EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX

DECISION ON THE MERITS

24 January 2012

European Roma and Travellers Forum
v. France

Complaint No. 64/2011

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter ("the Committee"), during its 255th session attended by:

Mr	Luis JIMENA QUESADA, President
Ms	Monika SCHLACHTER, Vice-President
Mr	Jean-Michel BELORGEY, General Rapporteur
Ms	Csilla KOLLONAY LEHOCZKY
Messrs	Andrzej SWIATKOWSKI
	Lauri LEPPIK
	Rüçhan IŞIK
	Petros STANGOS
Ms	Jarna PETMAN
Mr	Giuseppe PALMISANO

Assisted by Mr Régis BRILLAT, Executive Secretary

Having deliberated on 6 December 2011 and 24 January 2012,

On the basis of the report presented by Mr Petros STANGOS,

Delivers the following decision adopted on this date:

PROCEDURE

1. The complaint submitted by the European Roma and Travellers Forum ("the Forum") was registered on 28 January 2011. It maintains that Travellers and Roma of Romanian and Bulgarian origin suffer systematic discrimination in France in breach of Article E (on non-discrimination) of the revised European Social Charter ("the Charter") with regard to the enjoyment of their right to housing (Articles 31 and 16 of the Charter) because of their particularly insecure housing conditions, the way in which they are evicted from their homes and the difficulties they face when they attempt to acquire social housing and claim housing benefits. It also asserts that the expulsion of Roma of Romanian and Bulgarian origin from France constitutes unequal treatment in the enjoyment of the right to safeguards with regard to expulsion from a territory (Article 19§8 of the Charter). Lastly, it argues that there is a violation of the right to protection against poverty and social exclusion (under Article 30 of the Charter) because of the conditions in which Travellers are authorised to exercise their right to vote.

2. The Committee declared the complaint admissible on 10 May 2011.

3. In accordance with Article 7§§1 and 2 of the Protocol providing for a system of collective complaints ("the Protocol") and with the Committee's decision on the admissibility of the complaint, on 13 May 2011, the Executive Secretary communicated the text of the admissibility decision to the French Government ("the Government") and to the Forum. On 13 May 2011, he also sent the decision to the States Parties to the Protocol and the States that have made a declaration in accordance with Article D§2, and to the organisations referred to in Article 27§2 of the 1961 Charter.

4. The Committee set a deadline of 15 July 2011 for presentation of the Government's submissions on the merits of the complaint. The Government filed some of its submissions on 15 July 2011 but asked for an extension of the deadline for the remainder. The President of the Committee set a new deadline of 15 September 2011. The Government's submissions on the merits were registered on 15 September 2011 and sent to the Forum the same day.

5. The Committee set a deadline of 28 October 2011 for presentation of the complainant organisation's response. The response was registered on 28 October 2011 and sent to the Government on 2 November 2011.

SUBMISSIONS OF THE PARTIES

A. – The complainant organisation

6. The Forum alleges that the degrading living conditions in Travellers' stopping places and Roma camps, the way in which they are being evicted from these and the overall difficulties they face in actually acquiring housing of an adequate standard and affordable cost are contrary to Article 31 and/or Article E taken in conjunction therewith and of Article 16 with regard to the right to housing of Traveller and Roma families.

7. The Forum also argues that the expulsions of Roma of Romanian and Bulgarian origin are contrary to Article 19§8 and/or Article E taken in conjunction there with because these expulsions are aimed primarily at Roma of Romanian and Bulgarian origin.

8. Lastly, the Forum maintains that the law that applies to Travellers is contrary to Article 30 and/or Article E taken in conjunction with this provision because of the different requirements they must fulfil to exercise their right to vote.

B – The Government

9. The Government, considering the Forum's complaint imprecise and unsubstantiated, asks the Committee to find that there has been no violation of Articles 16, 19§8, 30 and 31 taken in conjunction with Article E of the Charter on the ground either that specific statutory measures have been taken in compliance with the Charter or that it is determined to improve Travellers' and Roma's access to the rights conferred on them by the Charter.

RELEVANT INTERNATIONAL AND DOMESTIC LAW

A. Domestic law

10. The main legal texts to which the parties refer relate to the following issues:

a. The right to housing;
b. Forced eviction;
c. Expulsion from the country;
d. The law applying specifically to Travellers.

a) The right to housing

11. The main legislation on the right to housing applicable in the instant case is:

- The Right to Housing Act, No 90-449 of 31 May 1990, which provides that Securing the right to housing is a duty of solidarity for the entire nation (Section 1)

- Act 2007-290 of 5 March 2007 establishing an enforceable right to housing and introducing various measures to promote social cohesion, known as “DALO Act”:

Section 1:
“The State shall secure the right to decent and independent housing, as referred to in Section 1 of the Right to Housing Act, No. 90-449 of 31 May 1990, for all persons residing in French territory lawfully and on a permanent basis, as defined in an order of the *Conseil d'Etat*, who have insufficient resources to obtain or retain such housing themselves.
This right shall be exercised through a conciliation procedure followed, if necessary, by a judicial appeal as specified in this section and in Articles L. 441-2-3 and L. 441-2-3-1.”

12. Decision No. 94-359 DC of the *Conseil constitutionnel* of 19 January 1995 established the right to a decent dwelling as an objective with constitutional status. It is worth noting that in this decision, the *Conseil constitutionnel* did not limit the scope of this right to foreigners in lawful situations alone.

b) Forced eviction

13. Illegal occupation of land is punished by the Criminal Code. The relevant legal provisions read as follows:

Article 322-4-1 (in force since 19 March 2003 – established by Act No. 2003-239, Art. 53)
“The act of collectively settling with the aim of establishing residence, even temporarily, on land belonging either to a municipality which has complied with the obligations incumbent on it under the *département* plan provided for by Section 2 of Act No. 2000-614 of 5 July 2000 on the Reception and Accommodation of Travellers, or which is not included in this plan, or to any other owner apart from a municipality, without being able to prove the owner’s permission or the permission of whoever holds the right to use the land, shall be punished by six months’ imprisonment and a fine of €3 750.
Where the settlement was carried out using motor vehicles, these vehicles may be seized, unless they are designed for residential purposes, with a view to their confiscation by the criminal court.
(…)

Article 322-15-1 (in force since 19 March 2003 - established by Act No. 2003-239, Art. 53)
Those guilty of the offence provided for in Article 322-4-1 are liable to incur the following additional penalties:
1. Suspension of their driving licence for not more than three years;
2. Confiscation of the vehicles used in committing the offence, with the exception of vehicles designed for residential purposes."

14. The eviction of Travellers from stopping places is governed by Act No. 2000-614 of 5 July 2000 (known as “Besson Act No. 2”) and by the following provisions in particular:

Section 9 (as amended by Act No. 2007-1787 of 20 December 2007 – section 26 (V))

“II.-Where vehicles are parked in breach of the order described in I above, the mayor, the owner or the person with the right to use the occupied land may ask the prefect to serve the occupants with notice to quit.
Notice to quit may only be served if occupation of the site is likely to jeopardise public health, safety or order. Notices to quit shall be subject to an enforcement deadline of no less than twenty-four hours. They shall be served on the occupants and published in the form of a notice to be displayed at the town hall and on the site concerned. Where appropriate, they shall also be served on the owner or the person with the right to use the land.
Where a notice to quit is not obeyed within the established time-limit and has not been appealed against in accordance with the requirements set in part IIbis., the prefect may resort to the forced

eviction of the mobile homes unless the owner or the person with the right to use the land objects before the expiry of the time-limit set for the enforcement of the notice.
If the owner or the person with the right to use the land impedes the enforcement of the notice to quit, the prefect may ask him or her to take all the necessary measures to remove the threat to public health, safety or order within a time-limit set by the prefect.
Failure to comply with the order issued pursuant to the preceding paragraph shall be punished by a fine of €3 750.

II bis.-Persons served with the notice to quit referred to in II above, as well as the owner or the person with the right to use the land, may apply to the administrative court to set aside the notice within a time-limit specified therein. Applications of this sort shall suspend the enforcement of the prefect's decision against the applicants. The president of the court or his or her representative shall give a ruling within seventy-two hours of the application.

III.-The provisions in I, II and II bis above shall not apply to the parking of mobile homes belonging to the persons referred to in Section 1a of this act if the following circumstances obtain:
1. The persons own the land on which they have parked;
2. They have a permit issued in accordance with Article L. 443-1 of the Town Planning Code;
3. They are parked on land that has been developed in accordance with Article L. 443-3 of the same code.

IV.-Where occupation of a private plot of land assigned for economic activity continues, in breach of the order described in I above, and the occupation is of such a nature as to hamper that activity, the owner or the person with the right to use the land may apply to the president of the regional court for an order for the forced eviction of the mobile homes to be made. In such cases, the court ruling shall take the form of a summary order and its decision shall be enforceable on a provisional basis. Where necessary, the court may order that its ruling shall be enforceable immediately. In urgent cases, the second paragraph of Article 485 of the Code of Civil Procedure shall be applied."

Section 9-I (as amended by Act No. 2007-297 of 5 March 2007 – section 28)
In municipalities not included in the *département* plan and not mentioned in Section 9, the prefect may implement the notice to quit and forced eviction procedure provided for in II of the same section, at the request of the mayor, the owner or the person with the right to use the land, with a view to putting an end to any unauthorised parking of mobile homes likely to jeopardise public health, safety or order.
These provisions shall not apply to the persons referred to in IV of Section 9. Persons served with the notice to quit shall have the remedies referred to in II bis of the same section."

