

**Memorandum****Provision of information on the situation of Gypsies and Travellers in the United Kingdom with regard to forced evictions**

To: H.E. Mr. Thorbjørn Jagland, Secretary General of the Council of Europe
and

To: H.E. Mr. Antonio Miloshoski, Chairman of the Committee of Ministers

Reference: Council of Europe High-Level Meeting on Roma, Strasbourg, 20 October 2010

From: Essex Human Rights Clinic

The Essex Human Rights Clinic welcomes the initiative of the Council of Europe Secretary General to bring together the Council, the European Union and member States to address persistent and pressing issues affecting Roma, Sinti, Gypsies and Travellers, and to strengthen in law and in fact the enjoyment of their human and other rights across Europe. Considering that one of the main objectives of the Council meeting is to launch a process focusing on specific actions aimed at improving the economic and social integration of Roma people in Europe, we hereby submit information on the situation of Gypsies and Travellers in the United Kingdom. In particular, we observe that hostility directed against Gypsies and Travellers from the general population has encouraged local authorities to deny access to camping/living sites and to pursue and carry out forced evictions. This situation raises key issues that should be discussed at the Council of Europe meeting as a priority for concerted pan-European action. We suggest the following specific initiatives that can translate such a priority into concrete and effective action.

In 2006, the Council of Europe Coordinator for Activities concerning Roma and Travellers, Henry Scicluna, prepared a document containing information on instances of forced evictions being implemented in various countries of the European Union and highlighting both the causes and the impacts on the Roma population (HDIM.IO/477/06 of 11 October 2006). The document notes that many local authorities, encouraged by the local population, circumvent the law which requires them to provide accommodation for Gypsies and Travellers; the report singles out England “where travellers have been refused permits to build on their own land”.

The causes and impacts of the lack of provision of permanent and transitory sites where Gypsies and Travellers can lawfully park their caravans in the United Kingdom were extensively reported by the Advisory Group on Forced Evictions to the Executive Director of UN Habitat (AGFE). The Group carried out a fact-finding mission to Greater London to address the problems of forced evictions of Roma, Gypsies and Irish Travellers from their sites, which was identified as a direct effect of the implementation of planning policies¹. The mission report

¹ See, for instance, the oral statement of Baroness Andrews made at the House of Lords regarding the Travellers' families of Basildon; House of Lords daily debates, 27 January 2009.

highlights that “Gypsies and Travellers have been facing great problems in finding authorised places in which to pitch their caravans to live in peace, security and dignity, even when owning the land themselves because the enforcement of restrictive planning policies renders them vulnerable to forced evictions through the service of injunctions cumulative with penal notices”². Evidence found by AGFE shows that one of the main causes of forced evictions affecting Gypsies, Travellers and Roma is, among others, the approach taken by local authorities towards unauthorised encampments – which in practice envisage neither legalisation for such sites nor the provision of adequate resettlement. Relevant authorities have been reluctant to provide suitable sites and basic services for unauthorised encampments, or to approve retrospective planning applications. Rather, local authorities usually take a confrontational, hostile and intolerant approach by evicting or criminalising site occupants. It appears that planning enforcement and control (said to be necessary to retain public confidence in the system) is more important for local authorities than respecting, securing, preserving or promoting the human and other rights of the actual residents. The AGFE mission report concludes that “the fact that the minority of Romani Gypsies and Irish Travellers reside on illegal sites and in acutely inadequate housing conditions is not sufficient grounds for planning authorities to claim the reasonableness of forcibly evicting such groups as to beautify the city and the country side. [...] Many decisions to evict have been taken by local councils without considering the negative impacts on site residents or race relations; local authorities hardly ever consult with the affected population about decisions to issue enforcement notes, take direct actions or pursue an injunction or possession order. In many cases enforcement action taken has been disproportionate to the infraction and has rendered many families homeless”.

