of European member states who are not entitled to become resident. The approved organisations (which in the first instance are the CCAS) must nevertheless provide these people with the specific certificates for applying for AME and legal aid. They are not obliged to verify the people's right to be resident¹¹⁴. However, there are many CCAS who prejudge the European Roma's lack of a right to residency (what is more by asking for their residence permit, which they no longer have to present since they are Europeans) and using this as a pretext for not allowing them to elect domicile.

The CCAS therefore have all the arguments at their disposal for refusing the domiciliation procedure. Most of them do not even take the trouble to register the application, however (and certainly not in writing, although from now on they are supposed to justify their refusal, because domiciliation is a right). The pretexts given are taken from a different context, mostly referring to the lack of resources available for carrying out this task.

In fact those CCAS which are prepared to domicile Roma are still extremely rare. One single borough in *département* 94 (Limeil-Brévannes), two or three in Seine-Saint-Denis where 2,000 to 3,000 Roma live, none in the *départements* Essonne or Seine-et-Marne. Certain town halls even refuse to domicile Roma for whom a different *département* has set up a welcoming project (Chilly-Mazarin [*département* 91]) or signed an agreement recognising the existence of a shanty town in their borough and guaranteeing certain services to the inhabitants (Saint-Denis [*département* 93]).

The fact that the CCAS are failing in their missions in this way is very detrimental especially for the Roma who finally manage to elect domicile via an approved organisation. This is because certificates issued by the CCAS generally cover a wider range of services (see below) and

¹¹³ Circular DGAS/MAS/2008/70 dated 25th February 2008 on the use of a designated address for people without a fixed address.

¹¹⁴ In practice this would mean that certificates of domicile could be issued to people resident illegally for services to which they are not in reality entitled. These certificates would therefore have no legal validity.

furthermore a stigma is still attached to presenting an address with the name of a charity in it, especially when looking for work.

➤ **Médecins du monde Marseille – June 2008**

In certain CCAS Romanian Roma are no longer domiciled under the pretext of an internal memorandum, which is apparently in circulation but which I haven't yet been able to obtain. Those applying for a designated address are given several reasons: invalid identity card, domiciliation is not possible for Roma (although it is for Romanians!), no domiciliation without a residence permit - you hear everything basically!

So we try, by physically accompanying people, to ensure that the right is respected, which is not always easy.

c) Demands made of the approved organisations are too high

In view of the high level of demand unsatisfied by the CCAS, one could at least have hoped that the conditions were met for developing the domiciliation activities of other organisations.

Firstly, however, no financing has been provided for the organisations to carry out this difficult task (it is not a matter of receiving and forwarding correspondence, but of accompanying those involved on a social basis, especially when the public is illiterate or does not speak French).

Moreover, the approval given to the associations to enable them to carry out the designated address procedure is subject to a series of very restrictive criteria, which are added to the obligation to receive correspondence and provide access to it every working day. The associations are dependent on the public authority (prefect's office) to which they are accountable for respecting the specifications of their approval agreement. So, while some prefect's offices deliberately put obstacles in place to limit the number of associations approved (which seems to be the case in Seine-et-Marne), others do the opposite and resort to a form of blackmail, threatening the associations with the withdrawal of their public funding if they do not continue their domiciliation work (which seems to be the case in Val-de-Marne).

d) The accumulation of procedures

While all the most recent reforms related to domiciliation, whose aim is to "ensure that all social rights and other rights can be pursued from a single address"¹¹⁵, were intended to simplify access to personal rights, there are still no less than four procedures corresponding to different formulas and implemented in different ways depending on the organisation, which are either cumulative or identical depending on the people concerned. These are the election of domicile in common law, known as "the right to domiciliation" created by the DALO law, the domiciliation with a view to applying for AME, the domiciliation with a view to applying for political asylum and the registration in a borough of attachment for travelling people for certain rights or administrative procedures (identity card, inclusion on the electoral register).

Although the circular dating from February 2008 encourages the approval of associations which provide designated addresses covering the entire range of services, including AME, it also recommends prefects to restrict the practice of domiciliation to certain categories of people in certain cases, in order to respect the association's objective or to limit the scope of services for

¹¹⁵ Circular DGAS/MAS/2008/70 dated 25th February 2008 on the use of a designated address for people without a fixed address.

which certain associations are entitled to offer domiciliation. This applies particularly when there are doubts about their ability to respect the specifications linked to their approval. Nevertheless, some cases where approval has been denied remain incomprehensible. The Médecins du Monde centre in Saint-Denis has been refused approval to offer designated addresses for the purpose of applying for CMU although it was accorded for AME.

In practice, at the present time, and in the absence of domiciliation by the CCAS (which are the only organisations where one is sure that they offer a designated address for all services, including AME), the search for an organisation whose approval covers this or that service remains a real conundrum for those concerned.

➤ **Testimonial by J.-M. B. - Médecins du Monde Boulogne-sur-Mer (Pas-de-Calais)**
Or: when the domiciliation of Roma requires “taking a strong political position”!

I spent most of the afternoon calling the general council, the prefect's office, the employment office and the social services department to find someone capable of giving me the list of associations approved for receiving declarations of electing domicile.

According to Mr X, inspector at the social services department, no association has been approved in Boulogne for domiciling Romanians. There are approved CHRS in Boulogne, but for domiciling French citizens with no fixed place of abode or whose papers are in order. Does approval apply for one section of the population and not for others?

According to him the associations in Calais which domicile people whose papers are not in order were an exception (see La Belle Etoile, which also offered a designated address to a young Romanian woman, but is not going to domicile seventy Roma).

One CCAS (le Portale) might be prepared to domicile Roma, but with the elections coming up.... He would prefer to wait before taking this "unpopular" step. No matter, I believe the final decision always comes down to the prefect. He could always threaten to withdraw approval from organisations if they used it to domicile people who do not correspond to **his** criteria. In any case, it would require the organisation to take a strong political position if it were to offer a designated address nevertheless.

e) “Outlaw” domiciliation practices, which exist to lessen the flaws of the procedure

Apart from for social services, obtaining a designated address is also necessary (even though legally speaking it should not be) for sending children to school. Domiciliation is also required for all kinds of everyday business: opening a savings account, taking out car insurance, making tax declarations...

➤ **Médecins du Monde – Paris suburbs**

A young Roma came to the CASO in Saint-Denis, as he had the opportunity to enter a professional training organisation which had accepted his application, but was asking for a certificate of domiciliation in order to register him. We wrote a letter explaining that he could receive mail at the address of Médecins du Monde. The organisation refused and demanded a domiciliation from the CCAS. The CCAS in La Courneuve and Bobigny refused his request. After trying for a month and a half, the young man abandoned the training idea.

In order to give Roma families access to services they generally require urgently, a fair number of individuals are therefore obliged to provide certificates of lodging at their own address. By

doing this these militants put themselves at risk (see testimonial below) and end up carrying out the volume of work intended for an approved organisation on their own.

➤ **Solidarity Roma Saint-Etienne – June 2008**

I was preparing to renew a certificate of lodging (I mean lodging and not domiciliation) for a family from Montplaisir as the previous one, especially the electricity bill, was too old, when my son informed me that I had just received a summons from the Ministry of the Interior at my home in Saint-Etienne asking me to come to the departmental internal security service, 5 boulevard Karl-Marx in Saint-Etienne on 4 July at 2.30 pm!

I won't be going, because I'm away on that date and what's more I will be keeping my commitment to renew the certificate. But if I ever get to see the goals of our wonderful banana republic from the inside, bring me some oranges!

In the case of migrant Roma the difficulty of obtaining a designated address regularly causes problems given the huge number of measures taken to move them on or when they are summoned in the course of repatriation proceedings. In these two situations in particular (which are everyday experiences for the families) it is necessary to find a lawyer quickly who can ensure the people's defence or lodge an appeal, which given the families' lack of means always requires making an application for legal aid, and therefore showing the office of legal aid the certificate showing election of a suitable designated address.

The difficulty is even greater in this situation because generally dozens of people are looking for a designated address from one day to the next, which does not encourage the CCAS and the organisations to open their doors. For want of alternatives, several lawyers have been obliged to domicile people at their own offices.

Demands of the CNDH Romeurope

HEALTH COVER

1. **Grant universal medical cover (CMU) to all individuals living on French territory**, because AME is a measure that leaves an entire group without the cover granted under common law.

2. As a minimum, **revise the 23 November 2007 circular** which follows the maximum restrictions authorised by Directive 2004-38 of 29 April 2004 to the effect that in practice it has become impossible for inactive EU citizens to get CMU. These provisions give responsibility for assessing the right of residence of EU citizens living in France to the CPAMs, obliging them to take decisions on very complex questions every day.

3. If that is not possible, then **make it possible to grant the right to AME promptly, and abolish the three-month waiting period**. AME must be available **without charge**. Information about beneficiaries must also be guaranteed to remain **confidential**, so that Roma families who do not meet right of residence conditions will not be reluctant to make an application.

FAMILY ALLOWANCES

1. Grant the **right to family allowances, housing allowances and income support for all EU citizens living in France**. In fact, qualifying for family allowances and housing allowance is the minimum condition often imposed by local authorities and organisations that want to make

decent housing solutions available to the Roma, as a precondition to any integration process that would enable these families to finally achieve through their own efforts the income conditions that the CAFs currently demand of them from the outset.

2. As a minimum, the **principle of maintaining and renewing allowances** already granted by the CAFs since 1 January 2007, so that the work the families and their supporters have put into achieving decent living conditions should not be reduced to nothing.

THE RIGHT TO A DESIGNATED ADDRESS (DOMICILIATION)

1. **Recognition of domiciliation as a right** (having an address when you live in insecure housing conditions) and not as a precondition for access to social services, because when individuals are able to give a postal address, whether or not it corresponds to the place where they actually live, it is unjustifiable for their application to be rejected 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, **mail distribution should be organised directly on site**, so that people have a genuine address. This happens in Nantes, for instance, at a site registered with Nantes Métropole.

3. In other cases, **the CCAS must provide themselves with whatever means are necessary**, without relying on approved organisations, so that this “right to domiciliation” should be effective throughout the country and for all, without discrimination.

4. **In cases where people do not have an address, this right to a designated address must also be extended to foreigners without legal residence status** (EU citizens and those from outside the EU), since an officially declared address is necessary for other rights requiring an address, besides AME and legal aid (schooling for children, family allowances in some cases, opening a bank account, the right to vote in EU elections, marriage, and so on).

5. Finally, the recommendations of the February 2008 circular on **setting up dedicated outposts** in distant areas to make getting a designated address easier for those living in “makeshift accommodation, in caravans or even tents in out-of-the-way places, a long way from towns”,¹¹⁶ must be implemented. As far as we know, no action has been taken anywhere in this respect.

¹¹⁶ Circular DGAS/MAS/2008/70 of 25 February 2008 on the use of a designated address for people with no fixed address.

IV – HEALTH

All fieldworkers have noted the generally very worrying state of health of the migrant Roma population in France whose health needs are great.

1) The many causes of a very worrying state of health

▪ **Difficult and even impossible access to health care in their countries of origin**

Despite legislation which theoretically allows access to health care for the most destitute, it is far from being enforced in the countries from which Roma emigrate. In Romania the practice of unofficial cash payments remains an obstacle to obtaining care. The sums demanded may not be large, but they remain beyond the income of Roma families, which is generally low. Furthermore, these families are frequently rejected on the pretext of being Roma; in any case, they feel that this is so. As a result families arrive in France with neglected health and diseases that have worsened. Illness and need for treatment remain a frequent cause of migration.

▪ **Lack of health education**

The lack of health education among people who have had very little or no schooling, and who have not had access to information is an aggravating factor. There is little knowledge of preventive measures. Demand is usually limited to prescribing drugs.

▪ **Difficult access to health care in France**

Several factors are involved:

- the legislation, which sets a limit of three months' stay in France, and the need to prove that they have been in France for three months and have an address before they can get access to any health insurance, CMU or AME (see "Social security benefits" chapter);
- lack of familiarity with health care facilities and the language barrier;
- individual priorities – before getting treatment, people first need to eat, and to earn money for that;
- the fear of arrest, which leads to postponing any efforts judged non-essential at the present time.

➤ **Médecins du monde in the suburbs (Île-de-France) – August 2007**

Last Thursday we carried out a health monitoring expedition to a site in Frépillon (Val-d'Oise). The town hall seems set against the Roma and is clearly very determined to make their lives hard. Vehicles are banned from the public roads that lead to the site. Each time the Roma use a car to leave the site, a municipal police car appears from nowhere. The police officers issue the driver with a ticket for 22 €[...] We met sick people who had missed hospital appointments or who cannot go to the pharmacy to pick up their prescriptions because they have been waiting day after day, for two weeks, to be evicted and because now it is too expensive to leave the site. We met two cases which needed a fairly urgent consultation at the hospital. Patients are unable to go there because of the fines. X called the town hall to report the cases and an official answered that we only had to accompany them ourselves or the patients could call an ambulance.

▪ **Living conditions**

Living conditions can worsen health and can even cause diseases: personal hygiene which is difficult to maintain without access to water and clean, private facilities; exposure to bad weather; muddy, boggy ground; a diet based on products thrown out by markets and supermarkets; constant stress due to fear of a police operation; piles of uncollected rubbish encouraging the proliferation of pests (rodents and parasites); and unsafe accommodation (windows without railings, dangerous lighting and heating systems, and so on).

- **Interrupted health care**

Lack of stability and repeated evictions from settlements make it difficult for patients to access a nearby health network. Furthermore, with every change of settlement, medical care is interrupted. Finally, the eviction of sick people, sometimes with serious illnesses, is a frequent occurrence. It should be noted, in this respect, that entry in the European Union has meant the end for Romanian and Bulgarian Roma of the protection provided by the right of residence for medical reasons (Chevènement law of 11 May 1998): residence permits granted on this basis to nationals of non-member countries can no longer be issued to Romanians and Bulgarians.

➤ **Extract from a CCPS/Médecins du monde press release – Toulouse – 10 August 2007**

It is better to be French, healthy and rich than a poor, sick Romanian gypsy

Romanian gypsies have been living for several months in pitiful living conditions in Toulouse, amid official indifference. Their encampment had no water and no household rubbish collections since mid-July. After being evicted from several sites in succession, they are now forced to leave French territory. [...] Some of the people who had to leave France in less than a month have serious illnesses, requiring treatment and specialized follow-up as well as specific monitoring. Three children are being treated for tuberculosis, a 21-year-old has severe burns, some adults have viral hepatitis and others have major chronic diseases. Their departure, by 1 September, will result in the interruption of their treatment and will therefore have tragic consequences from a medical point of view. The Romanian health services do not have the resources to treat these patients appropriately. [...]

Some of the Roma who have been sent back despite the serious illnesses they are suffering from, are also contagious. A specific witness statement (see Appendix 1) has been produced concerning the confusion surrounding a humanitarian repatriation operation organized by the ANAEM in February 2008, during which at least two people suffering from tuberculosis, who were contagious, were returned to Romania.

- **Lack of monitoring and vaccination of both children and adults**

The vaccination status of children is difficult to assess in the almost total absence of health and vaccination records; it nevertheless seems that very few children have been vaccinated. Similarly, children are not receiving vitamin supplements, even though nutritional deficiencies have been noted; and growth parameters, learning and oral and dental health are not being monitored.

There are likewise few adults who can prove that their vaccinations are up to date against tetanus, diphtheria, tuberculosis and the other diseases they could be protected against. Yet working with iron, as occurs in many communities, exposes individuals to a major risk of injury and tetanus. Their living conditions expose them in particular, furthermore, to tuberculosis.

2) The commonest diseases

There are no diseases specific to the Roma, despite what some people would like to believe. All the diseases found are caused by the above mentioned factors.

- **Tuberculosis** is very common, as among all migrant and/or homeless populations. Organizing screening often resembles an assault course. Medical teams which work with Roma families have regularly observed the appearance of cases of tuberculosis in recent years.

- All **infectious diseases** are made more likely or worsened.
- **Psychological problems** are rarely treated, despite being very common because of the constant stress in which these people live, and their distress at being exiles in a country that does not make them welcome.
- Obesity, and **metabolic diseases** related to an unbalanced diet, are common.
- Adults have **respiratory problems** (related in particular to smoking) and **cardiovascular problems**. They generally suffer from premature ageing.
- Finally, maternal and child health is a particular worry: multiple pregnancies without antenatal care, often in very young women or even adolescents, repeated abortions, and so on.

Extract from a Médecins du Monde press release “8th March 2008 – Women and the Roma in France – 9 out of 10 women have no antenatal care”

In 2007 the MdM team observed the following in group of a hundred or so Roma women in Seine Saint-Denis:

- **An average age of 17 at first pregnancy.** This figure should be seen in relation to the age of the women concerned: 22 on average.
- **Only 8.3% of pregnant women received antenatal care during their pregnancy.**
- **43.3% of the women had already had an abortion** at an average age of only 22. The average number of abortions per woman was 1.3 and 3.3 for those who had already had at least one abortion.
- **Only 10% of the women used contraception.** Yet the women often want contraception but they do not dare take the necessary steps and do not know where to go.
- **4 pregnancies on average per woman, only half of which result in a live birth** (owing to the risks associated with early pregnancy, lack of antenatal care, miscarriage and abortion).