15. These provisions were held to be in conformity with the Constitution by the *Conseil constitutionnel* in its decision No. 2010-13 QPC of 9 July 2010:

"9. The forced eviction of mobile homes and caravans introduced by the challenged provisions can only be carried out by the representative of the State in the event of unauthorised parking likely to adversely affect the health, safety ad tranquillity of the public. It can only be proceeded with at the request of the Mayor, the owner of the land or the licensee thereof and can only be carried out after formally notifying the occupants that they are required to quit the piece of land in question. Said occupants have a period of at least twenty-four hours from the notification of the order to quit within which to spontaneously evacuate the land which they are illegally occupying. This procedure does not apply to persons who own the land on which they have parked vehicles, nor those persons holding a permit granted under Article 443-1 of the own Planning Code, nor those parking on an equipped site in the conditions provided for in Article L 443-3 of the same Code. The notice to quit may be appealed against before the Administrative Court and such appeal will suspend eviction pending the hearing thereof. In view of all the conditions and guarantees which Parliament has introduced and in view of the purpose which it seeks to achieve, Parliament has passed measures ensuring a conciliation which is not patently unbalanced between the need to safeguard public law and order and other rights and freedoms; (…)

HELD
Article 1 : Sections 9 and 9-1 of Act n° 2000-614 of July 5th 2000 pertaining to the Reception and Accommodation of Travelling Communities are constitutional. (…)"

16. As to the more general matter of the eviction of so-called "illegal" camps, the parties refer to the following circulars:

- Circular of 5 August 2010 (declared null and void by Judgment No. 343387 of the *Conseil d'Etat* of 7 April 2011 – see below), which stated that:
On 28 July 2010, the President of the Republic set clear objectives for the eviction of illegal camping sites.. Within 3 months, 300 unlawful sites must be cleared, with priority given to those occupied by Roma. In a speech in Grenoble on 30 July, the President called for the sites to be dismantled by September. (…) It is therefore the responsibility of the prefect of each *département* to organise (…) the systematic dismantling of the unlawful sites, particularly those occupied by Roma. (…)The operations must not simply result in a dispersal of those concerned. (…) You must take all possible steps to prevent new camps from being set up. (…) As part of the objectives that have been set, (…) prefects must carry out, within their geographical areas of responsibility, at least one operation per week, be it an evacuation, dismantling or expulsion, with priority being given to Roma."

- Circular of 13 September 2010, which confirms the circular of 24 June 2010 and "replaces the previous instructions and circulars on the same subject", removing all references to the dismantling of Roma camps as a matter of priority and stating as follows:
"Of course, as with previous operations, this (the eviction of illegal camps) must be carried out in strict compliance with the law, in some cases on the basis of a judicial decision on proceedings initiated by the public or private owner of the illegally occupied land and in others, in accordance with the Reception and Accommodation of Travellers Act of 5 July 2000, as amended.
As in previous weeks, these evictions of illegal camps must apply to all illegal settlements whoever the occupiers are".

17. The following domestic court decisions relate to the scope of the instructions in the abovementioned circulars:

- Decision No. 1005246 of the Administrative Tribunal of Lille of 27 August 2010, which states that the unlawful occupation of land belonging to the municipality of Lille by a Romanian national, who had entered France less than three months before the expulsion measure was issued against her, does not constitute in itself and in the absence of any particular circumstances, a threat of a sufficiently serious nature for the fundamental interest of society and therefore cannot be considered as a threat to public security within the meaning of Article L. 121-4 and Article L. 511-1 of the CESEDA, which transposes Article 27 of directive 2004/38/CE. The expulsion order which was issued is thus annulled.

- Decision No. 2011-625 DC of the *Conseil constitutionnel* of 10 March 2011 finding that Section 90 of the Internal Security Policy and Programming Act was unconstitutional because it authorised, in the interests of protecting public order, "the emergency evacuation, at any time of year and with no consideration for their personal or family situation, of disadvantaged persons lacking decent accommodation".

- Judgment No. 343387 of the *Conseil d'Etat* of 7 April 2011, which states that while the minister maintained that the purpose of the circular of 5 August 2010 was to ensure respect for the right of property and prevent threats to public health, security

and order, "this circumstance did not authorise him, in contravention of the principle of equality before the law, to implement a policy of evacuating unlawful settlements that specifically designated certain of their occupants on the basis of their ethnic origin", and therefore this circular has to be considered null and void.

c) Procedures for expulsion from the country

18. The parties refer in particular to the national code governing the entry and residence of foreign nationals and the right of asylum (CESEDA). The relevant provisions in this case are:

Article L. 121-1 (as amended by Act No. 2006-911 of 24 July 2006 – section 23)
"Unless their presence poses a threat to public order, all citizens of the European Union or nationals of another state party to the Agreement on the European Economic Area or of Switzerland shall be entitled to reside in France for more than three months provided that they satisfy one of the following conditions:

1. They engage in an occupational activity in France;
2. They and the members of their family, as referred to in paragraph 4. below, have sufficient resources not to become a burden on the social assistance system and have health insurance;
3. They are enrolled in an establishment operating in accordance with current statutory provisions and regulations with the principal purpose of following a course of study or, within this framework, a vocational training course, and can guarantee that they have sickness insurance and sufficient resources for themselves and the members of their families, as referred to in paragraph 5 below, so as not to become a burden on the social assistance system;
4. If they are a direct descendant who is dependent or under the age of 21, a dependent direct ascendant, a spouse or a spouse's dependent direct ascendant or descendant accompanying or joining a national who satisfies the conditions set out in paragraphs 1 and 2 above;
5. If they are a spouse or a dependent child accompanying or joining a national who satisfies the conditions set out in paragraph 3 above."

Article L. 121-3 (as amended by Act No. 2007-1631 of 20 November 2007 – section 20)
"Unless their presence poses a threat to public order, the family members referred to in either paragraph 4 or paragraph 5 of Article L. 121-1 depending on the situation of the third-party national they are accompanying or joining shall be entitled to reside anywhere in France for more than three months. (…)"

Article L. 121-4-1(as established by Act No. 2011-672 of 16 June 2011 – section 22)
"Provided that they do not become an unreasonable burden on the social assistance system, citizens of the European Union and nationals of other states party to the Agreement on the European Economic Area or of Switzerland and members of their family as described in paragraphs 4 and 5 of Article 121-1 shall be entitled to reside in France for a maximum period of three months without fulfilling any other condition or formality than those that apply for admission to France (…)."

Article L. 511-3-1(as established by Act No. 2011-672 of 16 June 2011 – section 39)
"The relevant administrative authority may, in a reasoned decision, require nationals of a member state of the European Union, another state party to the Agreement on the European Economic Area or Switzerland or members of their family to leave French territory in the following instances:

1. The persons concerned can no longer prove that they have a right of residence as provided for in Articles L. 121-1, L. 121-3 or L. 121-4-1;
2. Their residence constitutes an abuse of rights. An abuse of rights occurs when periods of residence of less than three months are renewed in order to stay in the country whereas the requirements for a period of residence of more than three months have not been fulfilled. Residence in France with the main aim of profiting from the social assistance system also constitutes an abuse of rights.
3. During the three-month period following admission to France, the personal conduct of the person concerned poses a genuine, present and sufficiently serious threat to one of the fundamental interests of French society.

The relevant administrative authority shall take account of all the circumstances of such persons' situations, particularly the length of their residence in France, their age, their state of health, their family and financial situation, their social and cultural integration in French society and the strength of their ties with their country of origin.
Foreign nationals who are required to leave French territory are given thirty days following notification to do so except in cases of emergency. In exceptional circumstances the administrative authority may grant a period for voluntary departure of more than thirty days.
The order to leave French territory shall determine the country to which persons are sent in the event of compulsory enforcement. (…)"

Article L. 521-5-1(as established by Act No. 2011-672 of 16 June 2011 – section 63)
"The expulsion measures provided for in Articles L.521-1 to L.521-3 may be taken against nationals of a European Union member state, another state party to the Agreement on the European Economic Area or Switzerland, or a member of their family, if their personal conduct poses a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society.
When taking such measures, the administrative authority shall take account of all of the circumstances of their situation, particularly the length of their residence in the country, their age, their state of health, their family and financial situation, their social and cultural integration in French society and the strength of their ties with their country of origin". (…)

Article L. 533-1 (in force since 18 July 2011)
"The relevant administrative authority may, by reasoned decree, decide that an alien is to be deported in the following instances unless he or she falls into one of the categories described in Article L. 121-4:

1. His or her behaviour poses a threat to public order.
Threats to public order may be inferred where persons commit offences subject to criminal proceedings based on the articles of the Criminal Code cited in the first paragraph of Article L. 313-5 of this code or on paragraphs 1, 4, 6 and 8 of Article 311-4 and Articles 322-4-1, 222-14, 224-1 and 227-4-2 to 227-7 of the Criminal Code;
2. The alien has infringed Article L. 5221-5 of the Labour Code.
This article shall not apply to aliens who have been residing lawfully in France for more than three months.

