

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

Recommendation Rec(2004)14 of the Committee of Ministers to member states on the movement and encampment of Travellers in Europe

*(Adopted by the Committee of Ministers on 1 December 2004,
at the 907th meeting of the Ministers' Deputies)*

The Committee of Ministers, in accordance with Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members and that this aim can be pursued, in particular, by means of joint action in the field of social cohesion;

Convinced that Roma/Gypsies and Travellers contribute to European culture and values in the same way as the other peoples of Europe, and noting that, despite this contribution, they are victims of discrimination in all areas of life;

Considering that those among the Roma/Gypsy and Traveller communities who wish to continue to lead a traditional nomadic or semi-nomadic lifestyle should have the opportunity, in law and in practice, to do so, by virtue of the freedom of movement and settlement guaranteed to all citizens of member states and the right to preserve and develop specific cultural identities;

Considering, also, that in order to allow Travellers to exercise their right to move and set up camp, a coordinated, coherent system of legal safeguards for their freedom of movement is necessary;

Recognising that policies for dealing with movement and encampment problems should be part of a coherent policy for improving the living conditions of Roma/Gypsies and Travellers;

Bearing in mind the 1961 European Social Charter of the Council of Europe (ETS No. 35), the 1988 Additional Protocol (ETS No. 128) to it and the 1996 Revised European Social Charter (ETS No. 163);

Bearing in mind the provisions of the 1981 Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108);

Taking account of the 1995 Framework Convention for the Protection of National Minorities (ETS No. 157);

Bearing in mind its Recommendation No. R (2000) 4 on the education of Roma/Gypsy children in Europe, and its Recommendation Rec(2001)17 on improving the economic and employment situation of Roma/Gypsies and Travellers in Europe;

Bearing in mind Parliamentary Assembly Recommendations 563 (1969) and 1203 (1993), which are concerned with the living conditions of Roma/Gypsies and Travellers in Europe, and Parliamentary Recommendation 1557 (2002) on the legal situation of the Roma in Europe;

Bearing in mind Resolutions 125 (1981), 16 (1995) and 249 (1993) and Recommendation 11 (1995) of the Congress of Local and Regional Authorities of the Council of Europe concerning the situation of Roma/Gypsies in Europe;

Bearing in mind General Policy Recommendation No. 3 of the European Commission against Racism and Intolerance on combating racism and intolerance against Roma/Gypsies;

Bearing in mind European Union Council Directive 2000/43/EC of 29 June 2000 on the implementation of the principle of equality of treatment between individuals without distinction of race or ethnic origin;

Considering that member states' regulation applying to the entry and residence of non-citizens shall remain unaffected by the guiding principles of this Recommendation;

Bearing in mind that the constitutional structures, legal traditions, and the division of responsibilities differ in Council of Europe member states, which may lead to various ways of implementing the present Recommendation,

Recommends that, when devising, implementing and monitoring policies concerning the movement and encampment of Travellers, the governments of member states:

- take as their basis the principles appended to this Recommendation;
- bring this Recommendation to the attention of the national, regional and local public authorities concerned through the appropriate channels.

Appendix to Recommendation Rec(2004)14

I. Scope

1. The present text covers those Travellers, Roma, Sinti, Yenish and other related groups in member states who have traditionally a nomadic or semi-nomadic life-style and who are citizens of those states or legally residing in these countries. For the sake of convenience the term "Travellers" will be used in this Recommendation.

II. Definitions

2. The term "Travellers" covers the populations referred to under paragraph 1; in the French version, the term "Gens du voyage" was preferred to "Voyageurs" although the latter is used in some countries.

3. The term "encampment area" denotes any place reserved or set up especially for the encampment of Travellers; the term "site" means any site used by Travellers for their encampment; it includes encampment areas, traditional encampment sites and occasional sites.

4. The term "encampment" denotes a prolonged stay of the Travellers, their families and their "mobile homes" in an area.

5. The term "traditional encampment areas" is defined as those areas habitually used by Travellers for their encampment. As regards semi-nomadic Travellers, encampment areas refer to areas where Travellers go to set up their winter residence (for a maximum period of about six months). Short-stay areas are those where Travellers stop for a few days or a few weeks during the period when they exercise an itinerant life-style (for a maximum period of about one month).

6. The term "mobile home" means any enclosed space serving as lodging for Travellers, which can be towed.

7. "Minimum facilities" include water supply, connection to the electricity network, sanitary facilities and a rubbish bin.