➤ **Médecins du Monde Marseille – October 2007**

Two Romanian Roma women, aged about 20, at least 8 months pregnant, presented with retroplacental haematoma resulting in the in utero death of the two foetuses in question. It was the result of a disease which should be detected early as a matter of routine. The dead foetuses had to be removed by emergency caesarean. **These two women had not previously received any antenatal care.** The social isolation of these patients and their remoteness from medical facilities did not help to prevent these tragedies.

There is now the problem of the postoperative care of the patients and their families. What type of psychological care? [...] How can we offer appropriate medical, psychological and social care to these patients who received, just a few days after their misfortune, an eviction order from the site where they were living? They will then be faced yet again with eviction which will force them into disinheritance and a feeling of being abandoned, and will surely aggravate their mental and physical health.

Following the 2006 Romeurope report, several meetings were held between the association and technical advisors at the Ministry of Health and the General Department of Health.

The demands of Romeurope related to routine screening in all shantytowns without waiting for an index case to occur, coordination between the DDASS (departmental office of health and social affairs) and the “préfectures” so that people are not evicted before the end of treatment, a

national recommendation to the DDASS and departmental services concerning a protocol adapted to the situation of Roma living in shantytowns, and finally a recommendation to maternity hospitals to provide BCG vaccination at birth.

Two proposals have been made as a result of these meetings: first, Romeurope has been granted a subsidy to conduct a feasibility study of health mediators, and second, a study group on tuberculosis has been set up in which Romeurope will participate in order to improve the screening, treatment and follow-up of Roma living in shantytowns. The first meeting has taken place.

Demands of the CNDH Romeurope

Apart from the right to health insurance, Romeurope demands:

1. **The provision of health's diagnostic** at all settlements, followed by action by healthcare organisations for appropriate care.
2. **Tuberculosis screening programmes:** at present, the State has responsibility for this. It is essential that despite their living conditions and their forced moves, the Roma should benefit from the protocol¹¹⁷ set up for all residents in France; this would require specific measures to keep people in their homes at least long enough for screening and treatment.
3. Specially trained **health mediators** who would improve access to care by providing better information to both healthcare organisations and to individuals.
4. **Access to health education**, part of which could be allocated to specially trained health and social mediators.

¹¹⁷ Intradermal test and x-ray for all, including treatment for tuberculosis carriers who are not ill.

V – CHILDREN

As an introduction to this chapter, and to place the situation of Roma children in France in its correct context, related to the rights of the child and not to the law relating to foreigners, it is appropriate to quote the International Convention on the Rights of the Child (20th November 1989) which states that signatory countries, including France, “undertake to ensure the child such protection and care as is necessary for his or her well-being” and that “in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration” (article 3). In particular this implies that all steps will be taken to recognize “the child’s right to enjoy the best possible state of health” (access to care, prevention, living conditions, social security articles 24 et 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 proclaimed the right of the child to special help and assistance.

These rights continue to be flouted in France whenever public authorities leave Roma children living in unacceptable conditions in unsavoury locations, when they deny them housing affording access to care, when they put obstacles in the way of their access to schooling, when they fail to do all in their power to prevent the children from being exploited, when they deny their parents the possibility of legal access to resources which would ensure their physical, mental, spiritual, moral and social development, as their parents are duty bound to do.

1) Instances of mistreatment mainly due to public authorities

In Roma families, despite some prejudice founded on certain very marginal examples, the child is the object of everyone’s attention. Under communist regimes, all children attended school: studies conducted by Romeurope between 1997 and 2000 showed they usually attended between four and six years, certainly a less than ideal time, but one which would at least have allowed them to learn how to read and write. In the years following the collapse of these regimes, compulsory school attendance was no longer enforced. Increasing poverty caused by the loss of jobs forced many children to interrupt their education, since many families no longer had the means to clothe them properly, nor pay their transport and canteen costs. Furthermore, the children’s economic contribution became important to sheer family survival. Lastly, children who continued to attend school all too often fell victim to discrimination: assigned to special classes or stuck in the lowest grades, they were the victims of obvious rejection. For reasons such as these some brave parents with the financial means opted for migration: “So that our children will have a better future”, “so that they might go to a French school”, as the Roma put it.

Children who beg – alone or in the company of adults – are often cited as an example to bolster the image of how Roma parents mistreat their children. Based on the law of August 2003, which created a special offence of begging in the company of a child, parents are still arrested with their children on these grounds, despite a ruling by the Supreme Court of the 12th October which led to the release of a Roma woman who had been arrested several times for begging with her son. The judges determined that the alleged neglect by this mother, forced to beg out of necessity, remained unproven, and that it was more on account of the fact that the state allowed her to live in such misery.

➤ **Association Rencontre Tsiganes – Marseilles – May 2008**

As a first offence, a Roma mother was arrested for begging with her child. Because she did not attend her court hearing, she was sentenced by default to a term of imprisonment. She was arrested again a few days ago and imprisoned in Baumettes. She leaves her husband and six children homeless in the street, with one of the children facing a heart operation in the next few days. After many difficulties a lawyer finally agreed to take the case on and lodge an appeal.

Although parents are often stigmatised for subjecting their children to this degrading activity, we consider it more urgent to denounce the trauma associated with the extreme precariousness of their living conditions, their expulsion from camping sites, police brutality, their arrests...children who witness these actions by law enforcement agencies are particularly affected.

➤ **Réseau de solidarité Roms Saint-Étienne – May 2008**

Children whose families are chased from squat to squat

“At 47, rue Roger-Salengro live 7 Roma families from Romania, 16 adults and 18 children among them, two of whom are six-week old babies. These families took refuge there on the night of the 23rd April 2008 following repeated threats from the police. They had been living in a condemned building in the rue Allemane, near Centre-Deux. The prefect had decided to have them evicted without any other accommodation being offered. In other words they would have been living on the streets had they not found the other building, also without running water and toilet facilities.

When a family moves, its whole routine has to start up again. It's the same for the Roma, and in their case, the routine is already uncertain; and by hook or by crook, when eviction threatens, the situation becomes dramatic. All the children were enrolled at the Jules-Ferry Primary School in Centre-Deux and at the collège du Mont. Despite the difficulties, with the extra travelling distance now thrown in, they still attend these schools. Baby Sara, born on the 15th April 2008, at full term, has so far known two squats. Little Francesca, born prematurely, has only known one up till now.

Furthermore, when a group arrest occurs, every member of a family, including the children, are detained, held in police custody and sometimes taken to a detention centre.

➤ **Testimony from the CLASSES collective about the fate of an entire family arrested during an eviction from a squat in the rue Marguerite, Lyons, on the 13th June 2008**

The whole X family were taken to Marseilles, then from Marseilles to a detention centre in Nîmes, then were released... The father actually confirmed to me that following their time in the detention centre, a judgement was brought down and they were set free: “This was something that should not have happened.” They returned to Lyons, but no longer had the squat in the rue Marguerite. They are now staying with a family, but conditions are very difficult since there is not enough room. Cosmin has not yet returned to school: he is very tired and very shaken up because they were all so afraid.

➤ **Testimony from the Parada Association about the arrest of whole families during an eviction from a squat at Porte de Clichy, Paris, on the 20th December 2007**

Yesterday, Thursday, 20th December 2007, following a request from the owner (SNCF [French National Railways]), police forces emptied a building in which some twenty Romanian Roma people had been squatting. It is uncertain if they had been given the requisite 48 hours' notice. Families involved in an eviction from a property in Saint-Denis (passage du Gaz) a few days earlier were affected. Men, women and children were taken to Paris police station (la Cité), where they were kept in custody. They were given an OQTF and offered repatriation help. At nightfall they were taken to the Campanile de Gennevilliers Port hotel, far from anywhere. They spent the night there hungry and thirsty with no money between them. Today most of the people left the emergency accommodation, reserved for them until 24th December. They have no idea where to seek shelter during this intensely cold winter period.

2) Social welfare for children

Regarding family living conditions, most Roma children living in France are eligible for child social welfare (ASE). This facility is intended to help minors and their family by offering individual or collective protection. Out of concern for the child, the general committee for child support in each département is therefore bound to guarantee to each family living in needy circumstances the means to live at a minimum subsistence level. These funds are not dependent on legal residence status or a minimal period of residence in France¹¹⁸.

Apart from home tutoring which can be arranged (where there is a definite need and the family agrees), whenever the safety, health, upkeep or education of the children require, child social welfare allows funds¹¹⁹ to be used for temporary emergency accommodation, but also when food is inadequate, and also to cover school expenses, child care, and leisure time and holiday costs for children at relevant times...

In practice, as far as Roma families are concerned, some general committees use the facility to fund accommodation, sometimes long-term (like for example in Val-de-Marne) or more frequently short-term, following an eviction. In some cases material support is offered in the form of cash grants or vouchers (for food, nappies...): as is the case for example in Indre-et-Loire where the general committee assigns Roma families a monthly payment of 90 to 150€. But the long-term social support and educational aspect is totally absent from the operation. Financial assistance, as in the case of emergency accommodation, may be important, but specialised preventive programs for young people and their families are rarely mounted. Educational programs aimed particularly at young couples or very young girls to prevent early pregnancies, ought to be there to help them gain more autonomy and self-advancement. All too often we hear: "Look what we've spent on you; it's a lot already!"

¹¹⁸ Art. L 111-2 of the code for social action and for families.

¹¹⁹ Art. L 222-2 of the code for social action and for families.

Overworked social workers generally do not have the means to get to know the real situation of families. In these circumstances it can be hard to approach Roma families; training programs for social workers are needed so that they get beyond certain stereotypes.

3) Isolated minors

NB: The information below relating to this very specific question has been compiled by the Hors la rue (Off the Street) association, a member of Romeurope, which has been running a program with foreign minors, mostly Romanian (65% of them Roma), who are homeless or at risk in the Paris region¹²⁰.

Roma migration is mostly family-based (large families) and based on the communal group. Roma minors therefore rarely arrive in France without close relatives (even if they are "isolated" in the legal sense of the term) and, when it does occur it is usually because the young people concerned are the victims of family – and therefore community – breakdown in the country of origin, with a history of petty delinquency.

Different situations prevail for the Roma children studied by Hors la rue:

- young people participating in the family economy, who bring in money nearly every day (busking, selling papers, petty theft...), with no physical or moral abuse;
- young people whose family is seeking to enrol them in school or who are enrolled already;
- young people cut off from their family network, often from urban communities in southern and eastern Romania who develop into small gangs, living sometimes in a hostel or on their own patch (away from other occupants) and who live exclusively off the proceeds of theft (mobile phones and wallets). For this latter group, a placement can lead to their finding some stability and escaping from an environment or contacts who put them at risk, and/or to their renewing contact with school. Some adapt perfectly to this home-style life, others last only a few months, with many taking off during the day;
- young people at risk, often minors under 13, subject to exploitation, and sometimes violence, for whom notification and protective measures are necessary (the association notes that these situations are marginal).

Roma minors classed as "legally isolated" – with no parent in France but under the protection of a close relative – are not necessarily at risk if they live in a stable situation, attend school and live in suitably hygienic conditions. Likewise some children can be exposed to different risks even though they live with a parent: their parents roam between France, Romania, or even a third country in the EU, moving from town to town or country to country following odd jobs, or after deportation, leaving their child behind with the hope that he or she will manage to fend for himself or herself either temporarily or permanently in squats or campsites.

Then there are parents who are around more or less all the time but who are incapable of getting their children schooled, and affording them suitable protection, because of material, physical or psychological problems.

It is quite common for these young people to find themselves brutally thrust into isolation or to be at risk following parental deportation, parents' return to Romania or parents spending time in prison... The confusing conduct of police operations, with collective deportations from places

¹²⁰ Hors la rue, Summary of activities 2007: "Establishing common law guidelines for, and in support of, at-risk, isolated or badly mentored foreign minors"; <http://www.horslarue.org>.

where Roma live, even from French national territory altogether, with these sometimes carried out by surprise very early in the morning and in a violent fashion, has sometimes led to families being separated, so that young people end up being forgotten and isolated. The Parada Association has witnessed several instances of this type in 2007.

➤ **Association Parada – Saint-Denis – 10th October 2007**

Wednesday, 10th October 2007, 11 o'clock: CG, coordinator of Parada's Roma project, called to tell me that the Hanul *bis* site (as we call it), a little shanty town in Saint-Denis, is reported to have been cleared in the early morning. [...] As we get closer, we notice that the caravans are all still there but deserted; all the people who lived there have taken off, with just a few police officers in vans remaining along with animal control officers. [...] Some movement occurs behind us [...]. We catch sight of a young man emerging from the site where he must have been hiding. His fearful look touches us and we ask him his name in Romanian. Shocked, and not sure if he is allowed to answer or not, – the police try to push him away from us -, he answers in a low voice. We don't catch it and try to ask him his name again, but a police officer prevents us from talking to him. We tell them he is young, frightened and **alone**, that there's no way he could understand what's happening to him: the rest of his folk took off a while ago, he doesn't speak French... I suggest to an officer that they let me sit in the van with him now that they're so keen on locking him in it, just so that I can talk to him, reassure him, whatever...Not allowed to do anything for him, we ask what will happen to the boy now: will he rejoin his parents ? Will he be put in a refuge? They only tell us he'll be at the police station for a while. What will happen to him then? No one will tell us anything.

Throughout our time there a tow truck was removing vehicles one by one only hours after the people had been removed

[...]

Parada investigated what had happened to the child left behind in that roundup. When we contacted Child Welfare, we found out that this 10-year old boy was not the only one and that three teenagers were also in the same situation (14, 16 and 17 years).

All four of these children were kept at the police station all day, with each one finally being taken to a different refuge during the evening: to Bondy, Villepinte, Montreuil-sous-Bois and Épinay-sur-Seine. Everyone of them was taken to their youth refuge with their escorting police officers explaining to reception staff that they were alone; there was no explanation of their situation, nor were staff told about what they had lived through that day.

The youngest and the oldest absconded during the night and are currently being sought.

The young 16-year old girl left the refuge this morning saying she was going to find her brother who lives in Saint-Denis (since she is older than 16 and gave notice of her departure, she is fully within her rights to do so). Lastly, the 14-year old girl has reportedly been taken into care by Child Welfare and left with a carer during the afternoon. And so we have a total of four minors left behind in a roundup with one of them still at large.

➤ **Association Parada – Paris, Porte de Clichy – 20th December 2007**

Yesterday, Thursday 20th December, following a request from the owner (the SNCF-French National Railways), law enforcement authorities reclaimed a squat from about twenty Romanian Roma. ASET and Parada remained at the squat all day expecting the families to come back for their things. Nothing happened – now the squat is locked up. Despite our repeated attempts, there has been no communication from Paris police headquarters. Three children escaped the police operation, those who had gone to school. Naturally we picked them up at the end of the school day. Otherwise they would have been left to fend for themselves...

Lastly, concerning the specific situation of isolated Romanian minors, some of them of Roma origin, we ought to point out that in February 2007 a new accord was signed between France and Romania, which represents a major backward step in the protection of minors. This agreement, which has not yet been ratified thanks to the mobilisation of some thirty organizations, foreshadows amongst other things that the public prosecutor's office, and no longer just magistrates in the juvenile court, will be able to initiate repatriation proceedings against isolated Romanian minors on the mere say so of the Romanian authorities, without any enquiry being undertaken into the young person's family.

Hors la rue denounces a measure "clearly designed to manage migrant inflows by ignoring the fundamental principle of protecting children". Furthermore, repatriations carried out under the previous 2002 agreement have never been evaluated; that is why Hors la rue, with the support of various regional councils, has in 2008 undertaken a qualitative study into the fate of young Romanians subject to an assisted repatriation from ANAEM and those who were unassisted, requesting the government to suspend ratification of the new agreement until results of the evaluation are released.

4) School attendance

Education is compulsory for children of both sexes between the ages of 6 and 16, both French and foreign, from the moment they begin living on French territory (article L. 131-1 in the first chapter in the Code of education, and article 28 of the International Convention on the Rights of the Child)¹²¹.

Despite objections made about Roma children, this obligation to admit children to educational institutions applies equally to:

- children recently arrived in France;
- children whose parents enjoy irregular residence or who are considered tourists;
- children living temporarily in a commune.

Furthermore, we also need to highlight the fact that "compulsory schooling should preferably occur in educational establishments" (article L. 122-1 of the Code of education), which means that the prompt provision of parallel classes to Roma families newly arrived at campsites, does not exempt the public authorities from quickly organizing the enrolment of Roma children in public schools.

Following this restatement of basic principles, required all too often unfortunately, we also need to emphasize what access to schooling means for Roma children in terms of social, cultural and ultimately professional integration, which explains why this measure is often a priority for their families and activists who support them.