Articles L. 511-4 , L. 512-1 to L. 512-3, paragraph 1 of Article L. 512-4 , paragraph 1 of part I of Article L. 513-1 and Articles L. 513-2 , L. 513-3 , L. 514-1, L. 514-2 and L. 561-1 of this code shall be applicable to measures taken pursuant to this article".

d) The law applying specifically to Travellers

As to reception and accommodation

19. The parties refer in particular to the Reception and Accommodation of Travellers Act (No. 2000-614 of 5 July 2000), which is known as Besson Act No. 2. The relevant provisions in this case are:

Section 1 (as amended by Act No. 2003-239 of 18 March 2003 – section 54)
"I. – Municipalities shall provide facilities for so-called travellers whose traditional accommodation is mobile homes.

II. – Following a preliminary assessment of existing needs and provision, in particular the frequency and duration of travellers' visits and the opportunities for their children to attend school, for access to care and for paid employment, each *département* shall prepare a plan specifying the geographical location of permanent camp sites and the municipalities in which these must be established.
Municipalities with more than 5,000 inhabitants must be included in the *département* plans. They shall specify the purpose and capacity of permanent sites. They shall also specify the types of social provision made for travellers.

The *département* plan shall identify sites that can be occupied on a temporary basis in connection with traditional or occasional gatherings and shall specify the terms on which the state shall take measures to ensure the smooth running of such gatherings.
An appendix to the *département* plan shall list the permits issued under Article L. 443-3 of the Town Planning Code. It shall also list the plots of land which are to be made available to travellers by their employers, notably in connection with seasonal employment.
The *département* plan shall take account of any listed or classified sites which may lie within the territory of the municipalities concerned. When creating permanent camp sites, due regard shall be had to the legislation applicable, as the case may be, to each of these sites.

III. – The *département* plan shall be drawn up by the representative of the state in the *département* and the Chair of the *Conseil général*. On the advice of the municipal council of the municipalities concerned and the advisory committee referred to in IV, the plan shall be jointly approved by the representative of the state in the *département* and the Chair of the *Conseil général* within a period of eighteen months as from the date on which this law is published. After that period, it shall be approved by the representative of the state in the *département* and shall be published.
The *département* plan shall be revised according to the same procedure at least every six years as from the date on which it is published.

IV. – In each *département*, an advisory committee, consisting *inter alia* of representatives of the municipalities concerned, representatives of the Travellers themselves and associations working with them, shall be involved in the development and implementation of the plan. It shall be chaired jointly by the representative of the state in the *département* and by the Chair of the *Conseil général* or by their representatives.
Every year the advisory committee shall carry out an assessment of the implementation of the plan. It may appoint a mediator to examine any problems encountered in implementing the plan and to make proposals for resolving these problems. The mediator shall report back to the committee on his or her activities.

V. – The representative of the state in the region shall co-ordinate the work in drawing up *département* plans. He or she shall ensure that they are consistent in terms of their content and publication dates. To this end, he or she shall assemble a committee made up of the representatives of the state in the *départements,* the Chair of the *Conseil régional* and the chairs of the *Conseils généraux*, or their representatives."

Section 2 (as amended by Act No. 2007-1822 of 24 December 2007 – section 138)
"I. – Municipalities referred to in their *département* plan in accordance with paragraphs II and III of Section 1 shall be bound, within two years following the publication of the plan, to take part in its implementation. They shall do so by making available one or more properly equipped and maintained sites for Travellers. They may also transfer this duty to a joint local authority body responsible for implementing the *département* plan or contribute financially to equipping and maintaining these sites under intermunicipal agreements.

II. – The municipalities and the relevant joint local authority bodies shall be responsible for managing these sites or shall entrust a public or private entity with their management via an agreement.

III. – The two-year time-limit specified in I shall be extended by two years, from the date of its expiry, if the municipality or joint local authority body concerned has, within the initial period, demonstrated its commitment to complying with its obligations by:
- sending to the state representative in the *département* a formal decision or letter of intent specifying the location of a site to be established or upgraded for the use of travellers;
- or acquiring land or starting the procedure for acquiring land on which it is planned to establish a site;
- or completing a feasibility study.

The time-limit for granting subsidies, whether unilaterally or subject to an agreement, concerning municipalities or joint local authority bodies meeting the aforementioned requirements, shall be extended by two years.

IV. – Additional time shall be granted, up to 31 December 2008 from the date of expiry of the time-limit prescribed in III, if the municipality or joint local authority body concerned has demonstrated, in the manner prescribed in III, its commitment to complying with its obligations yet has been unable to fulfill them by the end of this period."

Section 3 (as amended by Act No. 2007-1822 of 24 December 2007 – section 138)
"I. – If, on expiry of the time-limits prescribed in Section 2 and after a formal notice from the prefect has gone unheeded for three months, a municipality or joint local authority body has failed to comply with its obligations under the *département* plan, the state may acquire the necessary land, carry out the development work and manage the sites for and on behalf of the municipality or local authority body in question.
The cost of acquiring, developing and operating these sites shall constitute mandatory expenditure for the municipalities or local authority bodies which, under the *département* plan, are required to meet the costs thereof. The municipalities or local authority bodies shall automatically become the owners of the sites thus developed, as from the date of completion of the work. (…)"

Section 4 (as amended by Act No. 2007-1822 of 24 December 2007 – section 138)
"The state shall bear the cost, up to a maximum amount set by decree, of the investments necessary for the construction and upgrading of the sites referred to in paragraph II of Section 1, at the rate of 70% of the expenditure incurred within the time-limits prescribed in I and III of Section 2. This rate shall be 50% in the case of expenditure incurred within the time-limit prescribed in IV of the same Section 2. (…) The region, the *département* and the *caisses d'allocations familiales* [family allowance funds] may grant additional subsidies for the purpose of establishing the sites referred to in this section."

20. Decree No. 2001-569 of 29 June 2001 on the technical standards applying to stopping places for Travellers lays down the rules on the quality of sites:

Article 3
"The stopping place shall have at least one sanitary block comprising at least one shower and two lavatories for every five caravan spaces, within the meaning of the foregoing article. Each caravan space shall have ready access to sanitary facilities as well as to drinking water and electricity supply."

Article 4
"I. – As specified in the internal regulations laid down by the manager, the site shall have a management and security system which shall be manned at least six days per week, on a daily, although not necessarily permanent basis, thereby making it possible to:
1° deal with arrivals and departures;
2° ensure that the site operates properly;
3° collect the user charge referred to in Article L. 851-1 of the Social Security Code.

II. – The site shall have a regular refuse collection service.

III. – Following a detailed inspection of the site, the manager shall send the prefect an annual report, prior to the signing of the agreement referred to in Article 4 of Decree No. 2001-568 of 29 June 2001 on assistance for authorities and organisations managing stopping places for Travellers and amending the Social Security Code (second part: Council of State decrees) and the Local and Regional Authorities Code (regulatory part)."

As to the right to vote

21. Under section 10 of Act No. 69-3 of 3 January 1969 relating to the exercise of itinerant trades and the rules applying to persons travelling around France without a fixed domicile or residence, such persons may only be added to the electoral roll after three years of uninterrupted attachment to the same municipality.

22. Under section 8 of Act No. 1969-3, the number of holders of circulation documents without a fixed domicile or residence attached to a given municipality must not be greater than 3% of the municipal population.

23. The situation of persons of "no fixed abode" is governed by Article 15-1 of the Electoral Code, which reads as follows:

Article L. 15-1 (as amended by Act No. 2007-290 of 5 March 2007 – section 51(V))
"Citizens who cannot provide evidence of a home or residence and who have not been assigned to a particular municipality by the law shall be registered at their request on the electoral roll of the municipality in which the reception facility certified in accordance with Articles L. 264-6 and L. 264-7 of the Social Welfare and Family Code is located provided that:
- this body's address has been on their national identity card for at least six months, or;
- the body has provided them with the certificate referred to in Article L. 264-2 of the Code, establishing a link with it for at least six months".

B – International law

24. With regard to the situation of Roma, the European Court of Human Rights held as follows in its *Orsus v. Croatia* judgment of 16 March 2010:

"(…) as a result of their history, the Roma have become a specific type of disadvantaged group and vulnerable minority (…). They therefore require special protection. (…) special consideration should be given to their needs and their different lifestyle both in the relevant regulatory framework and in reaching decisions in particular cases (…) not only for the purpose of safeguarding the interests of the minorities themselves but to preserve cultural diversity of value to the whole community" (§§ 147-148).

25. With regard to discrimination on the ground of ethnic origin, the European Court of Human Rights held as follows in its *Timichev v. Russia* judgment of 13 December 2005:

"Discrimination on account of one's actual or perceived ethnicity is a form of racial discrimination (…). Racial discrimination is a particularly invidious kind of discrimination and, in view of its perilous consequences, requires from the authorities special vigilance and a vigorous reaction. It is for this reason that the authorities must use all available means to combat racism, thereby reinforcing democracy's vision of a society in which diversity is not perceived as a threat but as a source of enrichment. (…) no difference in treatment which is based exclusively or to a decisive extent on a person's ethnic origin is capable of being objectively justified in a contemporary democratic society built on the principles of pluralism and respect for different cultures (§§ 56 and 58)."