III. General principles

Member states should:

8. guarantee equal rights on individual Travellers, particularly in respect of the following: ownership rights and social benefits equal to persons who are sedentary/settled, fair and proportionate rent and land occupation charges;

9. ensure equal access for Travellers to social, cultural and economic services;
10. encourage the use of an official internet site hosting a range of public services in order to facilitate exchanges between Travellers and administrations: revenue declarations, civil status declaration, requests for social benefits, etc. Member states should furthermore support Travellers' organisations so that they can advise and assist their members, and thus facilitate exchanges between Travellers and administration;
11. promote information and awareness campaigns for: 1) Travellers, with regard to their rights and duties and 2) the sedentary population, so that it comes to know more about the lifestyle and culture of Travellers and lets go of its prejudices and stereotypes with regard to this community; the communities concerned should be actively involved in organising such information campaigns;
12. give Travellers' mobile homes or, where relevant, the place of residence to which the Traveller is linked, the same substantial rights as those attached to a fixed abode, particularly in legal and social matters;
13. encourage the signing of quality contracts or charters between local authorities and Travellers, on the basis of the mutual interests of the parties involved;

IV. Application and implementation

Member states should:

A. Travellers' freedom of movement

14. in the case of circulating on the national territory, refrain from requiring of national Travellers documents other than ordinary-law identity papers and/or documents authorising an itinerant economic activity (hawker's professional card) in countries in which such papers are required;

B. Establishment of Travellers' official place of residence

15. ensure that the place of residence to which the Traveller is linked is indicated on ordinary-law identity papers in the countries in which these are required and are necessary for access to other rights;
16. allow Travellers to have their official place of residence at the address of an individual or association;
17. refrain from setting up, on the basis of the above-mentioned indications concerning the official place of residence, files that make it possible to identify the person concerned as a nomad;
18. allow free choice of official place of residence for nationals when it is compulsory to establish such residence;
19. widely disseminate novel good practices as regards establishment of an official place of residence;

C. Facilities for Travellers

20. recognise the right of encampment for Travellers;
21. provide areas where Travellers can stop over and stay and set up camp for longer periods than usual in consultation with Travellers and taking their needs into account;
22. when selecting such areas, take account of Travellers' traditional encampment sites;
23. ensure that these areas:
 - i. are equipped with minimum facilities, in particular sanitation;

- ii. are sufficient in number, taking into account the demographic trends among the families concerned, and their location in zones suited to the frequency of use of Travellers;
- iii. are signposted by means of a European traffic pictogram;
- 24. set aside suitable areas for large gatherings and/or foreign Travellers passing through;
- 25. encourage a number of options with regard to encampment sites, and, in particular, that members of a group who are no longer mobile, because of their age or state of health, can stay all the year round on encampment areas where their families could join them when they want to make a stop;
- 26. set up a body to monitor and assess the establishment and operation of encampment sites and short-stay areas; such body should be able to ensure that needs are regularly assessed and provide information as to the sites' locations and facilities. The authorities should ensure that Travellers are fully involved in the work of such a body;
- 27. provide Travellers with information on how to buy private plots of land and how these may be used;

D. Specific provision for the exercise of Travellers' right of encampment

- 28. provide for the right of encampment in their domestic legal system in instruments that are legally binding, treating it in the same way as the right to decent housing;
- 29. in line with the autonomy of territorial units, use a control and incentive mechanism so that local authorities fulfil their obligation to provide encampment areas; if necessary, give a higher authority the power to take over when local authorities do not fulfil this obligation;
- 30. Member states should establish a legal framework that conforms with international human rights standards, to ensure effective protection against unlawful forced and collective evictions and to control strictly the circumstances in which legal evictions may be carried out. In the case of lawful evictions, Roma must be provided with appropriate alternative accommodation if needed, except in cases of force majeure. Legislation should also strictly define the procedures for legal eviction, and such legislation should comply with international human rights standards and principles, including those articulated in General Comment No. 7 on forced evictions of the United Nations Committee on Economic, Social and Cultural rights. Such measures shall include consultation with the community or individual concerned, reasonable notice, provision of information, a guarantee that the eviction will be carried out in a reasonable manner, effective legal remedies and free or low cost legal assistance for destitute victims. The alternative housing should not result in further segregation;
- 31. in countries, which do not differentiate between encampment areas and short-stay areas, set a time-limit to the length of stay on sites so as to prevent them being transformed into a zone of exclusion as a result of their users becoming sedentary on the spot; allow the rotation of Travellers between the sites while refraining from setting a maximum authorised length of stay that is shorter than the longest school period between two periods of school holidays and offering those who wish to become sedentary alternatives to settling on existing sites;
- 32. authorise Travellers' associations to assert the rights of individual Travellers before the competent courts in the event of expulsions, as defendant, or plaintiff and at all stages of the procedure;
- 33. make statutory provisions for appeal against decisions banning access to certain sites or prohibiting encampment;
- 34. define as part of a Traveller's caravan, and therefore of his or her place of residence, an area bound by a perimeter of a few metres around the caravan.