¹²¹ Children's right to education is also recognized by international norms and the French constitution:

- by the International Pact on economic, social and cultural rights signed in New York on the 16th

December 1966, one of the terms of which: "The States Parties to the present Covenant recognize the right of everyone 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." (Art. 13)

- from the European Convention on the Protection of Human Rights and Fundamental Freedoms, in which art. 2 of protocol no. 1 states: "No one can be denied the right to an education."
- from the 1946 Constitution, which forcefully states in paragraph 13 of its preamble: "The nation guarantees equal access to education, professional; training and culture to children and adults"

The great majority of Roma families aspire to schooling for their children, contrary to what is often believed. A portion of parents has been fully or partly educated in Romania. Others have not had the opportunity. So most families understand the importance of schooling for their children. Once their living conditions have improved a little, or even a lot, schooling becomes the norm. Such is the case in Tours, where families have been taken in hand by the city council, first at a converted site and then in public housing :

➤ **Collectif Pont-aux-Oies de Tours (Pont-aux-Oies Collective in Tours) – Start of new school year 2008**

Last year all the children attended school. In spite of absenteeism, staff at the Centre communal d'action sociale (CCAS) highlighted some progress: families themselves have enrolled their children in school; the year has gone rather well but for some problems with transport. Access to housing and the proximity of public transport should from now on facilitate the children's attendance at school. As it happens, the start of the new school year went off very well, with all the children now enrolled and limited absenteeism.

The obstacles described below do hamper the children's schooling; but most of the time the parents find a way, in the face of great difficulty, to ensure that their children become committed to school. The overall picture after they've been at school for some months is generally positive from all points of view: good attendance, rapid progress, especially in learning French. The contribution school life makes to the lives of Roma children as well as their families hardly needs to be spelt out: "the children become socialised, open to the outside world, come out of their shanty town shell, meet up with other children and other cultures, learn to speak French, to read and write, have at least one hot meal per day, play sport, go on cultural outings, and finally become attached to school despite their living conditions." Following an extensive mobilisation and involvement on the part of teachers and school principals in favour of the integration of Roma children, the Roma situation (their history, their culture, their poor living conditions) is gradually becoming known and is affecting more and more people" (*testimony from the Schooling mission of Médecins du monde in Seine-Saint-Denis – June 2008*).

➤ **Testimony of a school principal – Bobigny (Seine-Saint-Denis) – School year 2007-2008**

The Marcel-Cachin elementary school, in close collaboration with ASET93 (association providing help with the education of Roma), enrolls non-French speaking children, most of whom have not attended school before.

We couldn't be happier with the follow-up and the schooling of these children, both from the point of view of the carrying out of our educational, pedagogical and human mission as a public education establishment and the support their families have provided. Their parents in fact have proven consistent, regular, committed and considerate in their dealings with the school and the teaching staff. Taking care of their learning has afforded staff the opportunity to reflect and to implement plans of action that have been absolutely satisfying.

The integration, achievement and development of the children concerned are real success stories; it's essential that they continue in the calm and dignity that are the entitlement of all people welcomed on French soil.

➤ **Montreuil-sous-Bois (93) – Comité de soutien de la place de la Fraternité [Support committee place de la Fraternité] – School year 2007-2008**

We've had no real problems and the school results were mostly excellent - kids mastering the language, etc. Certainly, the arrival of two Roma children triggered rumours in the school ("they're Gypsies, they've got knives, they'll rob us, they smell bad"), but the school principal took things in hand and now all has worked out for the better.

➤ **Urban area Lyons – CLASSES Collective – End-of-year report on Schooling of Roma children – School year 2006-2007**

Beyond the quantitative results in terms of schooling, we should highlight some very positive outcomes:

- the permanent demand from families (children and parents) for schooling and their active involvement in getting to the Villeurbanne school enrolment service;
- the generous and professional welcome from the great majority of school heads, their staffs, municipal staff, teacher unions and parents of other pupils...
- the willingness of volunteer mentors to step forward whenever a mentoring campaign was announced, and their concern to convey news and keep in contact with families and schools;
- sustained media interest in the children's schooling and in our activity, which partly explains our success;
- regular school attendance from some, including teenage girls, despite all the hurdles;
- and especially the smiles, the looks, the "happiness" of the children, the dads, the mums on those first evenings when they got back from school.

a) Denial of education

Admission to primary school falls under the agreement of the mayors, while at the secondary level students are registered directly through the heads of the schools (public or private). Although they are responsible for compliance with compulsory education laws¹²², not as elected officials but as agents of the State required to enforce the law and to conduct a census of all school-age children living in the municipality, the mayors are in fact the main obstacles to the admission of Roma children to school.

But as the action group CLASSES has quite rightly pointed out when explaining the barriers erected by local communities that prevent children living in slums or squats from registering in school, their enrolment "triggers a process resulting in the recognition of the child and their family. So as long as they are not registered somewhere, the community is not supposed to know about them. As soon as they are registered in any way, the community is consequently very cognizant: if the child goes to school, the community will need to ensure that they are immunized, that they have food for lunch... They may need transportation, and who will pay for the insurance? Moreover, the child — and the parents as well — will no longer remain hidden in the anonymity of a group that keeps its distance in spite of its geographical proximity. They will make friends, teachers will become invested in their education, everything will change, particularly if the family is to be evicted... It is clearly understood that the schooling of children

¹²² Each year, they must compile a list of the children residing in their municipality who are subject to compulsory education provisions (section L 131-6 of the Education Code).

living in squats poses a political problem for communities that goes beyond the question of temporary accommodation.”¹²³

When a mayor fails to meet their obligations, the prefect may order them to apply the law and, if necessary, apply it for them. But if the prefect turns a blind eye or lacks the political courage to act, as sometimes happens, the battle moves to the courts: this was the case at least once in 2007, in Méry-sur-Oise.

Various arguments – none of them legally valid – are advanced in order to avoid enrolling Roma children in school:

- although the law does not require the presentation of proof of residency or a *domiciliation administrative* located within the municipality in order to register a child there, this is often the obstacle encountered at the city hall. On the one hand, the families usually have a *domiciliation administrative* provided by a humanitarian organization (since the CCASs rarely provide this service, even though it is part of their mission), which sometimes has its main office outside the municipality. Moreover, when the squatter settlement is located on land adjacent to another municipality, the mayors pass the buck back and forth, contesting the fact that the Roma are living on their territory;

- other mayors argue that the Roma will not be settling permanently in the municipality and that it is therefore pointless to open a new class that will only be closed later. Quite apart from the fact that compulsory education provisions must take precedence over any considerations of this nature, firstly, the mayors themselves are often responsible for the families having to leave (it is often an application for school enrolment that leads to the issuing of an eviction order), and secondly, in other cases, mayors who have been informed of an impending eviction attempt to drag out the registration process until the whole problem moves to the neighbouring municipality;

- finally, there are particularly serious difficulties in registering Roma children when a sizable community settles in the municipality, as was the case in 2007 in Villeurbanne (see account below). Municipalities point to the lack of resources (e.g. school space and staff) to accommodate the children. The solutions provided by the school inspectorate, enlisting assistance from neighbouring municipalities, are often met with a great deal of reluctance and many months elapse before the children are actually admitted to school. In the case of Villeurbanne, initial contacts were made in early September 2006 and, after a first group of children was enrolled in December, it was not until June 2007 that all the children had been assigned to a school!

➤ **Lyon – the action group CLASSES - 2007-2008 school year**

The law regarding compulsory education is clear: it applies to all children from the ages of 6 to 16 years, regardless of their parents' residency status, legal status or nationality. When people see panhandlers who have young children with them, they often ask, "Why aren't they at school?" Exactly — why aren't they?

The occupants of small squatter settlements try to be invisible; therefore, in order for the children to go to school, they must have been "spotted" by citizens and their parents reassured about the institutions. Then, the children are usually enrolled in the nearest school without any major difficulty. In the case of very large settlements like the one at the Terrain de la Soie in Villeurbanne, with which the action group CLASSES became involved in 2006-2007, the problem is the opposite. The newcomers were identified

¹²³ CLASSES, "Children living in squats have a right to go to school – In Lyon, the organization CLASSES works to facilitate the schooling of Roma children", 2008.

immediately, but the presence of around 500 people, including up to 200 children at times, posed special problems, which we will briefly discuss.

This type of housing arrangement poses a specific problem to local authorities responsible for education (*communes* and *départements*): the land where the squats are located is often on the boundary between more than one municipality and more than one national education district. It is impossible simply to assign children to the school catchment area based on the map; this would result in a large number of children being enrolled in nearby schools which do not necessarily have the capacity to take them, and which often already have a significant proportion of children with special challenges. As the French saying goes, if you overload the boat, it's liable to sink. So the schools' capacities in terms of space and teachers (particularly special needs teachers), and their accessibility, either by foot or by public transport, must be taken into account. This planning is not a simple task; it requires the cooperation of many different players, and no set procedures have been established for it. And there is always the possibility that the situation that created the problem will disappear, or at least move to another location, overnight.

Situations in which Roma children are denied schooling remain common in spite of a decision handed down by the Halde in February 2007¹²⁴. The Commission was asked to rule after the mayor of Béziers had refused to enrol fourteen children from Roma families in school in 2006; it held that the mayor's stance was discriminatory.

In Lille, at the start of the 2007 school year, the first Roma children were enrolled without any problem, but it became increasingly difficult to enrol them as the months elapsed. The reason behind this reluctance, it seems, was the fear of creating "ghetto" classes.

In 2007, in Saint-Ouen (Seine-Saint-Denis), a number of organizations (Médecins du monde, LDH, MRAP [Movement Against Racism and for Friendship between Peoples], SNUipp [a teachers' union], CIPF [Federation of Parents' Councils], etc.) attempted for a period of months to enrol around ten Roma children from a slum in the municipality, but they were unsuccessful. The school inspectorate did not exercise its right to force the municipality to fulfil its obligation to provide schooling, and instead chose to pursue negotiations, despite the fact that there was a special class for non-French-speaking children in the local school, and it had sufficient space for them. As a result, Romeurope took the case before the Halde on April 2, 2007. As the situation remained the same on the first day of class, local action groups marched with placards in front of the school, along with the children and their families. Minutes later, the situation was resolved when the teachers' union and the federation of parents went straight to the municipal hall to express their displeasure.

A similar situation arose in Rezé, in the Nantes area, with the mayor refusing to allow three children to be enrolled in school. The LDH sent a press release to the municipal hall threatening to make the release public if the municipality continued to bar the children from school. After three weeks of telephone and email exchanges, the children were enrolled.

In 2007, a municipality in the Lyon area refused to register around ten children in primary school. After numerous interventions over several months, the families were evicted from the squatter settlement where they had been living. Some were scattered throughout the Lyon area and elsewhere, while others agreed to return to their country of origin through an arrangement offered by ANAEM.

In the spring of 2008, at Wimille in the Pas-de-Calais, the mayor also refused to enrol seven primary school aged children, arguing that the problem extended far beyond his municipality

¹²⁴ Decision no. 2007-30 of 12th February 2007, Béziers.

and needed to be dealt with by a higher level of government — the agglomeration community of Boulogne.

Finally, the case of Méry-sur-Oise exemplifies a particularly egregious situation of rejection and discrimination. In 2006, around thirty Roma children from Romania moved with their families onto a piece of land in the Butte de Montarsy area in the municipality of Méry-sur-Oise. At the request of the organization ASET (Schooling Assistance for Roma Children), which had been bringing its mobile school units to the children since October 2006, the education authority decided in December 2006 to accommodate them by creating a half-time teaching position in the municipality. However, until the time of writing, the mayor has continued to put forward a string of wholly unfounded allegations to justify his refusal to enrol the children:

- a lack of suitable classes, despite the fact that specific resources were made available by the school inspectorate;
- a lack of capacity on the part of the school chosen by the inspectorate to accommodate the new students, although this was not confirmed by the school's head mistress;
- the fact that the children have no legal address since the families are living in unstable housing, with no permission to park; this is an appeal to municipal bylaws which have nothing to do with school enrolment;
- alleged uncertainty as to whether the land was actually located in the municipality, even though this was a well-known fact (but it provided several weeks of stalling while a response was awaited from the cadastral service).

The mayor has remained adamant in the face of:

- an impressive series of legal and political actions by the school inspectorate, CASNAV (the Academic Centre for the Education of Newcomers and the Children of Migrants), ASET, and the Support Group for Roma Families in Val-d'Oise and Yvelines. With the assistance of these organizations, the families demanded through numerous letters and in person that their children – around twenty in all – be enrolled in school;
- referral of the case to the Halde on June 19, 2007 by the same Support Group;
- referral of the case to the administrative court in June and July 2007 by ASET and the parents of two of the children;
- referral of the case to the Prefect of Val-d'Oise by ASET's lawyer on September 28, 2007; to date there has been no response;
- referral of the case to the Children's Ombudswoman in May 2008, by Romeurope.

It was not until the end of September that the Roma children in the municipality of Méry-sur-Oise were able to start school.

b) Interruptions in schooling due to evictions, living conditions and the cost of schooling

Quite apart from the obstacles associated with registration, Roma children's schooling is often chaotic as a result of the extremely precarious living conditions in the squats and slums. It is a challenge to attend school regularly when you do not have running water to wash in the morning, electricity for lighting, a place to do your homework, or presentable clothes (it is almost impossible to do laundry at the squat sites when the weather is poor). It is often hard for Roma children to feel as if they belong, simply because of these practical problems.

➤ Saint-Etienne Roma Solidarity Network – 2007-2008 School Year

Here is a concrete everyday example. It's cold and there's no heating. Seven-year-old Darius has to get out of the cosy bed where he sleeps cuddled up with his mother, at around 7:30 a.m. He has to share the

outside toilet with nearly a hundred other people, and there's only cold water for him to wash his face. It's not for the faint of heart!

It doesn't take long to dress, since when it's too cold, people don't get undressed in the first place. Darius has to eat while getting up — not something he's got used to. He always forgets to take a snack along, or he's already eaten it because it was too good to resist ! When school gets out at 11:30, there is not always someone waiting for him. He wolfs down his lunch. The house is too small for him to play inside, so he plays in the hallway or outside. When it's time to go back to school, if he's busy making something, or he's invented a great game with odds and ends he's collected, or his parents have already left, or his little brother is taking his nap...

The expenses associated with schooling are high for families of such limited means. School is not free when you consider the cost of clothing, school supplies, meals and transportation, not to mention extracurricular activities. These expenses get higher and higher as the children go from kindergarten to primary school to secondary school, and they can become a serious obstacle to regular attendance.

Some municipalities help by offering minimum rates, and in some cases social workers in the high schools are able to find partial solutions to these financial problems (e.g. bus passes, cafeteria discounts, bursaries, etc.), and the governments of some *départements* provide transit passes. But these types of assistance are often hard-won, and are far from being universally available. For example, Médecins du Monde's suburban Schooling Mission in Ile-de-France found that free or discounted cafeteria meals were offered when the families had volunteers with them, but when they were alone, they were asked to pay full price. A frequent difficulty is the requirement to show a notice of non-taxation with the dependents' allowance, which is used as a basis for calculating the cost of meals and extracurricular activities.

Sometimes children stop going to school because the school they have been assigned to is too far from the area where their family lives, which is often a long way from the centre of town and not served by school buses. And, where the schools are accessible, the cost of transportation is often prohibitive.

Schooling is also interrupted as families are repeatedly evicted from the squatter settlements and taken back to the border. Then the whole process of integrating into school, in which so much effort has been invested by the families, the humanitarian organizations and the children themselves, must be started all over again. Also, sometimes families are reluctant to leave their children at school for fear of getting separated from them if they are evicted.

In other cases, in order to meet their basic daily needs (e.g. food and care), parents have their children panhandle or sell flowers or newspapers, which brings in some money and allows them to cope with an emergency situation.

➤ **Lyon area – The Action Group CLASSES – 2007-2008 School Year**

In the Lyon area, people have been dispersed by evictions, and we are still unable to locate them because they are afraid. One family, after being evicted from a squat site in February, lived hidden in a woody area on a vacant lot with their children, before returning to Romania. Recently, they called the school the children had been attending before the eviction to say that they would be returning to school.

➤ **Montreuil-sous-Bois (93) – Place de la Fraternité Support Committee – 2007-2008 School Year**

In October 2007, after a number of evictions of dubious legal validity, a family comprised of eight couples with sixteen children between the ages of 1 and 17, set up camp in the aptly-named Place de la Fraternité. As the biting wind swept away the last of the fallen leaves, the family grew increasingly tense. A group of neighbours got together and opened a building that had been vacant for twenty years, and the families moved into it.

[...] Some of the children were already enrolled in schools: three in (language classes for immigrants) (CLIN) and one in a regular class. But since the evictions had put an end to the little that had been accomplished, the children were no longer going to school. Contact had to be made with all the schools once again...

c) The lack of resources made available by the Ministry of National Education

Many of the Roma children who need to be enrolled in school have never been to school either in their country of origin or in France, and their French is weak. If they go directly into primary school, it is difficult for them to integrate into the regular program. As a result, they need to benefit from the special arrangements normally made to enable newly-arrived foreign children to adapt to the French school system.

These arrangements and resources have been strengthened through a series of measures taken in April 2002¹²⁵, in response to a significant increase in the number of foreign young people arriving in France since the late 1990s. They tended to be older than before, and had little or no prior education. The provisions enacted apply to a number of different categories of pupils: foreign pupils, including those who have recently arrived in France (ENAF) and those with no prior schooling (NSA), and children of migrants and of non-sedentary families (whether for cultural or occupational reasons, or as a result of repeated evictions). Roma children living in squats or slums belong to all these categories simultaneously.

There are two arrangements that make it possible for them to integrate 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 flexible (students may be enrolled in them for certain subjects only, and may enter or leave them at any time) and small (with a maximum of 15 students).