26. In its *Conka v. Belgium* judgment of 5 February 2002, the European Court of Human Rights found as follows with regard to Article 4 of Protocol No. 4 to the European Convention on Human Rights (prohibition on the collective expulsion of aliens):

"Collective expulsion, within the meaning of Article 4 of Protocol No. 4, is to be understood as any measure compelling aliens, as a group, to leave a country, except where such a measure is taken on the basis of a reasonable and objective examination of the particular case of each individual alien of the group. That does not mean, however, that where the latter condition is satisfied the background to the execution of the expulsion orders plays no further role in determining whether there has been compliance with Article 4 of Protocol No. 4". (…) in those circumstances and in view of the large number of persons of the same origin who suffered the same fate as the applicants, the Court considers that the procedure followed does not enable it to eliminate all doubt that the expulsion might have been collective." (§§ 59 and 61)

27. The parties refer to Recommendation Rec(2005)4 of the Committee of Ministers to member states on improving the housing conditions of Roma and Travellers in Europe, that states:

"(…) Recognising that there is an urgent need to develop new strategies to improve the living conditions of the Roma/Gypsy and Traveller communities all over Europe in order to ensure that they have equality of opportunities in areas such as civic and political participation, as well as developmental sectors, such as housing, education, employment and health; (…)

Recommends that, in designing, implementing and monitoring their housing policies, the governments of member states:
- be guided by the principles set out in the Appendix to this Recommendation;
- bring this Recommendation to the attention of the relevant public bodies in their respective countries through the appropriate national channels.

Appendix to Recommendation Rec(2005)4
(…)
II. General principles

Integrated housing policies
Member states should ensure that, within the general framework of housing policies, integrated and appropriate housing policies targeting Roma are developed. Member states should also allocate appropriate means for the implementation of the mentioned policies in order to support national poverty reduction policies.

Principle of non-discrimination
Since Roma continue to be among the most disadvantaged population groups in Europe, national housing policies should seek to address their specific problems as a matter of emergency, and in a non-discriminatory way.

Freedom of choice of lifestyle
Member states should affirm the right of people to pursue sedentary or nomadic lifestyles, according to their own free choice. All conditions necessary to pursue these lifestyles should be made available to them by the national, regional and local authorities in accordance with the resources available and to the rights of others and within the legal framework relating to building, planning and access to private land.

Adequacy and affordability of housing
Member states should promote and protect the right to adequate housing for all, as well as ensure equal access to adequate housing for Roma through appropriate, proactive policies, particularly in the area of affordable housing and service delivery.

Prevention of exclusion and the creation of ghettos
In order to combat the creation of ghettos and segregation of Roma from the majority society, member states should prevent, prohibit and, when needed, revert any nationwide, regional, or local policies or initiatives aimed at ensuring that Roma settle or resettle in inappropriate sites and hazardous areas, or aimed at relegating them to such areas on account of their ethnicity."

28. The following texts of European Union law were relied on by the parties within the context of this complaint:

- Act of Accession to the European Union of Romania and Bulgaria (OJEU L157, 21 June 2005)
- Directive 2004/38/EC of the European Parliament and Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States;
- Directive 2000/43/EC of the Council of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

THE LAW

PRELIMINARY REMARKS

Government's arguments

29. In connection with the allegations relating to the Roma of Romanian and Bulgarian origin, the Government points out that the circular of 5 August 2010 was replaced by a circular of 13 September 2010. It also points out that the *Conseil d'Etat* quashed the first circular in a judgment of 7 April 2011 but held the second to comply with the provisions of the European Convention on Human Rights ("the Convention") and the French Constitution (see § 15 above).

30. The Government also argues that the Forum's allegations concerning the circular of 5 August 2010 are identical to those lodged with the Committee in the context of the complaint Centre on Housing Rights and Evictions (COHRE) v. France, Complaint No. 63/2010.

31. The Committee notes, however, that this argument does not seem to intend to ask the Committee to declare this complaint devoid of purpose.

32. The Forum also asserts repeatedly that the evictions of illegal camps and the expulsions of Roma of Romanian and Bulgarian origin continued after summer 2010 although it does not refer to any specific events in support of these allegations.

33. The Government does not contest these assertions on the ground, it would seem, that it regards them as being insufficiently precise.

34. However, according to the figures of the Ministry of the Interior made available to the press agency *Agence France presse*, 4 714 Romanian and Bulgarian nationals from dismantled camps were expelled from France during the first six months of 2011. Total numbers expelled were 9 300 in 2009 and 9 529 in 2010.

35. The Committee will consequently take account of the following three aspects when examining the situation:

- The decision on the merits of 28 June 2011 related only to the facts which occurred during the summer of 2010 (the eviction of camps and expulsion from France of Roma of Romanian and Bulgarian origin);
- The effects of the evictions and expulsions carried out pursuant to the circular of 5 August 2010 are still being felt;
- The circular of 13 September 2010 gave rise to further evictions and expulsions, which are continuing.

Arguments of the complainant organisation

36. The Forum relies on Articles 16, 19§8, 30 and 31, read alone or in conjunction with Article E of the Charter.

37. The Committee notes, however, that in substance the unequal treatment alleged in this complaint is a key component of all the situations which the complainant organisation claims to be incompatible with the Charter.

38. The Forum submits that Travellers and Roma of Romanian and Bulgarian origin suffer from systematic discrimination in France in the enjoyment of the rights enshrined in Articles 16, 19§8, 30 and 31 of the Charter.

39. Consequently, the Committee will examine all the Forum's allegations under Article E read in conjunction with each of the articles it relies on. It will examine the allegations in the following order:

1. the alleged violation of Article E of the Charter taken in conjunction with Article 19§8 with regard to Roma of Romanian and Bulgarian origin;
2. the alleged violation of Article E of the Charter taken in conjunction with Article 30 with regard to Travellers;
3. the alleged violation of Article E of the Charter taken in conjunction with Article 31 with regard to Travellers and Roma of Romanian and Bulgarian origin;
4. the alleged violation of Article E of the Charter taken in conjunction with Article 16 with regard to Travellers' families and Roma families of Romanian and Bulgarian origin.

Discrimination

40. The Committee recalls that in a democratic society human difference should not only be viewed positively but should also be responded to with discernment in order to ensure real and effective equality (International Association Autism-Europe v. France, Complaint No. 13/2002, decision on the merits of 4 November 2003, § 52).

41. The function of Article E is to help secure the equal effective enjoyment of all the rights enshrined in the Charter regardless of any particular characteristic of an individual or group of persons. Article E not only prohibits direct discrimination but also all forms of indirect or systemic discrimination. Discrimination may in fact also arise by failing to take due and positive account of all relevant differences or by failing to take adequate steps to ensure that the rights and collective advantages that

are open to all are genuinely accessible by and to all (International Association Autism-Europe v. France, Complaint No. 13/2002, decision on the merits of 4 November 2003,§§ 51 and 52 and Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010, § 35). Systemic discrimination can be understood as legal rules, policies, practices or predominant cultural attitudes, in either the public or private sector, which create relative disadvantages for some groups, and privileges for other groups. (United Nations Committee on Economic, Social and Cultural Rights, General Comment No. 20 on non-discrimination in economic, social and cultural rights).

42. It must also be ensured that discrimination is eliminated not only in law but also in fact**.**

I. ALLEGED VIOLATION OF ARTICLE E TAKEN IN CONJUNCTION WITH ARTICLE 19§8

Article E – Non-discrimination

"The enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status."

Article 19 – The right of migrant workers and their families to protection and assistance

Part I: "Migrant workers who are nationals of a Party and their families have the right to protection and assistance in the territory of any other Party."

Part II: "With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:(…)

8. to secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality; (…)"

A. – Arguments of the parties

1. The complainant organisation

43. The Forum alleges that the "wave of expulsions from France" of Roma of Romanian and Bulgarian origin, expulsions often of a collective nature that had already begun in 2007, worsened following the adoption of the circular of 5 August 2010 and continued after the adoption of the circular of 13 September 2010, violating Article E in conjunction with Article 19§8 of the Charter.

44. The Forum also relies on these expulsions' non-compliance with European Union law. It refers in particular to freedom of movement and the right of migrant workers from the European Union to live in other European Union member states without suffering discrimination on the basis, inter alia, of nationality.

45. The complainant organisation also relies on the Treaty of Accession of 25 April 2005 whereby Bulgaria and Romania joined the European Union and acknowledges that France is entitled to establish certain restrictions of the right of Romanian and Bulgarian nationals to reside in its territory, but any less favourable treatment in respect of an "ethnic group" (such as Romanian and Bulgarian citizens of Roma origin) within a "European nationality" is prohibited and constitutes a clear case of racial discrimination, in breach inter alia of Article 19 of the Treaty on the functioning of the European Union, which enshrines the Union's competence to combat all forms of discrimination on grounds of gender, race or ethnic origin, religion or beliefs, disability, age or sexual orientation, and of Directive 2000/43/EC of the Council implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

2. The Government

46. The Government disputes the collective nature of the expulsions, maintaining that each expulsion measure is adopted after an examination of the personal circumstances of each individual concerned, who may subsequently challenge the expulsion decision in the administrative courts.

47. The Government also relies on European Union law. It argues that it guarantees the freedom of movement of EU migrant workers throughout the Union's territory provided that certain conditions are respected.

48. In this connection, it acknowledges that before the implementation of the new Act No. 2011-672 of 16 June 2011 on immigration, integration and nationality, which amended the Code on Entry and Residence of Foreigners and the Right to Asylum (CESEDA), the legislation governing the expulsion of citizens of EU member states (Article L. 521-5 of the CESEDA) was consistent with neither the Charter nor Directive 2004/38/EC.