CLIN and CLA classes are not always available but are formed where there is a sufficient number of students in the area who require them. In some cases a single teacher is shared between more than one school, which often turns out to be woefully inadequate. In other cases, Roma children are put directly into regular classes without the benefit of the language classes, individual follow-up, or special learning tools and materials they need in order to prevent them from failing and dropping out.

¹²⁵ Circular no. 2002-063 of March 20, 2002: "Conditions for the registration and schooling of foreign pupils at the primary and secondary levels"; Circular no. 2002-102 of 25th April 2002: "Missions and the organization of academic centers for providing education to newcomers and the children of migrants (CASNAV)"; Circular no. 2002-100 of 25th April 2002: "Organization of schooling for pupils newly arrived in France with insufficient command of French or insufficient prior education"; Circular no. 2002-101 of 25th April 2002 "Providing education to children of migrants and non-sedentary families."

In addition to these special classes, a number of measures were announced in the 2002 circulars to organize the integration of pupils newly arrived in France, something from which the Roma children rarely benefit.

First of all, with regard to their assignment to a school, procedures were set out to guarantee that they would be registered in a timely manner — although in reality, the deadlines established are frequently not adhered to. With regard to primary schools, if the head master of a primary school is absolutely unable to admit a child due to lack of space, a report must be sent within three days via the school inspectorate to the Prefect, who is required to take steps to enable the school to admit the child. To our knowledge, no head master has ever carried out this procedure — never, at least, on behalf of Roma children. At the secondary school level, the school inspectorate is required not to allow more than one month to elapse between a registration application and the actual assignment to a school. Once again, however, this deadline is frequently exceeded.

In order to comply with these deadlines, the Ministry of National Education needs to improve its ability to respond in order to adapt to rapidly changing situations.

➤ **Lyon area - The Action Group CLASSES – 2007-2008 School Year**

The first problem is to identify the children involved. This process is never complete, however, since the families are constantly on the move, evicted from their homes or traveling to and from Romania. The Ministry of National Education has trouble in dealing with these challenges as it is extremely difficult to adjust its lists. As a result, in September, there are places set aside for children who have long since left the area, while other children who are actually there in September, have still not been assigned to a school.

Because the school inspectorates are inconsistent in planning for the children, and the various players involved (municipalities, National Education inspectorates, school administration, teachers, etc.) are unreliably informed, time and energy are constantly being wasted, children are turned away one after the other, and there is great uncertainty as to whether a given child will be able to actually start school at the proper time, in spite of official declarations to the contrary.

A review of the current situation needs to be made with support from CASNAV in order to ensure that children are assigned to the most appropriate schools and classes. Unfortunately, this is not done at all consistently.

More generally, along with the special attention required to integrate new arrivals into primary and secondary schools, institutions are not giving the kinds of special attention set out in the legal provisions to help students and families understand how the school system works (including schedules, lunch arrangements, access to various services, roles of the different professionals at the school). Introductory material for families is available in some languages, but never in Romanian or Romani. In many cases, in order to make up for this lack of resources, action groups and support committees have put in place programs to help children and their families navigate through this unfamiliar territory. However, the support and advocacy offered by these volunteers, many of whom devote the equivalent of full-time hours to this work, is all provided for under the policy on integrating newly-arrived students, which the Ministry of National Education is supposed to be implementing.

➤ **Saint-Etienne Roma Solidarity – 2007-2008 School Year**

We have made connections with the various schools and teachers; sometimes we accompany the children to school; we take an interest in their work and encourage them; where possible, we translate notes from the school; we provide further explanations of how the school system works and remind families that school is compulsory; we spend a great deal of time talking with the families, organize extracurricular activities at the recreation centre, organize activities where the families are living to encourage them to get out of the squats, provide families with assistance in getting organized, having their children immunized and obtaining school insurance; we have taken families to buy clothing and shoes...

Every Tuesday evening after school, we go to the Beaulieu recreation centre. Initially, we wanted to organize tutoring for primary school children, but since there were not enough of us to accommodate them all, we had to change our plans. Now we provide activities that are primarily for fun, but also educational. Children are expected to follow some basic rules: hands must be washed before snacks, which are shared in a friendly, respectful atmosphere, and everyone has to help tidy up the room and put things away. The games may be borrowed, and the children must ask before using them and put them away when they are finished. We arrive on time and leave together.

When you live in a squatter settlement where everyone must share a single tap, virtually all the housework is done by the women, toys are highly sought-after and quickly broken, and life is constantly changing, these rules are not necessarily familiar, and it may not be easy to make them part of the routine. As we observe how hard it is for the children to learn them, we can imagine how difficult it is for them to integrate into the school system if they have not been going to school since kindergarten. We believe this kind of activity, with people who are well-known to the children and their families, can facilitate the transition into the school system.

➤ **Médecins du Monde, suburbs [Ile-de-France] – Schooling Mission – 2007-2008 School Year**

Our approach also focuses on monitoring the children's learning and their integration into the school:

- Contacting the school after the first week to see how they are doing;
- Checking to see if there are attendance problems;
- Checking for issues of racism and violence among the children (does the school do anything to raise awareness of these issues?);
- Contacting the families and the children themselves to make sure everything is going well and they are happy;
- Acting as a liaison between the school and the families, without taking on the parents' role;
- Encouraging the children to participate in as many extracurricular activities as possible (and field trips, end-of-year performances, etc.);
- Calling from time to time to see whether the children are making progress, providing interpretation if needed for meetings between the family and the school or the teacher
- Taking the teacher's number or email address to stay in touch (preferable to contact with the head master, who is often not aware of each child's situation and progress).

➤ **ASET 93 – 2007-2008 School Year**

We continued to support the families until they were completely confident dealing with the school system, and regularly kept the head masters up to date. The Roma employee was often called upon to act as an interpreter and mediator, and to explain to the head masters how the families live. She also provided some of the children with medical care.

d) Denial of schooling to children of an age at which it is not compulsory

Schooling before the age of 6

Even though it has been shown to be to their advantage in terms of their future academic success, school is not compulsory in France for children between the ages of 3 and 6 years. As a result, resources are rarely made available for Roma children of kindergarten age when classes are full, even though kindergarten is just as important for Roma children as it is for the others. It is also crucial in preparing them for primary school and giving them a grounding in French.

➤ **Montreuil-sous-Bois (93) – Place de la Fraternité Support Committee – 2007-2008 School Year**

I'm a great believer in the right to attend kindergarten regardless of whether it's compulsory. When we have a right, we can do what we like with it. If the families don't wish to send their children to kindergarten, fine; but for those who do, it opens doors not only for the children but also for the adults: social outlets, networking with parents, meeting neighbours, working with school parents' associations... In short, I think it is crucial for the adults, since kindergarten is where parents build friendships because they are so close to the children, which is no longer the case in the first year of primary school.

In practice, crèches and drop-in daycare are not available for Roma children due to lack of space and — more importantly — cost. Mothers who work or panhandle have no alternative but to leave their younger children with friends and family.

Schooling and vocational training for youth over the age of 16

The Education Code does not require young people to continue going to school after the age of 16, but it does recognize this as a right, particularly where they have not reached a recognized level of training (Article L. 122-2). Consequently, between the ages of 16 and 18, there must be a valid reason for refusing to enrol students, and this reason must be educational. Lack of space, the reason often given, has nothing to do with the young people's education.

When Roma youth pursue a vocational education, they run up against special difficulties connected with the fact that they are in the same situation as the adults with regard to the right to work: while they may be able to participate in work experience programs under agreements with the schools and maintain their student status (unless they are no longer minors, in which case the owner of the business is entitled to require them to prove that they are living in France legally), it is nearly impossible for them to enrol in a cooperative education program, which requires them to sign an apprenticeship contract. In order to do this, they must apply for a work permit, and it is no secret how unlikely it is that one will be granted as things stand at the moment (see the chapter on the right to work), particularly as remuneration under apprenticeship contracts is almost always below minimum wage.

In addition, most Roma youth do not have access to the programs managed by local missions. They cannot enrol in the training programs funded by the CNASEA or by the region.

As noted by educators in the *Hors la rue* organization, for young people over the age of 16, this lack of prospects for further education or vocational training sometimes leads them to become involved in the underground economy and petty crime.

There are also cases in which students drop out due to the fact that many Roma seem to bypass adolescence, moving directly from childhood into adulthood. The boys want to work with their fathers, and the girls are sometimes getting married and starting to have children by the age of 15 or 16. But when they have regularly attended school since childhood and have built relationships with other teenagers, some want to continue their education if they are given the opportunity.

➤ **Montreuil-sous-Bois (93) – Place de la Fraternité Support Committee – 2007-2008 School Year**

This 17-year-old girl had no luck... We were trying to find a training program for her. She had already started a course with a view to obtaining a CAP (vocational training certificate), so off we went to the local employment office for youth... but apparently it was not for these youth. Nothing could have been clearer: they don't even open a file for Romanians — that keeps things nice and simple! So we turned to the organization *Rues et Cités* ("Streets and Inner Cities"), which found us a program in French and computers, which she successfully completed. In spite of this, her prospects were very poor, and as her school in Romania had kept her place open, she sadly went back.

In concluding this chapter on education, it is no surprise to read in the 2008 report of the European Fundamental Rights Agency that among member states, France is ranked among those with the worst record with regard to education for Roma people.

5) Leisure

Leisure activities for children (games, recreation, sports, cultural and artistic activities, etc.) are not a luxury but a right, which is recognized by the International Convention on the Rights of the Child (Article 31).

Children from Roma families living in squats often have no access to recreation centres, sports clubs, music schools, and so on. Children from a number of cities were able to go to summer camps, with assistance from various sources, but this is still the exception rather than the rule. Too many children still spend their summers at their squats or in shelters.

Thanks to the work of various organizations in some locations, including Seine-Saint-Denis with the organization Parada, cultural and artistic activities (theatre, circus, music, etc.) have been organized with the youth, who are quick to embrace these activities and put on performances. In Saint-Etienne as well, this aspect of life has been taken very seriously by the Roma Solidarity Network, which organized recreational activities every Wednesday throughout the school year in a room in the Montplaisir squatter settlement that had been specially designated for this purpose (the activities included games, storytelling, clowns, circus performances, readings, films, outings to the park, craft workshops, and gardening).

These experiences now need to be linked to the activities of other, non-Roma children. This is how integration is achieved: after school, the children and teenagers continue to have interactions, creative experiences, a social life. To this end, the government and local communities must take these needs into account, recognizing that they are connected with the children's development. Some municipalities today refuse to treat Roma children as residents except when it comes to school, since in that case, they are legally bound to do so.

➤ **Demands of the CNDH Romeurope**

While immigration policy and its effects on the living conditions of Roma families are generally criticised from the point of view of respect for children's rights, Romeurope also makes some more specific demands:

Education and training

1. **Prompt enrolment of all children in school, with strict regard for compulsory schooling.**
2. Compliance with the right of minors to education before and after compulsory school age (nursery school and after the age of 16).
3. Access to **vocational training** funded at regional level or by the *Centre National pour l'Aménagement des Structures des Exploitations Agricoles* or CNASEA [French National Centre for Farm Planning], and use of the network of **local missions** to provide pathways to integration into the world of work for young people over 16.
4. **Systematic use of measures** for newly-enrolled children whose French is poor and/or who have not been to school in their country of origin: special reception and integration classes (CLIN or *classe d'initiation* and CLA or *classe d'accueil*,) including classes for children who have had no prior schooling (*non scolarisé antérieurement*, NSA), or any other **specially dedicated class**.
5. **The development of a genuine reception and support policy** for these children and their families within the school: systematic assessment of what they have learnt, and the development of contacts and tools to improve mutual understanding between schools and families.
6. To succeed at school, children must be able to access **extracurricular benefits**.
 - Appropriate charges, which may include free **school meals**, below a certain income level.
 - **Help with transport** especially when the child's home is a long way from the school. This may be achieved through the use of special transport or existing services.
 - Provisions for **school insurance**.
 - Easier access to **homework support, school-holiday leisure facilities, and sporting and cultural activities**.
7. The recognition of Romeurope and its members at local level as partners with the state education system and the local authorities.

Child protection

An end to evictions without rehousing. This demand applies above all to families with children. It is unacceptable that newborn babies should be brought up in shanty-towns after they leave the maternity ward.

A commitment by the regional councils, who have responsibility for child protection, by **providing material assistance and above all by establishing measures for social support under ASE**. Initiatives should also be developed to train social workers about the reality, rights and culture of Roma groups.

The abolition of the offence of begging with children and, when such situations are discovered, immediate action to offer social support and material assistance under the *aide sociale à l'enfance* (ASE) – but with improved access to work still remaining the main demand to help families integrate in the longer term.

VI – HOUSING

1) The right to housing

Having a roof over one's head, obtaining housing on a long-term basis means first and foremost regaining the right to life and dignity. It means entering the regime of existing law, and it is also an essential lever to the integration procedures. We can only eliminate illiteracy, provide schooling and give access to employment and health care if we are able to work calmly in a lasting fashion.

Throughout Europe, the right to housing is one of the areas where discrimination against Roma is most visible. Moreover, a specific declaration was made on this issue by the Council of Europe Commissioner for Human Rights and the United Nations Special Reporter on Adequate Housing in October 2007¹²⁶. Attention is drawn to the considerable increase in the number of forced expulsions of Roma over the last few years, as well as the intensification of segregation and the creation of "ghettos" as regards accommodation. The European Union Agency for Fundamental Rights also recognises that "the Roma, the Sinti and Travellers are among the most vulnerable groups as regards their accommodation conditions" because of the conspicuous discrimination of which they are victims and the forced expulsions.¹²⁷

In France more particularly, the overall accommodation situation is such that a recent report by the Council of Europe European Committee of Social Rights goes so far as to recognise France guilty of infringing the right to accommodation as defined by the European Social Charter that our country ratified in 1961. In this national context, the still new framework of the DALO law¹²⁸ is supposed to constitute additional protection for persons without accommodation or with poor accommodation, at least those who are in line with the law. The question whether the Roma who have become European citizens have an enforceable right to accommodation or not is complex, because it depends on the consideration of their right to temporary residence, though they are not legally obliged to provide a residence permit. In the few cases of European Roma referring to the mediation commissions established by the DALO law, their applications were rejected.

2) The Roma's living conditions in their countries of origin

The Roma from the Balkans and the countries of Central and Eastern Europe have almost all been settled for generations, sometimes for centuries. Their way of life is thus in no way comparable to that of French travellers who essentially move regularly with their caravan homes.

¹²⁶ Joint declaration made on 24 October 2007 by the Council of Europe Commissioner for Human Rights, Mr Thomas Hammarberg and the United Nations Special Rapporteur on Adequate Housing, Mr Miloon Kothari.

¹²⁷ European Union Agency for Fundamental Rights, 2008 Report.

¹²⁸ Law no. 2007-290 of 5 March 2007 establishing the enforceable right to accommodation, and containing various measures in favour of social cohesion.

Though the Roma use this type of accommodation on rare occasions, they do not live in caravans in their home countries. In the poorest, most remote places, some of them live in tents; but more often than not they live in houses made of cob on hard ground, in wooden huts or uncomfortable makeshift shelters. Water often comes from a communal well, or less often from an individual well. Electricity is obtained via makeshift installations. Liquid waste is not collected. There are no toilets, only little huts with holes inside. Some families have a real little house, generally modest, but with water and electricity, and less frequently drainage. In town, there are families living in flats, which are often quite dilapidated.

These huts, houses and flats are generally situated in isolated places, on the outskirts of towns or often in country villages. Sometimes they constitute real ghettos. The Roma's living conditions thus largely contribute to the discrimination of which they are victims.

If the families who have emigrated have not sold their homes because they have no intention of returning, they often own a small property of this kind in their country of origin where those who have not made the journey live, and in particular elderly or handicapped parents.

Their housing demands in France are still very modest, although the ideal of a furnished detached house remains.

3) Living conditions in the squats and on sites in France

Because of the difficulties of obtaining any type of accommodation or lodging, the Roma families find shelter themselves:

- Old dilapidated caravans which cannot be trailed (and which in any case are not intended for a nomadic life-style – see the previous remark on the distinction between migrant Roma and travellers);
- Makeshift homes built of planks, old bags, cardboard boxes, tarpaulin, various salvaged material, often leant against caravans, creating real shanty towns;
- Squats (occupying “available” premises and/or not intended to be used as housing) whose quality depends much on the initial state of the building. In certain cases, if they manage to stay long enough, this solution may provide satisfactory living conditions, with clean flats that are correctly equipped, well maintained and returned to their original state by the families. They constitute undeniable integration factors. On the other hand, squats may offer dangerous living conditions in dilapidated buildings with no facilities;
- Lodging with friends or family, in a hotel, or even rented accommodation. But some “sleep traders” take advantage of the situation to extort rents that are several times higher than the normal rates, and even exorbitant expenses simply for visiting flats.

Everywhere the same observation can be made: degrading living conditions, together with the constant threat of expulsion by the local authorities to transfer the problem to another area.