49. The Government however considers that the new Act brings the CESEDA into compliance with the EU law and the Charter, by supplementing Article L. 521-5 thereof with a paragraph b), stipulating that when taking expulsion measures against European Union nationals "the administrative authority shall take account of all of the circumstances of their situation, particularly the length of their residence in the country, their age, their state of health, their family and financial situation, their social and cultural integration in French society and the strength of their ties with their country of origin”.

50. In support of its argument that the provisions of the new Act governing the expulsion of EU nationals are compatible with European Union law, the Government refers to the European Commission's opinion of 25 August 2011 on the above-mentioned Act to the effect that "the government adopted the legislative amendments required by the Commission to ensure compliance with the Free Movement Directive on 16 June, including the safeguards that protect EU citizens against arbitrary expulsions or discriminatory treatment."

B – Assessment of the Committee

51. The Committee recalls that Article 19§8, which obliges States to prohibit by law the expulsion of migrants lawfully residing in their territory, admits exceptions where they are a threat to national security, or offend against public interest or morality (Conclusions VI, Cyprus).

52. Given the obligation deriving from the Charter whereby states must observe, within its scope of application, the two essential elements of the rule of law that are the existence of a legal basis and the right of access to a court (*Syndicat occitan de l'éducation* v. France, Complaint No. 23/2003, decision on the merits of 8 September 2004, § 26), the Committee considers that Article 19§8 requires, firstly, that substantial safeguards accompany any administrative measure to expel foreign nationals (Conclusions IV, United Kingdom) and, secondly, that states ensure that those foreign nationals who are subject to an expulsion measure are entitled to challenge this decision before a court or another independent body, even where national security, public interest or morality are at stake (Conclusions IV, United Kingdom).

53. In view of the Government's observation that the European Commission considers the Act of 16 June 2011 governing the expulsion of European Union nationals, and in particular the above-mentioned Article L. 521-5 of the CESEDA, to be compatible with European Union law, in particular Directive 2004/38/EC of the European Parliament and of the Council on freedom of movement of citizens of the Union, which this Act moreover transposes into national law, the Committee recalls that it is not for it to assess a national situation's conformity with EU law, but merely its conformity with the Charter, including where an EU directive is transposed into national law (*Confédération Générale du Travail* (CGT) v. France, Complaint No. 55/2009, decision on the merits of 23 June 2010, § 33).

54. In this regard, the Committee notes that, following the submission in July 2011 to the European Commission by the non-governmental organisation Human Rights Watch of a document concerning the incompatibility with EU law of recent expulsions of Roma of Romanian and Bulgarian origin (document available on http://www.hrw.org/node/101964), a Commission spokesperson declared that the issue of expulsions of nationals of EU member states fell "exclusively within the jurisdiction of member states" and, consequently, within the member states' obligations under international law, including those arising from the Charter (European Daily Bulletin, No. 10464, 1 October 2011, p. 14).

55. Under the national legislation in force (the CESEDA, as amended by Act No. 2011-672 of 16 June 2011 – see § 18 above), any European Union citizen may reside in France under conditions that vary according to the length of stay and the aim being pursued by the individual concerned. For instance, any European Union citizen can stay in France for more than three months on condition that he/she carries on an occupation in France (Article L. 121-1, paragraph 1) or has "sufficient resources" for him/herself and his/her family to ensure that they do not become a burden on the social assistance system, as well as sickness insurance (Article L. 121-1, paragraph 2), or he/she is enrolled in an educational or vocational training establishment and also has "sufficient resources" so as not to become a burden on the social assistance system, as well as sickness insurance (Article L. 121-1, paragraph 3). These persons' family members are also entitled to stay for more than three months on condition that their presence does not constitute a threat to public order (Article L. 121-3). Lastly, on condition that they do not become an unreasonable burden on the social assistance system, EU citizens and their family members are entitled to stay in France for a maximum of three months, without any other formality than those that apply for admission to national territory (Article L. 121-4-1).

56. It follows from the above provisions that a decision to expel European Union nationals from French territory may be taken in two cases: if, for lack of resources, these persons are likely to become a burden on the social assistance system or if their presence may constitute a threat to public order.

57. Neither the Forum nor the Government has produced any decision issued with regard to a Romanian or Bulgarian national of Roma origin living in France and requiring him/her to leave French territory. A decision of this kind would have allowed the Committee to know the legal basis applied by the relevant authorities.

58. In any case, the question to be answered by the Committee is whether, beyond the applicable law, the practice is in conformity with the Charter.

59. In this regard, the Committee observes that the Roma of Romanian and Bulgarian origin living in France are, indeed, to a large extent not economically active. According to many sources they wish to find employment but are unable to do so. For this reason they lead a hand to mouth existence, surviving with the extremely low income they obtain partially through begging (see RomEurope, National Human Rights Collective bringing together 21 non-governmental organisations particularly competent in the field of support for and protection of the Roma population living in France, in “Promoting access to fundamental rights for Roma migrants – the 2010 revendications of the Collective RomEurope" at www.romeurope.org). It is also for this reason, combined with the inadequate housing supply, that they are forced to live on illegal camp sites.

60. This situation however cannot be regarded as likely systematically to place an excessive burden on social assistance budgets. Nor can the occasional instances of theft, aggressive begging or unlawful occupation of the public domain or private property be systematically deemed to constitute a "genuine, present and sufficiently serious threat affecting one of the fundamental interests of society" (Article L. 521-5 paragraph a) of the CESEDA, *in fine*) that could justify their expulsion.

61. The Committee takes due account in this connection of the Lille Administrative Court's decision of 27 August 2010 to annul four removal orders issued against Roma of Romanian origin. Although the above-mentioned provision of Article L. 521-5 paragraph a) of the CESEDA, in fine, was not yet in force, the court held that the unlawful occupation of a site belonging to the Lille metropolitan area authority "did not in itself, in the absence of special circumstances, pose a sufficiently serious threat for a fundamental interest of society" (see § 17 above).

62. The Government also does not establish, despite its repeated assertions, that the expulsion measures adopted by the French authorities were decided taking into account the individual characteristics of the persons being expelled and were not systematically targeted at Roma of Romanian and Bulgarian origin.

63. It was these considerations that led to the decision on the merits of 28 June 2011 in Complaint Centre on Housing Rights and Evictions (COHRE) v. France, No. 63/2010, concerning a period predating that covered by the present complaint. The Committee is not unaware that, unlike the ministerial circular of 5 August 2010, which was annulled by the *Conseil d'Etat*, the new circular of 13 September 2010 that the *Conseil d'Etat* did not hold to be unlawful no longer expressly targets the Roma. The operations carried out during the period concerned by this complaint nonetheless had the same characteristics as those that took place in the earlier period.

64. At a press conference on 21 July 2011, the RomEurope denounced the fact that, throughout the previous twelve months, administrative decisions requiring individuals to leave French territory had been "distributed en masse" and "the statistics prove that they were issued principally against Roma" (see http://www.romeurope.org). In addition, the document that Human Rights Watch submitted to the European Commission in July 2011 (see pp. 10 and 11 of the document cited in § 54) reported a number of cases of expulsion of Romanian and Bulgarian citizens from France, "the vast majority of whom were Roma", after the dismantling of camp sites of Lyon, Créteil, Saint-Denis, Fontenay-sous-Bois and La Courneuve.

65. These observations, which are not contested in the Government's submissions, show that, in exercising the powers it holds under national law, the Government did not respect the proportionality principle required by the Charter and highlighted by the Committee on several occasions (International Movement ATD Fourth Word (ATD) v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 164-168). Under this principle the burden of coverage of the persons concerned by the social assistance system would have to be excessive, or even unreasonable, for an expulsion measure to be necessary, so as to relieve the state of this burden.

66. In the light of the above, the Committee concludes that the administrative decisions whereby, during the period under consideration, Roma of Romanian and Bulgarian origin were ordered to leave French territory, where they were resident, are incompatible with the Charter in that they were not founded on an examination of their personal circumstances, did not respect the proportionality principle and were discriminatory in nature since they targeted the Roma community.

67. The Committee therefore holds that there is a violation of Article E of the Charter taken in conjunction with Article 19§8.

II. ALLEGED VIOLATION OF ARTICLE E TAKEN IN CONJUNCTION WITH ARTICLE 30

Article E – Non-discrimination

"The enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status."

Article 30 – The right to protection against poverty and social exclusion

Part I: "Everyone has the right to protection against poverty and social exclusion."

Part II: "With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake:

a. to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance;

b. to review these measures with a view to their adaptation if necessary."

A. – Submissions of the parties

1. The complainant organisation

68. The Forum maintains that the period (three years) for which Travellers must have been continuously attached to a municipality before they can be registered to vote, as provided for in the Act of 3 January 1969 relating to the exercise of itinerant trades and the regime applicable to persons travelling around France without a fixed domicile or residence, is more restrictive than the six month period applying to

persons of no fixed abode under Article 15-1 of the Electoral Code. It contends that this constitutes unjustified discrimination against the former, whereas no factual difference in situation justifies a difference in treatment in these matters.

2. The Government

69. The Government acknowledges the co-existence, to date, of the two above systems providing for different periods of attachment to a municipality in order to register on electoral rolls in the case of Travellers and persons of no fixed abode. It nonetheless argues that under the Act of 2007 on Social Modernisation, Travellers can choose to adopt a social welfare centre or body certified for the purpose as their official address, as stated in Article 15-1 of the Electoral Code (see § 23 above), in which case the six-month qualifying period for registration on the electoral roll will be applied to them. At all events, the Government asserts that neither system disproportionately undermines Travellers' right to vote.