➤ **Médecins du Monde, PACA district – Visit to a squat in Marseille – October 2007**

This squat, a living area occupied by thirty people, including eight children, is insalubrious and unsafe. The electricity is connected in an unofficial way, and the installation is dangerous. Water is supplied by a fire hydrant situated 300 metres away. There are no toilets or showers. Rubbish covers the site. There is no rubbish collection. The courtyard is scattered with scrap iron and used batteries. We noticed that there were rats and insects as well as pollution risks. The children play in this environment.

a) Sanitary facilities

The lack of sanitary facilities is the aspect the Roma find hardest to live with, and the first thing they ask for. On some sites, depending on what the ground is like, they are sometimes able to dig holes that they surround with planks of wood to make a toilet hut. On relatively stable sites, some associations (“Toilettes du monde” (World Toilets), “Coup de main” (Helping Hand) thus install composting toilets as a priority and, when possible (notably when there is running water), toilet/shower blocks as well. But in town, where such makeshift installations are impossible, the situation is dramatic and humiliating. The persons concerned are obliged to go to hidden spots during the night where people sometimes see them and criticise them, saying they have no dignity.

b) Water

In general there is only one water supply point on sites, for groups of between a hundred and two hundred people. What is more, the water supply point is often situated away from the site. And depriving the Roma of water is sometimes a strategy used by the municipalities to make them leave. Thus, in June 2008, Médecins du Monde had to intervene in the town of Lyons, where the water was deliberately cut off from a fire hydrant where the Roma who were settled on a neighbouring site came to fetch supplies. The water was turned on again, but the Roma were removed from the site the following month. In the Val-d’Oise *département* (Île-de-France region), the Roma who go to fetch water must very often pay fines, under different pretexts and notably because it is forbidden to drive on the paths leading to their sites or because policemen are permanently positioned nearby to check on their vehicles. In some places, the municipal police report them when they fill their water containers at the only available water supply points, the cemeteries. They then plunge knives into their containers with knives (“because it is not drinking water!”).

➤ **Médecins du Monde (Île-de-France region) – Frépillon (Val-d’Oise *département*) – August 2007**

Since the beginning of the summer, vehicles are not permitted to use the local paths leading to the site. Every time the Roma use a car to leave the site, a municipal police car appears from nowhere! The police then give the driver a fine of 22 euros! They do the same for people using bicycles. And now they are even giving fines of 4 euros to those who go to fetch water on foot ... So, a container of water “from a fire hydrant” fetched one kilometre away costs 8 euros! This leaves me completely speechless!

c) Electricity and heating

There is no access to electricity either, except via dangerous makeshift installations. Providing light with a candle is also risky. Every winter, the Médecins du Monde teams observe burns, particularly on children.

The most common form of heating is a calor gas hotplate that is permanently alight, sometimes placed on the ground, with the risks that that entails for children who live and play nearby. Some people manage to construct wood-burning stoves, with salvaged metal tubes used as a chimney, but the smoke often comes back into the hut, making the air unbreathable.

➤ **Blackmailing with the threat of turning the heating off, with the winter approaching – “Solidarité Roms” association, Saint-Etienne – October 2007**

At the beginning of August, the town council evacuated the Béraud squat and concentrated all the families in Montplaisir by opening up the former primary school (Roma families were already occupying the former nursery school). Now, the town council wants to group everybody together in the former nursery school

and it has found a way of getting twenty-five human beings to live together (several families) in each room: by blackmailing them with the threat of turning the heating off, with the winter approaching. How could they dare to even think of such a thing!

For a month now the (electrical) heating has been turned off. "We will turn the heating on again if you agree to be concentrated in the nursery school rooms."

They even have the audacity to put forward safety concerns! Yes, evidently with twenty-five per room, like cattle, with blankets hung up to separate the families, "safety" is guaranteed as far as the fire risk is concerned. Moreover, with twenty-five per room, do they really still need heating? And living in the dark, as they are today (for the lack of heating means they try to heat themselves up with any electrical apparatus and the electricity switches off all the time); perhaps that is what they call "safety". What does the town council want exactly? It wants the Roma families to leave, by whatever means necessary, even the worst. That is the idea that the Saint-Etienne town council has of these persons' dignity. During a demonstration in front of the town hall, the Roma families brandished a banderole that said: "We are not animals" - an obvious fact that had to be brought to the town's first magistrate's attention.

These means of heating and lighting clearly present permanent risks. In 2007 and 2008, as in the preceding years, there were a series of fires that were in some cases fatal. We will just list those in the Île-de-France region: rue Campra in Saint-Denis on 10th March 2007 (three victims: two deaths and one person severely handicapped); Palaiseau; Réau; Aubervilliers on 28 June 2007; Saint-Ouen quay in Saint-Denis in May 2008; and more recently rue Dombasle in Montreuil-sous-Bois, on 24 July 2008, etc.

Following the fire in Aubervilliers, Romeurope disseminated a press report and met the Île-de-France region prefect on 18 July 2007, with the aim of making people aware of the dangerousness of the situation and the steps to be taken. Nothing came of this interview.

➤ **OQTF to comfort the victims of the Aubervilliers fire - June 2007**

There was a fire, caused accidentally, on the night of 28 to 29 June in Aubervilliers, on the site situated in quay Jean-Marie-Tjibaou, where the A86 motorway goes over the canal. Fortunately, there were no victims but an enormous amount of stress and psychological trauma.

At the beginning of the afternoon of 29th, three cars arrived with policemen in civil clothing. They called the persons concerned into their vehicles one after the other and questioned them very briefly before handing them an order to leave French territory. The Roma responded to the summons naïvely, thinking it was an inquiry about the fire.

These families were thus victims twice over, victims of a fire that destroyed their place of abode and of a legal document ordering them to leave France. They are completely lost.

To complete the description of the facts, we should mention the despicable attitude of the media. They merely reported on the disruption caused by the fire on the RER B line, without mentioning the families at all.

d) No public utilities

Even when the families can remain in one place for a relatively long time, they do not have any of the public utilities provided for the commune's other inhabitants. The post is not distributed by the Postal Service, the social assistants in the area do not carry out home visits and there is no rubbish collection, or not often.

The final example has serious consequences, for the rubbish, that is often there already before the Roma arrive on the abandoned sites, is scattered over the ground or builds up in enormous piles, which causes real health risks. As the rubbish is not collected regularly by the municipality, or not collected in a satisfactory way, the situation gets worse by the day. That explains the proliferation of rats in many of the living places.

e) Often in outlying areas

The squats are spread out in the town centres, but the camps are situated above all on the outskirts of large towns (Paris, Lyons, Marseille, Lille, Nantes, Saint-Etienne, Bordeaux, Toulouse etc). In some *départements* such as Val-d'Oise, the Roma are pushed farther and farther onto farming land or into the middle of forests. This situation of isolation makes the families' daily life even more difficult.

4) Expelled from their places of abode

Since the entry into the European Union of Romania and Bulgaria, the home countries of most of the Roma, because the authorities cannot remove them all from French territory by legal means, and so as to force them to return "voluntarily", the Romeuropa group has observed an intimidation and harassment strategy being implemented: the Roma are systematically expelled from their living areas by numerous policemen who are often violent. This creates a climate of terror among the families.

The extraordinary extent of the State's intervention is shown by the eighty expulsions of squats or sites that have been registered (presented in appendix no. 6). The most noteworthy among them took place between the 1st January 2007 and the 30th June 2008. However, this list is not comprehensive. Other expulsions have taken place that either concerned fewer people or else groups that were not well known by the support associations and support groups, and about which we were not informed. The size of the phenomenon is therefore much greater than what appears in our report. The expulsions concerned between fifteen and 600 people. In two-thirds of the cases, they concerned groups of more than fifty people, and half of them were often children. In some places, the successive evacuations recorded concerned roughly the same group, that was pushed from place to place during the year.

a) The different strategies implemented to evacuate the Roma's living areas

Site evacuations together with measures to remove the Roma from French territory and humanitarian return measures

From August 2007 onwards, the evacuations of squats or shanty towns very frequently included the distribution of APRFs, as well as an intervention by the ANAEM that had come to propose (or rather impose!) a humanitarian return. It is therefore difficult to treat the two aspects separately. In the list of evacuations in appendix no. 6, the comment "removal measures" means that Orders to leave French territory and/or Prefectural Removal Orders were distributed to the families either before, during or after the evacuation, and that there was almost always a proposal (obligation) of assistance for humanitarian return by the ANAEM. (The proposal was often simultaneous and made in the conditions described in the chapter "Right of residence"). In some cases, the humanitarian return operations were all that was needed to empty the sites where the Roma had set up home, without any need of an expulsion procedure.

Expulsions following a legal decision

These expulsions follow an order by the court to which the owner of the site has referred his case. When the owner is an individual, sometimes his request is greatly influenced by the local authorities. Thus, in the spring of 2008 in Meudon, in the Hauts-de-Seine *département*, the individual owner of a site where Roma families had set up home, who did not wish to start an expulsion procedure immediately, was obliged to do so by the town council which made this a condition for granting him a building permit.

Moreover, the reasons given by the courts for authorising an expulsion are often very questionable. As an example, on a site between Gonesse and Bonneuil-en-France, the judge's expulsion order was based on a note from the prefecture of the Val-d'Oise *département* that referred to a health diagnosis that had apparently been carried out by Médecins du Monde. In actual fact, Médecins du Monde never carried out a health diagnosis on the site. This was therefore a case of deception that was particularly serious and shocking as the note had been signed by the prefect himself.

Sometimes the court grants an extension of time before its decision becomes enforceable. After this time limit, the prefecture, if it has not already made the Roma leave using intimidation (see below), it decides to mobilise the police and proceed with the expulsion. But the time limit fixed by the court is not always respected. This was the case for example when the collective expulsion of the "La Papotière" site was carried out in Nantes on 4 July 2008 (the final day of the Human Rights Third World Forum in that town!). The order to leave the site was not communicated to the families beforehand and the two months' time limit granted by the court was not respected. The families, expelled early in the morning, with young children and people who were ill, were left on the side of the road, helpless, without any place to take refuge. In Bobigny, also in June 2008, while the court had not yet made its decision, a notice translated into Romanian was put up in the site on rue Gosciny, informing the inhabitants of the shanty town that they had to leave the site from 22 June.

Illegal expulsions by the police

While certain aspects of the expulsion procedures are not always respected, in some cases the police do not bother with any procedure at all.

➤ **Médecins du Monde Nantes – October 2007**

After the expulsion from the Souillarderie of about fifteen families on 3rd October 2007, twenty families were removed from the "Port autonome" port in Chantenay on 24 October. In both cases, the expulsion was carried out by the police, without any prior judgment following an expulsion procedure (no trace of judgment was found, or served notice of by a bailiff).

After the evacuation of the "Port autonome" port on 24th October, ten or so families took refuge with their caravans under the Cheviré bridge. The same day, the police told them that "if they were not gone the next day, they would come to destroy their caravans". The police expelled them again in the middle of the night, at midnight. The families left again, with women and children, trailing their dilapidated caravans in search of a new site. One family, with four children who attended school and the mother who had just undergone a Caesarean section at the hospital, did not know where to spend the night. The social assistants from the hospital, who were very shocked, were unable to obtain emergency accommodation for them. To obtain such accommodation, the family would have been forced to accept "return assistance".

Expulsions on the pretext of insecurity or insalubrity

Prefects may decide to carry out an expulsion without any prior decision by the court if they consider that there is a risk of public disturbance or insalubrity. In this case, they just need to send a letter to the public prosecutor. Sometimes the insalubrity is "organised". Either the Roma are forced to set up home on a polluted site, or the rubbish is left to build up on the site and it really becomes insalubrious.

Expulsions by intimidation

In numerous cases, the Roma leave their living areas because of threats and fear. The intimidation is carried out by the police and/or the other inhabitants. Different examples have been observed:

- Very often, when an expulsion order is given, whether it is enforceable or not, the **police** go daily to the site and inform the families of a date before which they must have left the site. They accompany these words with threats to destroy their caravans or possessions if they refuse to obey. This was the case for example before the evacuation of a squat on rue Jean-Aleman in Saint-Etienne, in May 2008. At the same time the expulsion procedure was going ahead, the police visited the squat and proffered threats every day: "If you are not gone on such and such a date, you will be evacuated. You will be out on the streets and your children will be placed in a home, etc."
- Sometimes the police carry out such harassment without any expulsion procedure having been started. They hope to make the families leave more quickly using pressure than by going through the courts. In some cases, a few arrests make the threat even more specific. More often than not, the Roma are distressed and obey, and when they leave the site they are pursued by policemen who prevent them from settling in another place, at least until they have left the area for which the policemen are responsible. In Créteil (*département* no. 94), in the spring of 2007, the police came to take a census of the Roma every week, on a site situated in avenue Pasteur-Valléry-Radot. Each time they came, they ordered the Roma to leave. However, no expulsion procedure had been started or requested by the owners.
- In the Val d'Oise *département*, a policy of systematic harassment was organised by the prefecture in collaboration with the municipalities. On 8 June 2007, the prefect brought together all the mayors concerned by the presence of the Roma (Pierrelaye, Bessancourt, Saint-Ouen-l'Aumône, Méry, Frépillon and Cergy) as well as farmers. They had all observed that the repeated expulsions did not solve the problem, that the Roma just moved several hundred metres away. It was thus recommended to do everything necessary to discourage them from settling in the *département*: increase inquiries by the police and the gendarmerie; forbid use of the forest paths leading to the sites so that the Roma pay fines every time they enter or leave the site; plough up the farming land on which the Roma would be likely to choose to settle, etc. The implementation of this policy (police inspections at dawn, distribution of Orders to leave French territory and Prefectural Removal Orders, the closure of the nearest water supply points, fining for use of the paths leading to the sites, etc.) had dramatic consequences for the families' living conditions. Added to that was the permanent harassment and shows of hostility by persons who had no doubt been led on by the municipalities. The associations and militants supporting the families were also set upon and received anonymous letters.

➤ **Médecins du Monde Toulouse – January 2007**

In Toulouse, the Roma from Romania were expelled several times from the sites on which they had settled and there was police intimidation: numerous visits, photos taken, threats etc. For example, in January 2007 on a disused site at the edge of a bypass (a former AFPA (association for the professional training of adults) site destroyed by the explosion of the AZF factory), sixty people had set up home. A police operation that caused windows to be smashed, caravan doors to be destroyed and very forceful

orders to leave the site were enough to scare the families, who took fright and left the site. The Roma thus set up home a little farther away on a State site, where they were again threatened, then on another site, the car-park of a former factory that had exploded during the AZF accident.

Displays of hostility by the **inhabitants** also contribute to make the families feel unsafe and oblige them to move. In Montreuil-sous-Bois, rue de la Beaune, at the beginning of the month of August 2007, thirty or so neighbours carried out serious violent offences against families living in a house one night. The Roma decided to leave the house the very next morning, and they did not go back. They also refused to testify at the police station for fear of reprisals.

In Marseille, at least three times in the spring of 2008, Roma were moved from their places of abode without any legal procedure. The places concerned were the Aygalades site and different buildings where squatters were living on rue Jullien and rue Pyat. A bulldozer and lorries started demolition work while the buildings were still occupied by the families. The building firm (commissioned by the town council) itself took it into its hands to bring pressure to bear on the occupants in order to make them leave.

b) Expulsions that do not respect the right to accommodation

Even when the expulsions respect legal procedure, they are not legitimate or even legal if we take account of the rights that could be claimed by the families. The expulsions totally infringe the right to accommodation as recognised by the international texts (the international Pact relating to economic, social and cultural rights, the European Social Charter, the European Convention on Human Rights, etc.) and by our Constitution.

Moreover, a recent order by the Regional Court in Pontoise dated 30th June 2008 recalled the real effect of these texts that make the right to housing “a principle with constitutional value, enforceable in the same way as the right to property”. The court thus dismissed an application by the Île-de-France region’s Agency of Green Areas (“Agence des espaces verts”) that was requesting an expulsion order to remove the Roma families from the sites on which they were installed in Montmagny (*département* no. 95), within 24 hours, with the police’s assistance if required, and with a coercive fine of 200 euros per day. The reasons of this judgment deserve to be written down in their entirety:

➤ Pontoise Regional Court – Judge’s Order no. 08/00590 of 30 June 2008 (etc.)

“Whereas it emerges from the above-mentioned photographs that, **if the defendants’ installations are most precarious, they nonetheless constitute their family homes.** This is corroborated by the list of persons residing on the site submitted by the defendant and showing that there are several families present on the site, that represent a total of 21 persons;

Whereas firstly the documents submitted by the applicant do not establish **any urgency for evacuating the families living in this place;**

Whereas secondly, **no possible solution for re-housing the families has been found at this stage or even mentioned, while the right to accommodation is a constitutional principle, that is enforceable in the same way as the right to property;**

Whereas in addition, in application of Article 8 of the European Convention on Human Rights, the **European Court of Human Rights** (CONNORS/United Kingdom, 27 May 2004) recalled that “interference in the exercise of the right to respect for private and family life is possible in a democratic society with the aim of attaining a legitimate aim, if it responds to **an urgent social need** and in particular

is proportional to the legitimate aim pursued”; that in the same judgment, the European Court of Human Rights also recalls that **“the vulnerability of the Tsiganes, as they constitute a minority group, implies that special attention should be given to their needs and their particular way of life”**;

Whereas in the present case, the Île-de-France region’s Agency of Green Areas indicated in its texts that the occupied plots of land were in the middle of a restructuring plan aimed at creating a public walking area for the inhabitants, and moreover produces no documents to support these claims, while families from the Roma community are living on the afore-mentioned plots, some of them with very young children born in 2003, 2004, 2006 and 2007; and that the **occupation of these plots of land by the said families cannot in these conditions constitute a manifestly illegal disturbance**” etc.