70. Lastly, the Government states that it is well aware of the need to review the legislation on Travellers' voting rights and refers to a broad public consultation it organised on the subject, in which Traveller representatives participated with a view to identifying the most appropriate solutions.

B – Assessment of the Committee

71. The Committee recalls that it already examined the obstacles to the exercise of the voting rights of Travellers of French nationality in the context of its decision on the merits of 19 October 2009 in Complaint No. 51/2008, European Roma Rights Centre (ERRC) v. France. It then held that the reference to social rights in Article 30 should not be understood too narrowly and that the fight against social exclusion is one area where the notion of the indivisibility of fundamental rights takes on special importance and, in this regard, the right to vote, like other rights relating to civic and citizens' participation, constitutes a necessary dimension in achieving social integration and inclusion and is thus covered by Article 30 (European Roma Rights Centre (ERRC) v. France, Complaint No. 51/2008, decision on the merits of 19 October 2009, § 99). The Committee further highlights that the exercise of voting rights without discrimination also applies to all European Union nationals with regard to local and European elections.

72. In the above-mentioned decision on the merits the Committee found that there was a violation by France of Article E of the Charter taken in conjunction with Article 30, after noting that the rules applicable to citizens identified in terms of their association with the Traveller community were different from those applied to homeless citizens and that the difference in treatment between Travellers and homeless people with regard to their right to vote had no objective and reasonable justification (European Roma Rights Centre (ERRC) v. France, Complaint No. 51/2008, decision on the merits of 19 October 2009, § 102).

73. The Committee observes that the law applicable to Travellers with regard to voting rights has not changed since that decision.

74. In this connection, the Committee notes that the report “Travellers – working towards ordinary law status” (known as the Hérisson report), presented to the Prime Minister in July 2011 by the Chair of the National Advisory Commission for Travellers, proposed on the subject of Travellers' voting rights to "repeal section 10 of the Act of 3 January 1969 and permit Travellers to benefit from the rules of ordinary law, setting a six month period of attachment to a municipality in order to register on electoral rolls" and that this proposal has so far not resulted in an amendment of positive law.

75. The Government indeed states that, by virtue of the Act of 2007, like homeless people, Travellers too can attach themselves to the municipality where the welfare centre or certified body with which they are registered is located and wait only six months, rather than the three year period provided for by the Act of 1969, before registering to vote.

76. Assuming this were the case and Travellers could lawfully request to be registered on the electoral roll after having their official residence at a welfare centre or a certified body for six months, it is not proven that in practice they are able, firstly, to avail themselves of this possibility and, secondly, to have their request accepted by the relevant authorities. This explains the Hérisson report's proposal in the light of the widely known difficulties observed in this matter as to legal certainty.

77. The Committee therefore holds that the situation of Travellers with regard to the right to vote constitutes a violation of Article E of the Charter taken in conjunction with Article 30.

III. ALLEGED VIOLATION OF ARTICLE E TAKEN IN CONJUNCTION WITH ARTICLE 31

Article E – Non-discrimination

“The enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status.”

Article 31 – The right to housing

Part I: “Everyone has the right to housing.”

Part II: “With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

1 to promote access to housing of an adequate standard;
2 to prevent and reduce homelessness with a view to its gradual elimination;
3 to make the price of housing accessible to those without adequate resources.”

A. – Arguments of the parties

1. The complainant organisation

78. The Forum denounces the degrading housing conditions of Travellers and Roma of Romanian and Bulgarian origin. More specifically:

- concerning the former, the Forum maintains that the number of stopping places remains insufficient, obliging a number of Travellers to live on illegal sites for lack of any alternative;
- concerning the latter, the Forum maintains that most of them live in squalid shanty towns, often without access to water or electricity and in extremely poor conditions of hygiene.

79. The Forum also maintains that, instead of implementing a strategy to improve these inadequate or deplorable housing conditions, the rules in force facilitate forced evictions, providing that:

- for those stopping unlawfully, a forced eviction can be carried out within 48 hours without any prior judicial procedure;
- illegal camp sites shall systematically be dismantled.

80. Lastly, the Forum asserts that, although the law now recognises the caravan as a home, since with effect from 2010 there has been a "residence tax on land-based mobile homes", caravans still do not have the status of housing, thus depriving their occupants of effective access to housing assistance.

2. The Government

81. The Government first observes that the complainant organisation's criticisms are contradictory, as it claims regard for cultural particularism while at the same time condemning as discriminatory the state's responses to the specific needs of the population groups concerned.

82. The Government then responds to the grounds raised by the complainant organisation, with reference firstly to the situation of Travellers and secondly to that of Roma of Romanian and Bulgarian origin.

Travellers

83. In response to the allegation of discrimination against Travellers, the Government confirms that they benefit from the rights enjoyed by all citizens while repeating that specific measures have also been introduced to safeguard their choice of lifestyle. In this connection it underlines that in public policies the needs of Travellers are viewed as those of a group defined by social, economic and cultural, but certainly not racial, characteristics.

84. In this regard, as within the framework of previous complaints, the Government reiterates that the aim of the Reception and Accommodation of Travellers Act of 5 July 2000 (hereinafter the Act of 5 July 2000) is to acknowledge and safeguard the way of life of Travellers by making arrangements for their

reception, allowing them to live in their mobile homes in satisfactory conditions (see §§ 19 and 20 above).

85. Concerning the number of stopping place, the Government acknowledges that, at the time of the decision on the merits of 19 October 2009 in Complaint No. 51/2008, European Roma Rights Centre (ERRC) v. France, finding that an "inadequate implementation of the legislation on stopping places for Travellers constitutes a violation of Article 31§1 of the Charter", only 32% of the total number of spaces provided for by *département* plans had been created. However, it states that the situation had considerably changed and progressed since that finding. This is because:

- *département* plans have now been adopted in all of France's 96 mainland *départements*;
- over the period 2000-2008 the state allocated a total of €288 million to the funding of stopping places;
- by the end of 2010, 52% of the total number of spaces provided for by *département* plans had been created (68% state funded).

86. Concerning the quality of sites, the Government points out that, under the rules on the reception of Travellers, the grant for the development of a stopping place will only be paid if the relevant technical standards are met (see § 20 above). The Government also points out that, in the light of the annual reviews carried out by the authorities, it can be seen that the occupiers are, on the whole, satisfied with the stopping places that are already operating.

87. Concerning the allegations relating to forced evictions of illegally parked mobile homes, the Government argues that , in July 2010, the *Conseil constitutionnel* found that the administrative procedure applicable, as governed by sections 9 and 9-1 of the Act of 5 July 2000 (see § 15 above), complied with the Constitution.

88. Lastly, concerning the assertion that those living in caravans have no access to housing assistance, the Government points out that section 51 of the Act of 5 March 2007 (the "DALO Act" on the enforceable right to housing) provides Travellers with improved guarantees of access to social benefits by making it possible for them to establish their official residence with a certified body (or a municipal social welfare centre) like any other person without a stable home.

89. Lastly, it points out that Travellers are already covered by the provisions of *département* housing action plans for the disadvantaged, under which they have access to social housing under ordinary law if they wish to settle in one place.

Roma of Romanian and Bulgarian origin

90. Concerning the allegation of discrimination against Roma of Romanian and Bulgarian origin, the Government maintains that all lawfully resident Roma of foreign origin can take advantage of the reception arrangements set up on French territory on an equal footing with French nationals.

91. The Government does not advance separate arguments concerning the quality of the accommodation of Roma migrants.

92. Concerning the allegations relating to forced evictions of Roma camp sites, as a matter of priority, the Government reiterates that the circular of 5 August 2010 has been repealed and that of 13 September 2010 contains no reference to Roma. It also recalls that, in April 2011 (see § 17 above), the *Conseil d'Etat* held that this circular cannot be viewed as repeating the illegal provisions of the first circular, as it does not enact any rule or include any provision which disregards the right to non-discrimination or the equal treatment principle. The Government underlines that the eviction measures related only to illegally occupied sites.

B – Assessment of the Committee

93. Concerning the allegations on the right to housing, the Committee notes that the complainant organisation relies on Article 31 of the Charter as a whole, while sometimes referring more specifically to paragraph 3 thereof. However, the situations complained of, namely unstable housing conditions, the execution of forced evictions without respect for human dignity and the de facto denial of housing assistance, are in substance covered respectively by paragraph 1 (access to adequate housing), paragraph 2 (reducing homelessness) and paragraph 3 (access to affordable housing) of Article 31.

94. Consequently, the Committee will examine the allegations on the right to housing from the viewpoint of Article E taken in conjunction first with Article 31§1, then with Article 31§2 and lastly with Article 31§3. In addition, given the different situations of Travellers and Roma of Romanian and Bulgarian origin, the Committee will deal separately with them.

Article E in conjunction with Article 31§1

95. The Committee recalls that under Article 31§1 of the Charter, States Parties shall guarantee to everyone the right to housing and shall promote access to adequate housing. States must take the legal and practical measures which are necessary and adequate to the goal of the effective protection of the right in question. They enjoy a margin of appreciation in determining the steps to be taken to ensure compliance with the Charter, in particular as regards the balance to be struck between the general interest and the interest of a specific group and the choices which must be made in terms of priorities and resources (European Roma Rights Centre (ERRC) v. Bulgaria, Complaint No. 31/2005, decision on the merits of 18 October 2006, § 35).

96. Moreover, given that the achievement of the rights of Article 31§1 is exceptionally complex and particularly expensive to resolve, a States Parties must take measures that allow it to achieve the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources. States Parties must be particularly mindful of the impact that their choices will have for groups with heightened vulnerabilities as well as for other persons affected (*mutatis mutandis*, International Association

Autism-Europe v. France, Complaint No. 13/2002, decision on the merits of 4 November 2003, § 53).

Travellers

97. As in its decisions on the merits of 5 December 2007 (Complaint No. 33/2006, International Movement ATD Fourth World (ATD) v. France and Complaint No. 39/2006, European Federation of National Organisations Working with the Homeless (FEANTSA) v. France) and of 19 October 2009 (Complaint No. 51/2009, European Roma Rights Centre (ERRC) v. France), the Committee notes that the Government has adopted specific legal measures (the Act of 5 July 2000 and its implementing measures) to take account of the fact that many Travellers have chosen an itinerant life style in which the traditional form of dwelling is a mobile home.

98. In its response to the Government's submissions on the merits, the Forum principally complains of what it regards as a still significant shortage of parking spaces for Travellers whose traditional dwelling is a mobile home. It does not challenge the Government's contentions that the technical standards applicable to stopping places for Travellers are complied with. The Committee accordingly considers that the only subsisting allegation, in substance, concerns the shortage of parking spaces which is claimed to render the right to housing ineffective for a large number of Travellers.

99. It should be recalled that the Act of 5 July 2000 provides (see § 19 above) that the location of stopping places and the number of spaces provided for in the *département* plans must result from a prior assessment of Travellers' needs (section 1.I). To this end, the Act provides that "in each *département* an advisory committee, including representatives of the municipalities concerned, the Travellers themselves and associations working with them, shall be involved in the preparation and implementation of the plan" (section 3).

100. When the Committee took its decision on the merits of 19 October 2009 in respect of Complaint No. 51/2009, European Roma Rights Centre (ERRC) v. France, the implementation of the *département* plans for the reception of Travellers was manifestly inadequate. The Government admits that only 32% of the parking spaces on the sites provided for in the *département* plans were operational at the time.

101. To determine whether Travellers continue to be discriminated against regarding access to adequate housing, the Committee must establish whether the action taken by the authorities since this finding meets the criteria set out above (see § 96) which have to be satisfied for Article 31§1 to be complied with - (i) reasonable timeframe; (ii) measurable progress; (iii) a funding arrangement which makes the best possible use of available resources.

102. Concerning measurable progress, the Committee considers that, in view of the statistics provided by the Government which the Forum has not challenged, over three years the spaces created have increased by 20% (nearly 8,000 spaces completed per year), given that in 2010 52% of spaces on the sites provided for in the *département* plans were operational. The Committee accordingly considers that measurable progress has been achieved.

103. Regarding the best possible use of available resources, the Committee observes that, since its decision on the merits in Complaint No. 51/2009, the percentage of parking spaces created with state funding has increased (from 50% in 2007 to 68% in 2010). Moreover, the Committee has no evidence of insufficient funding of stopping places, in view of the margin of discretion enjoyed by states when allocating financial resources. It accordingly considers that the authorities have made adequate progress in implementing financial resources so as to permit the creation of stopping places.

104. Concerning the reasonable timeframe criterion, the Committee notes that, according to the Act of 5 July 2000, the *département* reception plans had to be finalised within eighteen months of the Act's publication (section 1.III). It would seem from the case-file documents that most of these plans were not finalised until 2004. The Act also provided for a two year time-limit for equipping the sites and creating the parking spaces proposed in the plans. In view of the many difficulties encountered, the mayors requested the state to grant them an additional two years, a time-limit which in some cases was again extended by a further two years.

105. The Committee considers that, while it is relatively long, this maximum period of eight years, resulting from the successive amendments to the Act (section 2.IV), does not exceed the state's margin of appreciation.

106. The Committee nonetheless notes that, at the end of 2010, the objectives set in the *département* plans were only 52% achieved.

107. In this connection, it should be recalled that the Act provides "if (...) a municipality or a public establishment for intermunicipal co-operation has not fulfilled its obligations under the *département* plan, the state may acquire the necessary plots, carry out the works and manage the stopping places on behalf of the municipality or public establishment that has failed to act." (section 3.I) However, there is nothing in the case-file to show that the state took sufficient action instead of the municipalities in this field.

108. The Committee recalls that a situation's conformity with the Charter results not only from the legislation but also from its effective implementation.

109. The Committee finds that the failure to implement in practice the provisions aimed at meeting Travellers' specific accommodation needs, and thereby guaranteeing them equal access to housing, constitutes a discrimination in the effective enjoyment of this right.

110. Consequently, the Committee holds that the deficient implementation of the legislation on stopping places for Travellers constitutes a violation of Article E in conjunction with Article 31§1 of the Charter.

Roma of Romanian and Bulgarian origin

111. The Committee recalls that that persons unlawfully present on the territory of a State Party do not come within the personal scope of Article 31§1 of the Charter (Defence for Children International (DCI) v. the Netherlands, Complaint No. 47/2008, decision on the merits of 20 October 2009, § 45).

112. With regard to Roma migrants residing legally in France, the Committee recalls that, under Article 31§1 of the Charter, persons legally residing or regularly working in the territory of the Party concerned who do not have housing of an adequate standard must be offered such housing within a reasonable time (Conclusions 2003 and 2011, France).

113. The Government states that legally resident Roma migrants who wish to live in mobile homes can take advantage, in the same way as Travellers, of the parking spaces available in the stopping places provided for this purpose. However, it does not deny the precarious housing conditions of Roma living outside the duly equipped sites.

114. The Forum does not challenge the Government's argument.

115. However, the Committee notes that, in view of the finding of a violation concerning the deficient implementation of the legislation on stopping places for Travellers, Roma wishing to live in mobile homes have to deal with the same shortage of parking spaces.

116. Consequently, the Committee holds that the deficient implementation of the legislation on stopping places for Travellers constitutes a violation of Article E taken in conjunction with Article 31§1 of the Charter also with regard to Roma wishing to live in mobile homes.

Article E in conjunction with Article 31§2

117. Article 31§2 of the Charter is directed at the prevention of homelessness with its adverse consequences on individuals' personal security and well being (Defence for Children International (DCI) v. the Netherlands, Complaint No. 47/2008, decision on the merits of 20 October 2009, § 61).

118. States Parties must therefore take action to prevent categories of vulnerable people from becoming homeless (European Roma Rights Centre (ERRC) v. Bulgaria, Complaint No. 31/2005, decision on the merits of 18 October 2006, §54). This requires that procedures be put in place to limit the risk of evictions and to ensure that when these do take place, they are carried out under conditions which respect the dignity of the persons concerned (Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010, § 67).

119. The Committee also recalls that when an eviction is justified by the public interest, authorities must adopt measures to re-house or financially assist the persons concerned (Conclusions 2003, France).

120. The Committee further recalls that illegal occupation of a site or dwelling may justify the eviction of the illegal occupants. However, the criteria of illegal occupation must not be unduly wide. The eviction should be governed by rules of procedure sufficiently protective of the rights of the persons concerned and should be carried out according to these rules (European Roma Rights Centre (ERRC) v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, § 51).

Travellers

121. Concerning forced evictions of illegally parked mobile homes, the Committee notes that, as the Government points out, in July 2010, the *Conseil constitutionnel* found that the administrative procedure applicable, as governed by sections 9 and 9-1 of the Act of 5 July 2000, complied with the Constitution (see § 15 above).

122. The *Conseil constitutionnel* however did not rule on the situation's compliance with the Charter. In that respect, the following circumstances are key to deciding whether forced evictions under the procedure in question are compatible with Article 31§2:

- The Act of 5 July 200 provides that the mayor may prohibit the parking of caravans in places other than the stopping places (and throughout the municipality), which means that any parking outside these sites is unlawful and the procedure for forced eviction within 48 hours may be implemented if the illegal parking jeopardises public health, safety or order;
- As the number of parking space is still well below the needs assessed (see above) a large number of Travellers can but park outside the duly equipped stopping places. They accordingly risk being systematically evicted, wherever they park.

123. The Committee recalls that a person or a group of persons, who cannot effectively benefit from the rights provided by the legislation (in the instant case the right to par on a site to this effect), may be forced to adopt reprehensible behaviour (in the instant case, to park unlawfully) in order to satisfy their needs. However, this circumstance can neither be held to justify any sanction or measure towards these persons, nor be held to continue depriving them of benefiting from their rights (European Roma Rights Centre (ERRC) v. Bulgaria, Complaint No. 31/2005, decision on the merits of 18 October 2006, § 53).

124. In this case, and in view of the finding of a violation of Article E taken in conjunction with Article 31§1, the Committee considers that, in practice, execution of the impugned eviction procedure exposes Travellers to a greater risk of becoming homeless in view of the too limited lawful parking conditions, as a consequence of which no alternative accommodation taking account of their specific form of housing is offered to them.

125. The Committee consequently holds that the execution of the forced eviction procedure governed by sections 9 and 9-1 of the Act of 5 July 2000 breaches Article E taken in conjunction with Article 31§2 of the Charter.