Expulsions with no re-housing solution

Apart from the few cases where the evacuation from a living area follows a selection process during which some families are chosen to take part in a reception project (see below), no re-housing solution is proposed for the families. At best, several nights in a hotel are offered by the social services for the families with children. This is not really a solution, as it is provisional and not suitable. It makes it possible to try to quieten the protests by the associations and other support bodies defending the families, to lessen the repercussions of the expulsion in the media, and to disperse the families in the *département*. Moreover, these proposals for accommodating families in hotels for several days are often refused by the families, who know they will be out on the streets three days later, without any assistance, and isolated from their community.

Following the expulsion on 29th January 2007 of two hundred and seventy occupants of the rue de Paris site in Bobigny, in the middle of winter, hotel accommodation was proposed. Two weeks later the families were again without shelter and ended up occupying another site on rue Campra, Saint-Denis. In Marseille, at the time of the evacuation of the buildings squatted on rue Pyat (a total of ninety persons) in May 2008, the town council, without any preparation, proposed accommodation at the Madrague Ville Emergency Accommodation Centre (UHU) for a duration of forty-eight hours. A partial offer that was refused by the families. In Nantes, in October 2007, when the Souillarderie sites were evacuated on the 3rd and the Chantenay site on the 24th, the Department Office for Social and Health Affairs (DDASS) had the families told that they would only receive emergency accommodation if they accepted the ANAEM’s return assistance. None of the families was willing to be blackmailed in this way.

Families that wander from place to place

After an expulsion, often groups wander from place to place for several weeks, and are rejected wherever they go. Thus, four families who were living on a site in Villabé, in the Essonne *département*, were expelled three times in the month of February 2008 before being able to settle on an old reception area for travellers in the Seine-et-Marne *département*. Another example: after an expulsion in March 2007, a large group also wandered for a long time between the *départements* of Val-d’Oise and Seine-Saint-Denis: Le Bourget, Gonesse, Saint-Denis, Aulnay-sous-Bois etc. They were followed by the police, they were sometimes chased away in the middle of the night, they hid in the forest etc.

➤ **“Agir avec les Roms” (Acting with the Roma) Association – a series of four expulsions between Boulogne-sur-Mer and Wimereux (département 62) in one month – 2007**

Firstly, the mayor of Boulogne tolerated them settling in a former slaughterhouse (destined to be destroyed) in the town. He even provided them with electricity and permitted them to fetch water at the fire hydrant. The place also had old toilets.

On 16th February 2007, the mayor obtained legal authorisation to expel them. The sub-prefect awaited an improvement in the weather to carry this out on **Tuesday 27th March 2007**, with the police force and heads of emergency accommodation centres. [...]. On Tuesday 27th March in the evening, the emergency accommodation proposals had not been totally successful (only 6 people had accepted them). The local authorities had made no proposals nor tried anything else despite the calls for help by the Human Rights League (LDH) (opening of a sports hall, access to empty flats awaiting demolition two years later). The Roma were almost all left to camp without shelter in the nearest car-park. So that they had at least a minimum amount of protection, with their agreement and that of the local police, we provided them with "dome" tents (Don Quichotte style), a total of 19 of them. On **Wednesday 28th March**, during the day, they were visited by a bailiff who served them notice of an order obliging them to leave this new site or be expelled by the police force. And, in the **evening of 29th March**, the mayor issued an **anti-begging order** for the centre of town and the old town, as well as for the main roads in **Boulogne**.

On the **morning of Friday 29th March**, anticipating the expulsion decision, the Roma left and set up home outside Boulogne, in the **Wimereux** commune, on a coastal conservation site with two blockhouses, a registered site because of the existence of a fort dating from the Napoleonic era. They lived there in tents, without water, electricity or toilets until **Tuesday 10th April**, when they were visited by a bailiff for the second time. He gave them three days to leave the site before commencing an **expulsion** procedure.

The families set up home the very next day, on **11th April 2007**, on an open site, in the little “route d’Honvault” road (**Wimereux** commune). They were unaware that this site, presently still half owned by a private owner and half by the SNCF, was in the process of becoming a Boulogne Town Community site intended for travellers!

On **Friday 13th April 2007**, at about 6 pm, another visit from the bailiff to serve them notice of a new expulsion procedure against them. There are about 70 of them in total, among them 18 children, 6 pregnant women and 2 babies. They have no resources except begging, which they cannot exercise in Boulogne or in Wimereux now. Until when will they be tolerated on the sites? These families will have to face a **fourth expulsion** in one month without the communes concerned and the State having provided even a minimal reception solution.

➤ **Nantes Human Rights League (LDH) – the expulsion from the Papotière site – 4 July 2008**

A scandalous expulsion of about thirty Roma families settled on the “La Papotière” site took place on Friday 4 July, the day after the closure of the Human Rights Third World Forum!

The families confirmed that they certainly never saw any expulsion document (order to leave the site, prefectural order etc.) during the expulsion, despite their request to see such a document.

When we arrived, the area had already been surrounded since 6 am in the morning, when the numerous police officers came onto the site where the families were still sleeping. During this catastrophic day, the police refused categorically to allow any associations to enter the site. No dialogue was possible, nor with the head of the operation, nor with the bailiff.

The day was really trying! Men, women and children (sometimes ill and handicapped, and above all terrified) were quite simply left out on the pavement, not knowing where to go. As the police were there all the time, they no longer dared to move the caravans, fearing that they would be fined and have them confiscated if they tried to drive them away, as was the case in the morning during this unbearable expulsion.

I witnessed the relentlessness of the municipal and national police. They did not stop watching the families intently and several times came to tell the families to leave rapidly. Yes of course, caravans on the pavement of a very busy road and what’s more, whole families out on the streets. What disorder!

As a bonus, an ANAEM coach arrived, which happily left empty! They proposed taking the families to

lunch at the Beaujoire Hotel, and afterwards ...
[...] No solution was proposed by the Mayor's office in Nantes. It was "the responsibility of the prefecture to propose alternative accommodation for these families". Naturally ...[...]. To cut a long story short, after this long day, the families were able to find refuge on another site. Of course, we were followed by the police. Police officers said to one of the men who was clearing the entrance to the site that there was no problem ... ah really? But this "respite" was short-lived, for the very next day one of the families called to tell me that a person from the town council had come to the site to tell them that if they had not evacuated the site by Sunday, there would be a new expulsion on the Monday. Everyone was terrified and asked for the associations to be present on the Monday morning. Fortunately, nothing happened on the Monday morning! (...)

No winter truce for the Roma

These expulsions, even in the framework of a legal decision, do not take account of the winter truce (from 1st November to 15th March)¹²⁸. Theoretically, the winter truce does not apply to people having trespassed (and therefore squatting), but it is generally respected. A quick look at the dates of execution of the expulsions recorded in the table in appendix no. 6 suffices to see that expulsions from squats and sites are carried out during any season.

➤ **Report by the National Human Rights Group Romeurope – 20 December 2007** **THE WINTER EMERGENCY PLAN EXCLUDES THE ROMA**

On Monday 17 December in Marseille, when the Housing Minister was announcing that places were available for the homeless, the police were evacuating a building in rue d'Aubagne occupied by fifty or so Romanian Roma, among them women, elderly people, handicapped people, children and a baby. None of the social services were present and the "SAMU social" had not been contacted.

On Tuesday 18 December, when the Prime Minister was receiving the associations to tell them how important the protection of the homeless was for him during this very cold period, about a hundred Romanians, among them many children, some of them attending school, were expelled from their makeshift homes located in the "passage du Graz", in Saint-Denis (*département* no. 93). Here too, no accommodation proposal was made.

The huts were immediately destroyed. The families found another place nearby where they will have to sleep in the extreme cold while waiting to find the material necessary to build new huts.

That same day in Méry-sur-Oise (*département* no. 95), the police harassed twenty or so families in the *département* so that they would leave their very precarious shelters within 48 hours.

Such decisions are incomprehensible, inhuman and scandalous.

We request that the expulsions be stopped, as part of the winter truce and the "extreme cold" plan, and that the Roma families that are obliged to live in the shanty towns benefit, without discrimination, from the emergency accommodation measures.

Expulsions during which people's possessions are often destroyed

With the police pressure to evacuate the sites as quickly as possible, the families must leave behind most of their possessions, sometimes even their medicine and identity papers. As the Romeurope association regularly points out, these expulsions increase the precariousness that the families live in each time. Thus in Massy-Palaiseau on 2 May 2008, the people had very little time to gather up their possessions, and all the possessions left behind were destroyed by a

¹²⁸ Art. L 613-3 of the code of housing construction

bulldozer. During one expulsion in rue Jean-Alemagne in Saint-Etienne in April 2008, the possessions that the people had not had time to come and collect had to be left in the building that had been bricked up.

➤ **Asav (Association for the reception of travellers) – Saint Denis – 10 October 2007**

At 8 am in the morning on Wednesday this week, I received a phone call from an individual helping a family from the site who told me the police was on the site. He was at work, he could not therefore speak to me for very long and he left me the mobile number of a person on the site. I called. A Romanian teenager of Roma origin (14 years old) replied, whom I knew well. He told me there were numerous police officers there on the site. I told him not to sign anything and to ask the authorities for a Romanian translator. He told me it was too late: all the Roma had already signed and were about to get on the buses.

The police implemented the following plan: they surrounded the site with ten or so CRS vans and seven police vans (traffic had been stopped between the Siemens tower (Pleyel crossroads) and the exit from the site on the other side of the A86 bridge. The site is underneath the A86). There was also a delegate from the sub-prefecture and two buses with fifty-five seats, each with a trailer at the back for the cases.

Family C, that I finally found, was separated from the group of people leaving, to be temporarily accommodated in Vaujours. We obtained authorisation for them to collect their car before it was towed away by the breakdown van. However, despite my intervention, a generator worth 300 euros and weighing nearly 500 kg that had been provided by the “Secours Populaire” did not escape the bulldozers. I also witnessed the destruction of the caravans (twenty-five roughly).

5) Report on how the Roma families are received

a) The entities responsible and the public action plans

According to the local context, different public entities are at the forefront dealing with the migrant Roma issue from the outset. The entity involved may be a municipality (Aubervilliers, Tours, Saint-Michel-sur-Orge, Bagnolet, Fontenay-sous-Bois, Montreuil-sous-Bois at the moment); an urban community (Nantes or Lieusaint for example), a regional council (Val-de-Marne), a region (Île-de-France, via the shanty town eradication plan) or finally the State (Saint-Denis sub-prefecture or the Boulogne-sur-Mer sub-prefecture for example).

Depending on the entities responsible, the action plans and the funds that can be used, as well as the partnerships formed are very different. Here are some examples:

Town of Nantes. All the local communities are involved

In Nantes, as regards the first site in rue Sainte-Luce, Nantes town council dealt with the development of that site, which it leased out to the “Une famille, un toit 44” association (One family, one roof, *département* no. 44) with a one-year renewable contract. The accommodation facilities were purchased by the association with an allowance from the Nantes CCAS and from the Loire-Atlantique regional council. But the regional council then pulled out of the plan. At present, the action is funded by the Nantes CCAS, the Abbé-Pierre Foundation and the DDASS that provides funding with the allowance for temporary accommodation in mobile homes. The Nantes local authority and the county council also accepted to pay for an interpreter-translator under the “emploi tremplin” (springboard job) plan.

In 2007, two other sites (in Sorinières and Cheviré) were set up by Nantes Metropolis (an urban community with twenty-four communes) that paid for the facilities (mobile homes and caravans, as well as sanitary facilities) and created a post of Assignment Head responsible solely for

receiving the Roma in the metropolis. The regional council funds the social monitoring by paying three people from the ACTA-Roms association.

Lieusaint. The local authorities, the urban community and the State

After an initial emergency reception of 50 to 60 families in the Lieusaint commune, the Sénart association of new towns obtained from the Prefect a convention for the implementation of an integration and re-housing programme for the families from April 2002 to April 2007. 39 families were first installed on a temporary site. 33 were able to obtain social accommodation in the 8 communes of the town of Sénart, according to the prefectural quota.

Val-de-Marne. A plan funded exclusively by the regional council

In Val-de-Marne, the regional council was the first and main entity responsible. Its first commitment was to make available, on a provisional basis and free of charge, the premises it owned in Saint-Maur, Vitry-sur-Seine, Villejuif and Joinville-le-Pont (a former police station and houses/ buildings situated on main roads). The regional council also implemented an integration project for the families in the framework of a convention signed with local support committees and lasting until 2007, then another convention with the "Pour loger" association from 2007 onwards, with "Romeurope 94" giving support. This last convention is a three-year agreement with estimated funding of 200,000 euros per year. At the same time, the regional council in the same *département* provided hotel accommodation for an indefinite period for a large number of families under the "Social Assistance for Children" expenditure head ("aide social à l'enfance").

Tours. Municipal management

The Tours municipality, after having installed several Roma families from Kosovo on a former reception area for travellers, has recently, in 2008, re-accommodated these families in fifteen flats in an Adoma home managed by its Local Centre for Social Action (CCAS), and at the same time created a social worker's post specially to help these families.

Bordeaux. A State initiative carried on by the municipality

In Bordeaux, in December 2007, on a site that had to be evacuated, the associations managed, by direct negotiation with the Prefecture, to re-house several families in accommodation approved for the Temporary Housing Allowance (ALT), and whose management is entrusted to the Local Centre for Social Action (CCAS).

Seine-Saint-Denis. Urban and Social Control Units (MOUS)

In some cases, an **Urban and Social Control Unit (MOUS)** may manage the different bodies who are financing the action plan (state and local communities). Such a unit makes it possible to carry out large-scale operations over several years. Urban and Social Control Units are frequently used to head reception and integration projects for French travellers, and for the moment, only in the Île-de-France region are there Urban and Social Control Units for helping migrant Roma populations. That can partly be explained by the motivational character of the **plan for the eradication of shanty towns** set up by the Île-de-France county council in 2005 following several meetings in which Romeurope participated. This plan is aimed explicitly at the Roma. Funding (of 500,000 euros maximum) may be obtained under the plan by the area communities to support their investment expenses for the reception and accommodation of the inhabitants of the shanty towns that have been eradicated (eighty places at the most). Accommodation conditions must comply with the minimal standards in terms of living conditions and individual facilities. But these funds are not sufficiently used at the present time, as it is very difficult to obtain a commitment from the local communities.

Three similar three-year projects are going ahead in the framework of the MOUS's in the Saint-Denis sub-prefecture's jurisdiction.

There was a first reception and integration project supported by a MOUS in **Aubervilliers**. The Aubervilliers municipality wished to undertake, for some of the Roma families in the commune, a suitable housing operation within the framework of an overall integration project. It thus used the county council's grants, and right at the beginning of 2006 it asked the Saint-Denis sub-prefecture to set up a MOUS for a three-year period. As a first step, while awaiting the establishment of the MOUS, the chosen families were given provisional accommodation thanks to the support of the Abbé-Pierre Foundation. The project was really able to take off in March 2007.

A second project then emerged, for which the State was this time responsible, for the inhabitants of the rue Campra site in Saint-Denis. The **Saint-Denis** town council and the Plaine Commune urban community are also involved. The chosen families were installed on a temporary site in November 2007 (thanks to the purchase of caravans by the Abbé Pierre Foundation) while awaiting their indefinite installation.

Finally, a third MOUS project is planned for the inhabitants of the rue Ardoin site in **Saint-Ouen**, again on the initiative of the Saint-Denis sub-prefecture. The State will pay all the investment expenses (estimated at 2.5 million euros) to develop a site belonging to the State and the running expenses will be paid by the Saint-Ouen and Paris town councils as well as the county council. Caravans have again been bought by the Abbé Pierre Foundation to be installed on a temporary site.

Also in Seine-Saint-Denis, the **Bagnolet** town council wished to develop a re-housing operation and an integration project for the people it was housing temporarily in a disused leisure centre. In July 2007, thanks to a grant from the county council, it managed to re-house eighty of them in an Algeco-style workers' home. At the end of 2007, the Pactarim replied to a bid for tenders by the State and was chosen to carry out a MOUS project on this site. For the moment, the project is waiting to be implemented.

Finally, in **Montreuil-sous-Bois**, following a fire in a squat in rue Dombasle in July 2008 and after several meetings the previous months, a steering committee made up of the town's various support bodies and of a councillor who had been involved with the Roma for several years, the new municipality announced very officially in September, in the municipal journal, its intention to implement a MOUS project for Roma families who had been living in the town for several years. Schooling for the children, accommodation for the families and social and professional integration for the beneficiaries were the three stated objectives. The municipality considers the potential beneficiaries to number roughly 200.

b) Different choices that influence the success of a reception project

Collective and individual accommodation alternatives

In many cases, the presence of the families on one site or in one squat results from the fact that no other solution has been found, from the need for safety and the need not to feel isolated rather than being a deliberate decision they have made. The families brought together in this way are not a unified community but a group of people brought together by chance.