Roma of Romanian and Bulgarian origin

126. As mentioned above, since the right to shelter is closely connected to the right to life and to the right to respect of every person's human dignity, States Parties are required to provide shelter to persons unlawfully present in their territory for as long as they are in their jurisdiction (Conclusions 2011, France).

127. The Committee moreover recalls that to ensure that the dignity of the persons sheltered is respected, shelters must meet health, safety and hygiene standards and, in particular, be equipped with basic amenities such as access to water and heating and sufficient lighting. Another basic requirement is the security of the immediate surroundings (Defence for Children International (DCI) v. the Netherlands, Complaint No. 47/2008, decision on the merits of 20 October 2009, § 62).

128. It can be seen from a wide number of recent sources (European Roma Rights Centre (ERRC) submissions to the European Commission on the legality of the situation of Roma in France dated September 2010, the Amnesty International report of 2011 and a report of July 2011 by Médecins du Monde concerning the living conditions of the Roma in France), that a large share of the Roma camp sites do not meet these requirements and have not done so since at least 2006 when the Council of Europe Commissioner for Human Rights noted, in a report of 15 February, that these camp sites were squalid, often without access to water or electricity, wedged under bridges or located between motorways and railway lines only a few metres away from a major ring-road.

129. Having regard to the continuing substandard housing conditions on these camp sites and since the Government has not established that it has taken sufficient measures to guarantee the Roma living there housing conditions meeting minimum standards, the Committee holds that the situation is in breach of Article E taken in conjunction with Article 31§2.

130. Concerning the allegation that the forced evictions do not respect the dignity of the persons concerned, the Committee refers to its decision on the merits of 28 June 2011 in COHRE v. France and reiterates that it considers that the application of the circular of 5 August 2010 has led to a clearly and directly discriminatory treatment based on the ethnic origin of the persons concerned (§ 51 of the decision).

131. The Committee also recalls that it held that there had been an aggravated violation of Article 31§2 having regard to the adoption of measures incompatible with human dignity and specifically aimed at vulnerable groups and taking into account the active role of the public authorities in framing and implementing these measures (Centre on Housing Rights and Evictions (COHRE) v. France, Complaint No. 58/2009, decision on the merits of 28 June 2011, § 53).

132. The Committee notes that the Government considers that in so far as the illegal act (the circular of 5 August 2010) was replaced by the circular of 13 September 2010, which the *Conseil d'Etat* did not regard as unlawful, the situation is no longer in breach of the Charter.

133. The Committee considers, on the contrary, that given that the police operations to evacuate sites unlawfully occupied by the Roma are continuing under the latter circular, the circular and its application constitute indirect discrimination. Based on statistics cited by Human Rights Watch in the above-mentioned report of July 2011 (see § 54 above), it transpires that, in February 2011, the Minister of the Interior stated that 70% of the 741 illegal Roma camp sites recorded in July 2010 had been dismantled.

134. The Committee accordingly considers that the circular of 13 September 2010 has had and continues to have a disproportionate impact on the Roma, in particular those originating from Romania or Bulgaria.

135. The Committee therefore holds that the conditions in which the forced evictions of Roma camp sites take place are inconsistent with human dignity and constitute a violation of Article E taken in conjunction with Article 31§2.

Article E in conjunction with Article 31§3

136. The Committee recalls that in the context of Article 31§3 of the Charter:

- An adequate supply of affordable housing must be ensured for persons with limited resources. Housing is affordable if the household can afford to pay initial costs (deposit, advance rent), current rent and/or other housing-related costs (e.g. utility, maintenance and management charges) on a long-term basis while still being able to maintain a minimum standard of living, according to the standards defined by the society in which the household is located (European Federation of National Organisations Working with the Homeless (FEANTSA) v. France, Complaint No. 39/2006, decision on the merits of 5 December 2007, § 124).
- States Parties are required to adopt comprehensive housing benefit systems to protect low-income and disadvantaged sections of the population. A housing benefit is an individual right: all qualifying households must receive it in practice; legal remedies must be available in case of refusal (Conclusions 2003, France).

137. The Committee recalls that in Conclusions 2005 and 2011 it concluded that there is a shortage of social housing at an affordable price for the poorest people and low-income groups in France.

138. In the light of this finding and that concerning the violation of Article E taken in conjunction with Article 31§1 on the ground of the deficient implementation of the legislation on stopping places for Travellers, the Committee holds that there is no effective access to social housing for Travellers and Roma wishing to live in mobile homes.

139. Concerning the discrimination in access to housing assistance because a caravan does not qualify as housing by law, the Government points out that section 51 of the "DALO Act" opened up to Travellers the possibility of establishing their official residence with a certified body or a municipal social welfare centre like any other person without a stable home, so they can have access to social benefits. In the absence of a sufficient response in quantitative and qualitative terms to the specific housing needs of Travellers, in particular regarding the adequate reception capacity of stopping places, this consideration cannot lead to a modification of the earlier assessment.

140. Consequently, the Committee holds that the situation constitutes a violation of Article E taken in conjunction with Article 31§3 of the Charter.

IV. ALLEGED VIOLATION OF ARTICLE E TAKEN IN CONJUNCTION WITH ARTICLE 16

Article E – Non-discrimination

"The enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status."

Article 16 – The right of the family to social, legal and economic protection

Part I: "The family as a fundamental unit of society has the right to appropriate social, legal and economic protection to ensure its full development."

Part II: "With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means."

A. – Arguments of the parties

1. The complainant organisation

141. The Forum reiterates, from the standpoint of Article 16, the grounds set out in respect of Article 31 concerning the entitlement to housing of Traveller and Roma families.

2. The Government

142. The Government maintains that the authorities are doing a great deal so that Travellers and Roma, including their families, have effective access to the rights arising from the Charter.

B – Assessment of the Committee

143. The Committee observes that the Travellers and the Roma of Romanian and Bulgarian origin referred to in this complaint include Traveller families and Roma families. It recalls that, in accordance with the equal treatment principle, Article 16 requires States Parties to ensure the protection of vulnerable families, including Traveller and Roma families.

144. The Committee recalls that Article 16 guarantees an entitlement to housing as a necessary element of the fabric of social, legal and economic protection that is required to ensure the meaningful enjoyment of family life (Centre on Housing Rights and Evictions (COHRE) v. Croatia, Complaint No. 52/2008, decision on the merits of 22 June 2010 § 60). Moreover, Articles 16 and 31, though different in personal and material scope, partially overlap with respect to several aspects of the right to housing. In this respect, the notions of adequate housing and forced eviction are identical under Articles 16 and 31. (European Roma Rights Centre (ERRC) v. Bulgaria, Complaint No. 31/2005, decision on the merits of 18 October 2006, § 17).

145. Consequently, the Committee holds that the violation of Article E taken in conjunction with Article 31, paragraphs 1, 2 and 3 concerning Travellers and Roma of Romanian and Bulgarian origin also results in a violation of Article E in taken conjunction with Article 16.

V. CLAIM FOR REIMBURSEMENT OF EXPENSES

A. – Arguments of the parties

1. The complainant organisation

146. The Forum asks the Committee to consider the reimbursement of the expenses incurred in submitting this complaint. However, it does not state any figures in this respect.

2. The Government

147. The Government did not comment on this request.

B – Assessment of the Committee

148. The Committee has already stated that, whilst the Protocol does not regulate the issue of compensation for expenses incurred in connection with complaints, it considers that as a consequence of the judicial nature of the proceedings under the Protocol in case of a finding of a violation of the Charter, the respondent State should meet at least some of the costs incurred. Furthermore, the Committee of Ministers accepted the principle of such a form of compensation (*Confédération Française de l'Encadrement* (CFE-CGC) v. France, Complaint No. 16/2003, decision on the merits of 12 October 2004, §§ 75 and 76).

149. Consequently, when such a claim is made, the Committee will examine it and submit its opinion regarding it to the Committee of Ministers, leaving it to the latter to decide how it might invite the Government to meet all or part of these expenses. The Committee takes into account expenses found to have been actually and necessarily incurred and which are reasonable as to quantum. (*Confédération Française de l'Encadrement* (CFE-CGC) v. France, Complaint No. 16/2003, decision on the merits of 12 October 2004, § 77).

150. The Committee nonetheless points out that it is for the complainant organisation to state the amount of costs it considers to have incurred in connection with the procedure, failing which, as in the instant case, the Committee cannot take account of the claim.

CONCLUSION

151. For these reasons the Committee concludes

- unanimously that there is a violation of Article E taken in conjunction with Article 19§8 concerning Roma of Romanian and Bulgarian origin;

- unanimously that there is a violation of Article E taken in conjunction with Article 30 concerning Travellers;

- unanimously that there is a violation of Article E taken in conjunction with Article 31§1 concerning Travellers and Roma of Romanian and Bulgarian origin;

- unanimously that there is a violation of Article E taken in conjunction with Article 31§2 concerning Travellers and Roma of Romanian and Bulgarian origin;

- unanimously that there is a violation of Article E taken in conjunction with Article 31§3 concerning persons choosing to live in caravans;

- unanimously that there is a violation of Article E taken in conjunction with Article 16. concerning the families of Travellers and the families of Roma of Romanian and Bulgarian origin.

Petros STANGOS	Luis JIMENA QUESADA	Régis BRILLAT
Rapporteur	President	Executive Secretary