That is one of the reasons why, in most of the reception experiences where a whole group has been brought together in one place (whether on a site or in a building), the Roma families, even if effective solidarity has developed between them and even when they are united by family ties, suffer from the lack of privacy. Often, the relations between them, as well as with the social workers who assist them, end up deteriorating. That has been observed several times (Tours, Nantes, Saint-Maur for example). The “Pour loger” association, commissioned to assist the families accommodated by the Val-de-Marne *Conseil Général*, made the following comments about the families staying in the Saint-Maur police station and in the collective houses in Villejuif: *“Several families share the same living space and use the same kitchens and washrooms/ toilets. This shared usage causes a lack of responsibility or diminished responsibility for the area used. In view of the composition of the families, the people are densely concentrated and there is evident overcrowding that makes it more difficult for them to live together. Moreover, the presence of multi-generational families makes it more difficult to have a private life in a unique living area (one room per family).”*

Even if in some cases, for a very short period, in a very temporary way, collective reception may be necessary, it seems more appropriate to deal with each family separately. The experiences such as those in Lieusaint (*département 77*) that have chosen this option have made it possible to integrate the families more rapidly.

The alternatives of choosing families or integrating all the inhabitants of a living area

This is a very delicate question as it confronts practical arguments – the problem of finding adequate solutions to house the inhabitants of shanty towns very rapidly, when there are sometimes several hundred of them - and ethical and legal principles.

Because priority must be given to persons’ dignity, there is really only one acceptable choice: that of the wishes of the persons concerned. Otherwise, whatever the criteria used and the diagnostic methods applied, the choice of certain families and the evacuation of the others will always be considered discretionary and iniquitous. How to justify the fact that some do not have the right to decent accommodation with social assistance? The selection criteria in the case of the Aubervilliers, Saint-Denis and Saint-Ouen projects were thus supposed to depend on the professional integration prospects of those concerned, while also making the project available to some families for humanitarian reasons. An interview table was drawn up; there were reception hours over a three-week period. But the superficial character of the diagnosis (in view of the time limit), the rejection of some families who seemed to satisfy the criteria, the lack of transparency and the lack of communication with the inhabitants of the sites during the diagnostic phase, all contributed to strengthen among them the feeling that this was an arbitrary exercise.

In a context in which the implementation of a local reception policy for the migrant Roma is an exception, it is not easy to criticise the few examples we have seen. However, it seems necessary to us to point out that the reception projects that begin with the expulsion of more than 80% of the inhabitants of a living area, as was the case in Aubervilliers, in Saint-Denis and in Saint-Ouen, are largely incomplete. The evacuated persons set up home nearby and, whatever the efforts made to isolate them, the chosen families remain in contact with their relatives/ friends who have been excluded from the project, and who continue living in very precarious conditions.

On the contrary, in other places such as the town of Nantes, a way was found, after reflection, of dealing with all the inhabitants of the first three installation places at the same time. This

choice was made by the councillors more with the aim of guaranteeing the success of the project than because of their generosity. At the start, in 2005, discussions were held about the prospects of re-housing, accommodating or providing parking for only those families who were in line with the law. At the Nantes town council and the Loire-Atlantique regional council, the councillors made a decision based on the information provided by the prefecture about the families found to be in line with the law. But it appeared that there was little contact between the families concerned, and that there were closer ties with other families who were not in line with the law, and who were potentially excluded from the project. It was considered that this would cause problems for organising the site. In the end, the action of the families who were not to be chosen, reported on in the press, and the fact that the administrative status of the persons concerned seemed to be a totally reversible criteria, led to a decision on an overall solution to eradicate the site. Though no choice of families was made at the beginning of the projects, the different public entities concerned did not however continue their efforts by opening up new approved sites for the people arriving in the metropolis afterwards. Though 300 people are taken care of on the three approved sites, 250 people at least are living in remote areas on undeveloped sites in the metropolis.

In Saint-Maur, the *Conseil Général* also made the choice of re-housing simultaneously all the occupants of a site belonging to the regional council in that commune. This was supported by a very well organised support committee. No choice was made either at the beginning of the project that has been carried out in Seine-et-Marne since 1999 by the Sénart association of new towns.

In Lyons, in February 2007, the Rhône prefecture commissioned the Alpil association (Action for Social Integration through Housing) to carry out a local diagnosis of the situation in the Soie shanty town, in Villeurbanne. This assignment was supposed to enable the Roma families on the Soie site to be re-housed in dignified, humane conditions that were adapted to their way of life. A plan had been drawn up with the prefecture to gradually get rid of this shanty town, so that the inhabitants could have dignified and decent living conditions in France. But the evacuation in August 2007 stopped this project before the commissioned association could finish the assignment with which it had been entrusted. Only 70 of the 480 occupants had been re-housed.

Site management methods

According to the projects, operating rules are fixed that establish very different relations between the families and the team entrusted with the management of the site and/or with social assistance.

The families' commitment. Most of the reception plans are based on a contract that ties the families to the body managing the site. It is essential that this contract be drawn up in the two languages and that it is explained by an interpreter. It is above all important for the contractual relation to be translated in real terms through relations of confidence, and by making the people responsible. Thus, in Saint-Maur, continuing the close ties created by the support committee that was supporting the families until the "Pour loger" association took over, the Roma continued to be involved in the decision-making in different commissions (education, health, initiatives and daily management, safety etc). There was also the choice of local management, with much presence on the site and regular meetings. Moreover, in the families' commitment, a clear distinction was made between the "premises" obligations (written down in an occupancy convention) and the commitments related to social and professional integration.

The limitation of the number of persons received. This is also a critical element for, even in the case of projects that are non selective at the beginning, some members of the family live in the region or arrive subsequently and it is difficult for the accommodated families to refuse to take them in; with the risk that they end up settling and causing overcrowding that would endanger the project's continuity. This risk, which must of course be taken into account, has led in certain cases to extremes (Bagnolet, Aubervilliers, Saint-Denis, St. Ouen etc). When security guards watch who goes in and who goes out, and forbid any person from outside to enter the site, and when the families are obliged to receive their friends and relatives outside in the street, we do not really see how a relationship based on confidence can be established with the people and what means we are giving them of attaining our integration and autonomy objectives.

More flexible management is possible. This has been implemented for example in Saint-Maur. It is based on making the families responsible, by allowing the temporary accommodation of members of the family for short stays. Authorisation has to be requested, following a discussion between the association and the Roma delegates, and the host family must give explanations and be committed.

The accommodation expenses. In most cases, it is possible to request the families to contribute to the occupation expenses, according to their resources. Even if the people are more or less "poor" at first, they will in fact be confronting a principle of social reality during the transition to autonomous accommodation.

Social assistance and integration

When the families are merely given shelter and receive no social assistance or an integration project (as is the case with hotel accommodation under the ASE (Social Assistance for Children) for example), the Roma families are in a dead-end situation. Such support may be given by an employee made directly available by the CCAS (Tours), by the urban community (this was the case of the social workers of the RTAGV¹³⁰ who depend on the Sénart association of new towns) or by the social action district. It can also be ensured in the framework of a convention with an association commissioned to provide support for the families: "Pour loger" association in Val-de-Marne, "Une famille, un toit 44" association (One family, one roof, *département* no. 44) and ACTA-Roms in Nantes, the Pact-Arim in Aubervilliers, Saint-Denis, Bagnolet and St. Ouen, the "Agir avec les Roms"(Act with the Roma) association in Isère, the SICHEM association in the Var etc. The regional '*Conseil Général*' accommodation solidarity fund ("Fonds de solidarité logement") should also be used as an additional resource to give increased assistance with achieving autonomous accommodation for those families who have obtained a residence permit.

But it should be recalled that, even with all the support and means necessary, the integration projects may stagnate for a very long time if the State does not play the game by issuing residence permits for the persons concerned. Without such documents, in the present context, the families have a major handicap which makes it almost impossible to obtain employment (see chapter "Right to employment") and autonomous accommodation (since they are deprived of lodging allowances, their requests for social accommodation are rejected and they have almost no chance of being accepted in an accommodation centre).

¹³⁰ Reception network for gypsies and travellers, associated with Sénart SAN

That is the reason why it is important to be able to include the State from the outset (via an MOUS, funding by the Temporary Housing Allowance (ALT) project, a specific convention or by other means) in the drawing up and implementation of the reception and integration projects. As an example, in the case of the families taken care of in the framework of the Aubervilliers Urban and Social Control Unit, the State, without making an exception to the work permit procedure, issued residence permits to the persons who had obtained a contract: more than half the inhabitants had apparently already found employment (the objective was one job per family). This prospect is motivating for all the families. Those who do not yet have a job take French lessons and several families will soon be able to obtain social accommodation. The success of the Sénart SAN programme in Seine-et-Marne was also due to the fact that the Prefecture, associated with this action via a convention, was committed to providing from the outset a 3-month document granting the right to work, then, according to certain criteria (CDI (a permanent employment contract) and an assessment of the integration procedure followed) a one-year residence permit.

Unfortunately, in other places where the local authorities made commitments while the State did not get involved, the efforts of the persons and the social workers did not have such rapid results. In the Val-de-Marne for example, several families given accommodation presented work contracts for which the prefecture refused authorisation, or else the dossiers were not dealt with for months.

c) The different accommodation methods tested

Emergency accommodation

Emergency accommodation can be provided notably by the State¹³¹, by the *Conseil Général* (within the “Social Assistance to Children” scheme – see supra) and more rarely by the CCAS. It is implemented in many different ways in the different *départements*. But everywhere there is **not enough room**, which is the reason for the almost systematic refusals and the organised rotation of persons who are admitted for several days and then leave rapidly to be replaced by others. In Marseille for example, the SAMU social is only present when the evacuations take place and can only ever propose several nights for one or two families.

Reception in emergency accommodation is often **of very bad quality**: generally only one night, and it is not sure a second night will be possible. It is sometimes very far from the place the request is made (on the other side of the region in the case of Île-de-France). In some cases, the children are separated from their parents (Île-de-France), or the men are separated from the women (Bouches-du-Rhône) etc.

Emergency accommodation is proposed principally in the form of nights in hotels. The ridiculousness of providing this type of accommodation is continually criticised because of its **enormous cost**. Such accommodation is totally unsuitable and it weakens the people concerned who are in a very precarious situation. They have to move regularly, they are far away from their children’s schools, they are not allowed to cook, and they also suffer from overcrowding and insalubrity etc. The *Conseil Général* of Val-de-Marne (that accommodates several Roma families in hotels under the ASE scheme) spends 75% of the ASE budget on

¹³¹ The emergency accommodation comes under a budget head that is managed in a decentralised way by the DDASS. This makes it possible to fund the operation of a unique telephone number (115), the reception and orientation services, the mobile teams (“SAMU sociaux” etc and above all the different accommodation arrangements: day reception, nights in a hotel, emergency accommodation centres (sometimes in a dormitory, sometimes individual). These centres do not require persons to have been accepted for social assistance for families (contrary to the CHRIS).

hotel accommodation. To control this cost, it both tends to make the admission criteria more strict and also seeks alternative solutions.

Moreover, the principle of **unconditionality of emergency accommodation**, that is not choosing the people to be received, is not always respected.

On the one hand, we should mention the **discrimination linked to origin**, with in some cases a different welcome given by those who take the 115 calls, which is evidently related to the person's name, his/her accent etc., above all as regards the Roma. As for the ASE (Social assistance for Children) social workers, many of them hesitate to intervene and the associations and support committees that assist the families must often be very tenacious to have shelter found for families in danger. One could become indignant about the discriminatory nature of such practices, but it is also possible to respond to it by training the social workers concerned so they have better knowledge about the Roma population from Eastern Europe, and also via mediation work. The post of "Tsigane action co-ordinator" created by the Seine-Saint-Denis Regional Council is in this sense an initiative that should be encouraged elsewhere.

On the other hand, and while emergency accommodation is not subject to any **condition to be able to stay**, the situation is often very different in practice. In St Etienne, as in Marseille, it is clearly stated that those without identity papers, whether European or not, cannot receive emergency accommodation. In the case of the Roma, only those (from former Yugoslavia) who have made an asylum request may lay claim to it. In Seine-et-Marne, a centre funded by the Regional Council in Mérimville was providing emergency accommodation for families with children. For some time now, it has been instructing people to call 115, and the latter applies the DDASS's strict rules: no accommodation for Roma who do not have a residence permit.

Finally, the **continuity of accommodation** principle is almost never respected. A strict application of this principle (art 4 DALO law)¹³² would imply that accommodation could no longer be provided for just one night or several months. But we know that, as regards the Roma and other populations taken care of in this way, these temporary accommodation solutions are rarely followed by integration accommodation or even more lasting accommodation solutions. More often than not, the persons are out on the streets again after several days or several weeks. It is thus possible to appeal to a court when a person given emergency accommodation is put back on the streets when he/she should have been given long-term accommodation. That was tried in Lyons by the ALPIL for two persons from the European Union. After bringing the cases before the *département's* mediation commission (set up by the DALO law) which dismissed them because the applicants had no integration prospects and therefore no right to temporary residence, legal proceedings were started concerning the two cases.

Integration accommodation and temporary accommodation

In theory, there is nothing to prevent the Roma, whatever their administrative situation, being admitted under the integration accommodation scheme. But the admission procedures at the **Accommodation and Social Reintegration Centres (CHRS)**¹³³ take into account the

¹³² LAW no. 2007-290 of 5 March 2007 establishing the enforceable right to accommodation and including various measures in favour of social cohesion – Article 4 "Any person received in an emergency accommodation structure must be able to stay there, if that person so wishes, until another solution is found. The solution shall be a stable accommodation or health centre, or else a suitable flat or house."

¹³³ The CHRS, Accommodation and Social Reintegration Centres have the aim of ensuring the reception, accommodation, assistance and social integration of persons seeking accommodation or lodgings, so as to enable them to find personal and social autonomy. With that aim, they benefit from educational assistance and professional integration activities. According to the

professional integration prospects and the prospects of obtaining independent housing. The Prefect makes a final decision on the admission of the persons to social assistance with accommodation. It is immediately considered that the Roma do not respect these criteria. However, above all since the entry into the European Union of the countries of origin of some of the Roma, efforts must be made to ensure that the families who should have this type of accommodation manage to obtain it. There are several rare cases where families have been taken care of by CHRS's: in St Etienne, for one family that received the Handicapped Adult Allowance, accommodation in a CHRS was obtained recently; and also for another family, one of whose members has a CDI. In Tours as well, one of the Roma families from Kosovo whose request for asylum was rejected, has just obtained accommodation in an Accommodation and Social Reintegration Centre (CHRS), with the help of the "entraide ouvrière" (worker solidarity) association and another family is at the hotel awaiting similar accommodation.

Integration accommodation may also be provided in various buildings that have been approved for the **Temporary Housing Allowance (ALT)**¹³⁴. In Bordeaux, after direct negotiations with the Prefect, Procom and Médecins du Monde managed, in December 2007, to re-house several families in a building in the centre of town, that had been approved for the ALT, and whose management is entrusted to the CCAS. The CCAS coordinates this project. A convention for learning French, for medical surveillance and the granting of rights to health cover was drawn up but never signed by Médecins du Monde and the CCAS. This re-housing project was only obtained with the pressure brought to bear by the associations, but it was never discussed or followed up in a global way. Nonetheless, this experience was the first one of its kind in the town of Bordeaux, and it has made it possible to make the Roma problem a tangible reality. What is interesting about this type of funding for accommodation is that it involves the State in a reception and integration project. It is with this view that funding via the ALT was requested (and granted) for the mobile homes set up on the Ste Luce site in Nantes in 2005.

Between integration accommodation on the one hand and social rented accommodation on the other, more Roma should also be able to obtain **accommodation in homes** (social residences, homes for young workers, homes for migrant workers). The residents in such homes have a real occupancy status (lease or occupancy document) that guarantees them being able to stay and enables them to benefit from personal assistance with accommodation, even if they pay a fee instead of rent. With the condition that the occupancy and salubrity standards are respected, and that real assistance is given, this type of temporary furnished accommodation may enable transition to independent accommodation. Thus in Tours during the summer of 2008, all the families taken care of in the framework of the municipal plan¹³⁵ were given lodgings, most of them in an ADOMA¹³⁶ home. The families are satisfied with this change even if there are still some problems: the families do not have a lease, the accommodation is very small, and at least one large family had to be split up etc.

establishments, different persons may be admitted. The admission request must be made directly at the CHRS or through the intermediary of a social worker. The prefect decides whether to admit the applicants or not.

¹³⁴ ALT- "Allocation Logement Temporaire" - the Temporary Housing Allowance is a measure intended to give a financial contribution to the associations or local social action centres (CCAS) that manage flats and houses for impoverished persons. The contribution is granted in the framework of a convention with the State. The average duration is approximately 6 months, though this is flexible. The association or the CCAS must be able to provide social assistance, and must either be the tenant or owner of the accommodation

¹³⁵ These were families who were squatting a former rubbish tip, and had been accommodated temporarily in building site huts set up on a site with minimal facilities in an old reception area that was no longer used, called "Gloriette" site.

¹³⁶ 7 families in the ADOMA home in Joué les Tours (rooms in communal flats), one family in the ADOMA home in Tours.

We believe these accommodation and temporary accommodation methods should be encouraged. The Roma families received in this framework start a legal accommodation process and, in particular, in the case of integration accommodation, they may benefit from individual assistance that is preferable to the community treatment that necessarily results from a collective solution on a developed site.

The fitting-out of approved sites

The majority of the reception projects for groups of Roma families start with a solution of this kind, which in fact makes things easier as it makes it possible to rapidly eradicate a shanty town rapidly by taking care of dozens of people simultaneously, without affecting the amount of accommodation available in the area.

We should nonetheless stop the confusion surrounding this type of temporary accommodation (especially when it is set up on old halting sites for travellers, such as in Seine-et-Marne or Tours), by distinguishing the problem of the migrant Roma from that of travellers. The Besson law of July 2000 obliges some communes to create halting sites and areas for travellers to park their caravans. The persons concerned are those who live traditionally in mobile residences, who have a travel booklet or diary, as defined by the law of 1969. These administrative documents may be obtained by foreigners who are in line with the law when they decide to live as travellers. The migrant Roma who settle or are made to settle urgently in caravans or mobile homes do not wish to move. Except marginal cases of migrant Roma who make such a choice, they do not have priority access to the halting sites. On the one hand, the available spaces are already very insufficient to respond to the needs of the travellers (less than 15,000 spaces available, for a national need estimated at more than 40,000). On the other hand, such a step, a community order, would impose a way of life that does not correspond to the migrant Roma's expectations. None of the characteristics of the reception areas would enable the migrant Roma to stay for a long time and live their normal lives, and it is not realistic to propose living together with travellers on these sites. The Roma do not generally have caravans in a fit state to be moved, to stay in a reception area. A small shanty town is thus created in the reception area and they end up breaking all the rules, notably the one that concerns the limited length of time they can stay on the site. A special rule is thus made so they may stay, which is not easily understood by the travellers.

If reception on developed sites may constitute an emergency response to the catastrophic living conditions in the squats and shanty towns, this response must be of minimal duration so as to start the families as soon as possible on a traditional accommodation process.

Apart from the stabilisation of the site, connection to the drainage system, to electricity and water, the accommodation facilities are different in each case. In Nantes for example, each family has either a mobile home or a caravan. These facilities are for sleeping. A second caravan is installed for each family and intended for cooking. Toilet/ shower blocks are shared by all the site's occupants. It is interesting to note that this type of accommodation may be recognised as accommodation by the CAF since, in September 2006, two requests for housing allowances were made based on the contract to make the caravans available. One was accepted and the other refused.

In other cases, modular constructions are set up, Algeco constructions or chalets. In the framework of the Aubervilliers projects, those in Saint-Denis and the future Saint-Ouen project, this is the option that has been chosen. In Aubervilliers, before going into the housing site on rue Saint-Denis, the 80 beneficiaries were first received on a temporary site where caravans were installed thanks to a financial contribution by the Abbé-Pierre Foundation. In Saint-Denis,

the persons still live in temporary chalets. The creation of the definitive village is underway at the Eastern Fort (a military area that is quite far away from public transport facilities and the shops). We do not yet know which site will receive the families who were chosen during the summer of 2008 among the inhabitants of the shanty town on rue Ardoin.

In Bagnolet, in July 2007, among the Roma who had been accommodated for three years at the Etang castle, 80 persons were re-housed in a workers' home (an Algeco building) with a solid kitchen and common room (at no. 133, avenue Gallieni).

In Tours, before being very recently re-accommodated in flats, the Roma families from Kosovo had been installed by the municipality on an old reception area for travellers in July 2006. ("Gloriette" site). It had basic facilities (a water supply point, four WC and four showers, and connection to the electrical network). Algeco building site huts had been installed there.

Making vacant buildings or vacant flats/houses available

Various vacant buildings and vacant flats/houses were made available in the Val-de-Marne *département* from 2004 onwards (notably houses/buildings on main roads awaiting demolition). In the autumn of 2004, in Choisy-le-Roi, there were some families with children attending schools and who wished to carry on living in the commune despite the fact that they were regularly expelled. The municipality decided to make four abandoned houses belonging to the commune available to them, via a relay association. On 20 November 2004, The Roma, who were installed on a site belonging to the Val-de-Marne regional *Conseil Général* in Saint-Maur-des-Fossés, were accommodated in the former police station belonging to the regional council. The same type of accommodation was also made available for two families by the town council in Vitry-sur-Seine and for ten or so families by the Val-de-Marne *Conseil Général* (two buildings in Villejuif, a building in Vitry, a flat in Vitry, a flat in Joinville-le-Pont and a building in Saint-Maur). In 2007, the regional council also signed a convention with the "Pour loger" association to assist the families it has accommodated.

In Seine-Saint-Denis, three families have been given similar accommodation in a building situated on the rue des Fillettes and made available by the Saint-Denis town council. The Bagnolet town council for its part has made available for three years, as from December 2004, a disused leisure centre (the Etang castle) that was not however suitable for accommodating families on a long-term basis.

These initiatives, that do not diminish the amount of social accommodation available, nonetheless constitute progress for the Roma who thus have a roof over their heads and have "normal" individual sanitary facilities. The initiatives only have any sense if the premises are made available for long enough to stabilise the people concerned and start up an integration process. The occasional requisitions aiming to give shelter to families during the winter period, as those by the "Nord" *département's* prefecture (requisition during the winter of 2007-2008 of a youth hostel, an army building etc) do not in fact represent any progress. And, just like all the other types of accommodation, it is important, at the same time, to provide the means of ensuring that the families overcome this transitional situation and re-enter the regime of existing law.

Access to social housing

Access to social housing is clearly the best way of starting an integration process, as is confirmed by the rapid integration of the families who have been re-accommodated in social housing these last few years (new town of Sénart, Achères, Saint-Michel-sur-Orge etc). In Seine-et-Marne, out of the 39 families integrated in the Sénart SAN programme, 33 were

allocated social accommodation from the prefecture's quota in one of the new town's 8 communes during the 5 years when they were receiving specific social assistance.

The European Union's Agency of Fundamental Rights thus recognised in its 2008 report that, for the Roma, as for the other migrant populations, access to social housing with a moderate rent was one of the main ways of improving their living conditions. It invited the member states to develop their social housing, to make sure fair criteria were applied when allocating social housing, and to combat discriminatory allocation methods. The French situation of a very serious lack of accommodation available for persons with low income further aggravates the exclusion mechanisms of the migrant foreign populations.

In France, since 1986, a decree limits the allocation of HLM housing to French persons or persons "authorised by law to reside permanently on French territory, according to the conditions defined by Order¹³⁷". In the case of Europeans, as the law indicates¹³⁸, they may be issued with a residence permit if they request it, but they are not obliged to do so in order to attain all those rights submitted to the condition of legal residency (except for access to work during the transitory period). If they must therefore prove that they fulfil the conditions (of resources and health insurance) to be legally resident, as stated in the afore-mentioned decree, they should not be obliged to present a residence permit. Unfortunately, all the HLM bodies and the documentation circulated by the Housing Ministry mention the obligation to have a European Union residence permit.

In most *départements*, the files requesting social accommodation submitted by the Roma who do not have a residence permit are not even considered (as in Saint-Etienne), or else they do not obtain a reply, even when they are Roma looked after in the framework of an integration project supported by the local authorities (Val-de-Marne, Nantes).

Access to privately-owned accommodation

According to population density, the state of the economy, attractiveness to tourists and other factors, rents may be divided by four or five in some areas in relation to those in the Île-de-France region and the big towns. The demands for guarantees by private owners (guarantee, deposit, identity, residence permit etc) are also decreasing. Thus, in areas where it is easy to find rented accommodation, and where rents are now fairly reasonable, it is possible to envisage looking for private accommodation with some Roma families. That was tried by the Saint-Etienne Solidarité Roms network with conclusive results, since ten flats/houses were found in 2007 and 2008 that belonged to private owners.

¹³⁷ Art R 441-1 of the building code, resulting from a decree of 19 March 1986 completed by an order of 25 March 1988.

¹³⁸ Art L. 121-1 of the CESEDA.

Demands of the CNDH Romeurope

URGENT MEASURES

1. An end to evictions without a decent, permanent alternative solution. These absurd measures only shift the problem elsewhere and reinforce the insecurity of the families involved, resulting in the interruption of medical care, social support and schooling.

2. Provision of services at sites to prevent health and fire risks.

In camps, the families, adults and children together, are crammed into makeshift shelters or salvaged caravans. The lack of the most basic hygiene (taps, bathroom facilities, electricity, refuse collection, etc.) increases the risk to health.

Living conditions at these sites are usually degrading or even dangerous, as is dramatically illustrated by the fatal fires that have occurred in recent years.

We ask that the following services be provided, however long Roma are expected to stay in a place, and even if a legal eviction process is under way: prompt, regular refuse collection, at least one tap on the site, installation of enough composting toilets (at least one per 20 people, which is the norm for refugee camps), access to electricity using outdoor meters, and depending on the situation and the season, measures to enable cabins or caravans to be heated with minimal risk.

BASIC MEASURES

Romeurope aims to promote the creation of a nationwide **group of local elected officials** who have personal experience of hosting Roma families in their area and who could share their expertise with other elected officials faced with the same issue.

1. An in-depth assessment of each family's situation and plans

It is only once this assessment has been made that customised solutions can be proposed to respond to each family's needs. Some Roma families definitely intend to settle in France and look for work and housing. Some are able to achieve this quickly; others will need to go through various stages. Finally, in some cases, they do not yet have definite plans, and all the families intend in the short term is a series of short stays.

2. Individualised management

The diversity of situations and the disadvantages of collective management suggest that after the initial assessment, it is best for steps to be taken with each family separately, even if in some cases collective management may be required temporarily.

3. Projects to eliminate and replace squats and shanty-towns without selection of the occupants

While a range of solutions is needed, Romeurope believes that eviction without offering any solution for the families not selected for any reception and integration project set up to close an unhealthy site is contrary to the declared objective of eradicating degrading living conditions.

4. Compassionate measures to support families and help them integrate

Considerable social support is also necessary; this should be provided by professionals, and as far as possible should fall under common law.

5. Modes of accommodation that enable families to settle

Temporary requisitioning of premises or accommodation in hotels used as a protective measure must be followed up by proposals for long-term accommodation or housing, to avoid the repeated moves which break all the social connections every time, making it much more difficult for families to integrate. The principle of continuity of accommodation set down by the DALO law (Article 4) must be respected, whatever the administrative status of the people involved.

6. As a priority, the development of solutions provided for in common law: supported housing, temporary accommodation or social housing.

The mediation committees set up under the DALO law must be able to deal with applications for accommodation made by Roma families, because accommodation is independent of administrative status. Furthermore, organisations in charge of *habitations à loyer modéré* or HLMs [subsidised housing] must be clearly informed about the situation of EU citizens in respect of access to social housing, so that a residence permit is no longer demanded.

If not enough accommodation or social housing is available to provide a quick solution for a large group of families, temporary alternative solutions can be used:

- requisitioning or making available empty housing or buildings;
- accommodating some households on sites where mains services can be provided, in prefabricated bungalows or modular buildings, with decent sanitary facilities.

7. Better communication at local level

It is important that elected officials are fully committed to the projects they undertake to benefit the Roma, and communicate honestly with their electorate about it from the outset, so that they can continue to offer their support in the long term. Too many good initiatives have come to nothing as a result of pressure from a local population or a town council that is not in favour.

8. Joint projects with charities and support committees

It is still regrettable that when projects are designed and run, consultation with the Roma and the charities working to help the families should be so patchy. Although in some cases, the charities and support committees that were first involved in supporting families do retain a role on the project steering committee, in other cases they are totally sidelined. Understanding of the history and situation of the families is then totally neglected, and mutual misunderstandings proliferate. Designating clearly-identified contacts who have a genuine understanding of the problems of Roma migrants makes communication between the families and the voluntary sector easier. For instance, Nantes Métropole has appointed a policy officer and recruited a representative specifically for Roma affairs.

LIST OF ACRONYMS

AAH	Handicapped adult allowance	<i>Allocation aux adultes handicapés</i>
AFPA	Association for the professional training of adults	<i>Association pour la formation professionnelle des adultes</i>
ALT	Temporary housing allowance	<i>allocation de logement temporaire</i>
AME	State medical assistance	<i>Aide médicale d'Etat</i>
ANAEM	National Agency for the Reception of Foreigners and Migration	<i>Agence nationale d'accueil des étrangers et des migrations</i>
ANGVC	National association for Catholic travellers	<i>Association nationale des gens du voyage catholiques</i>
APA	Customised independence allowance	<i>Allocation personnalisée d'autonomie</i>
API	Single parent allowance	<i>Allocation de parent isolé</i>
APNE	National Employment Agency	<i>Agence Nationale Pour L'Emploi</i>
APRF	Prefectural removal order	<i>Arrêté préfectoral de reconduite à la frontière</i>
Asav	Association for the reception of travellers	<i>Association de Soutien et d'Aide aux Gens du Voyage</i>
ASE	Child social welfare	<i>Aide sociale à l'enfance</i>
ASET93	Schooling assistance for Roma children	<i>Association d'aide à la scolarisation des enfants Tsiganes 93</i>
AZF	Chemical factory in Toulouse	<i>AZote Fertilisants</i>
CAF	Family allowances offices	<i>Caisse d'allocations familiales</i>
CASF	Family and Social Assistance Code	<i>Code de l'action sociale et des familles</i>
CASNAV	Academic Centre for the Education of Newcomers and the Children of Migrants	<i>Centre académique pour la scolarisation des nouveaux arrivants et des enfants du voyage</i>
CCAS	Local social welfare centre	<i>Centre communal d'action sociale</i>
CCFD	Catholic association for development and against hunger	<i>Comité catholique contre la faim et pour le développement</i>
CDD	Fixed-term contract	<i>Contrat à durée déterminée</i>
CDI	Open-ended contract	<i>Contrat à durée indéterminée</i>
CEE	Central and Eastern Europe	
CESEDA	Entry and Residence in France and Right of Asylum Act	<i>Code sur l'entrée et le séjour des étrangers et sur le droit d'asile</i>
CHRS	Centre for emergency housing and social reintegration	
CIPF	Federation of Parents' Councils	
CLA	Integration class	<i>Classe d'accueil</i>
CLIN	Initiation class	<i>Classe d'initiation</i>
CMU	Universal medical cover	<i>Couverture maladie universelle</i>
CMUC	Complimentary CMU	
CNAF	Organisation controlling the 'family' branch of French Social Security	<i>Caisse nationale des allocations familiales</i>
CNAM	French State Medical Insurance organisation	<i>Caisse Nationale Assurance Maladie</i>

CNASEA	French National Centre for Farm Planning	<i>Centre National pour l'Aménagement des Structures des Exploitations Agricoles</i>
CNCDH	National Consultative Commission for Human Rights	<i>Commission nationale consultative des droits de l'homme</i>
CNDH	National human rights association	<i>Collectif national droits de l'homme Romeurope</i>
CPAM	Local offices of the CNAM	<i>Caisse Primaires Assurance Maladie</i>
DALO	Housing Rights Act	<i>Droit au logement opposable</i>
DDASS	Departmental office of health and social affairs	<i>Direction départementale des Affaires sanitaires et sociales</i>
DDTEFP	Department for Work, Employment and Professional Training	<i>Direction départementale du Travail, de l'Emploi et de la Formation professionnelle</i>
ECAS	European Citizen Action Service	
ECAS	European Citizen Action Service	
ENAF	Pupils who have recently arrived in France	<i>Enfants nouvellement Arrivés en France</i>
ERRC	European Roma Rights Centre	
EU	European Union	
GISTI	Immigration information and support group	<i>Groupe d'information et de soutien des immigrés</i>
Halde	High authority for the struggle against discrimination and for equality	<i>Haute autorité de lutte contre les discriminations et pour l'égalité</i>
HLM	Subsidised housing	<i>Habitations à loyer modéré</i>
KFOR	Kosovo Force	
LDH	Human rights league	<i>Ligue des droits de l'homme</i>
MOUS	Urban and Social Control Unit	<i>Maitrise d'oeuvre urbaine et sociale</i>
MRAP	Movement Against Racism and for Friendship between Peoples	<i>Mouvement contre le racisme et pour l'amitié entre les peuples</i>
NSA	No prior schooling	<i>Non scolarisé antérieurement</i>
ODSE	Observatory for Health Rights of Non-citizens	<i>Observatoire du droit à la santé des étrangers</i>
OMI	Office of International Migration	<i>Office des Migrations Internationales</i>
OQTF	Order to leave French territory	<i>Obligation de quitter le territoire français</i>
PCH	Disability benefits	<i>Prestation de compensation du handicap</i>
RMI	Income support	<i>Revenu minimum d'insertion</i>
RTAGV	Reception network for gypsies and travellers	<i>Réseau Temporaire d'Accueil des Gens du Voyage</i>
SAMU Social	Municipal emergency service who provide care to homeless people	<i>Service d'aide médicale urgente social</i>
SEDL	Equipment association for the Loire region	<i>Société d'Équipement du département de la Loire</i>
SMIC	Guaranteed minimum income	<i>Salaires minimum interprofessionnel de croissance</i>
SNCF	French National Railways	<i>Société nationale des chemins de fer français</i>
SNUipp	France's largest teacher's union	<i>Syndicat national unitaire des instituteurs, professeurs des écoles et PEGC</i>
UHU	Emergency accommodation centre	<i>Unité d'hébergement d'urgence</i>