As an immediate example of such situations and current practice, the case of the Dale Farm Gypsy and Traveller community in the county of Essex depicts this situation. Dale Farm is the largest Gypsy and Irish Traveller community in the United Kingdom, comprising approximately 1,000 residents. Half of them are now being threatened with forced eviction. The settlement extends onto land owned by the community itself, but which does not enjoy planning permission. Part of this land was previously a licensed scrap-yard, located within what is classified as Green Belt land. Basildon District Council (BDC) and the UK Secretary of State for Communities and Local Government have refused to grant planning permission for a portion of the settlement, despite the fact that the community has occupied the site for more than eight years. The Council has served a number of enforcement notices ordering the removal of the chalets, mobile-homes and caravans from the land they occupy. These concern some 40 families, including many children, elderly and infirm persons. The decision by the Council to evict was challenged resulting in the High Court quashing the respective order by Basildon District Council on 5 May 2008. However, the judgement was subsequently overturned with the decision to evict, conditional upon fulfilment of certain undertakings by the Council, as upheld by the Court of Appeal on 22 January 2009. An application for permission to appeal to the House of Lords was refused on 14 May 2009. On 11 December 2009, BDC selected a private bailiff company, Constant and Co. (Bedford) Ltd, to undertake planning enforcement action and evict the residents. In June and August 2010 two forced eviction operations were carried

<http://www.publications.parliament.uk/pa/ld200809/ldhansrd/text/90127-0002.htm#09012747000356>

² Report available at http://www.essex.ac.uk/human_rights_centre/hrc/projects/dalefarm.aspx

out by this bailiff company against 13 families.³ BDC only issued 28-day eviction notices to those affected by the second eviction and, during its implementation, occupants of caravans and mobile-homes were given one hour to pack-up and leave. Permanent alternative accommodation was not offered to all persons forcibly evicted, and where it was offered, the tender of the Council was considered inadequate by the Travellers (NB offers consist of brick and mortar accommodation, usually in the form of unsuitable council apartments). There was also no offer of temporary accommodation for those families who did not have a place to which they could lawfully move after the eviction. As a result, four families were rendered homeless and had to resort to trespassing on private and public land located in the surrounding area, from where they were systematically directed to leave by the police and to remove all vehicles.

Information on the Dale Farm eviction was included in the report prepared by the Council of Europe Coordinator for Activities concerning Roma and Travellers in 2006, and has been recently addressed by the UN Committee on the Elimination of Racial Discrimination⁴. The CERD has sent a letter to the United Kingdom urging the Government and its institutions “to consider suspending any planned eviction until an adequate solution is achieved, with meaningful participation of the Dale Farm community, to guarantee protection of their housing rights, including the provision of suitable and adequate alternative accommodation. However, notwithstanding such appeals, the Basildon District Council has decided to pursue the eviction and the residents of Dale Farm are expecting to receive the 28-day eviction notices at any time.

Evictions of Roma, Gypsies and Travellers living in settlements they have inhabited without interruption for many years have recently increased in number and appear to have gained momentum for a number of reasons, ranging from discriminatory laws and policies to market-based projects. As the participating governments of the High Level Meeting are expected to agree on a set of initiatives with short-term, concrete and measurable impact on the situation of Roma and Travellers, we suggest that ***halting/suspension of any planned forced eviction affecting such people until an adequate solution is achieved*** be considered as part of the initiatives to be agreed. Such a moratorium would allow time for the development of appropriate solutions which respect the rights of all persons and countries, and serve as a catalyst for the development of tailored social integration policies.

We note that such an initiative can be adopted by the participating governments taking into account the following three Recommendations addressed from the Commissioner for Human Rights to Council of Europe member States over the last years:

1. Recommendation CommDH(2009)5 on the Implementation of the Right to Housing to Roma and Travellers states that “[...] Parties must make sure that evictions are justified and are carried out in conditions that respect the dignity of the persons concerned, and that alternative accommodation is available. [...] Moreover, ESCR has highlighted that the conditions for the legalisation of illegal constructions should not be too high as to prevent redressing the particularly urgent housing situation of Roma families” (para. 4.3.5).

³ These evictions were widely covered and broadcast by the local media. For instance, see <http://news.bbc.co.uk/local/essex/hi/> and <http://www.indymedia.org.uk/en/2010/09/458405.html>

⁴ Available at http://www2.ohchr.org/english/bodies/cerd/docs/UK_12.03.2010.pdf

2. Recommendation Rec(2005)4 of the Committee of Ministers on improving the housing conditions of Roma and Travellers provides that: (a) The public authorities should make every effort to resolve the undefined legal status of Roma settlements as a precondition for further improvements. Where Roma camp illegally, public authorities should use a proportionate response. This may be through negotiation or the use of legal action (para. 24); (b) 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 (para. 26).

3. Recommendation Rec(2004)14 of the Committee of Ministers on the movement and encampment of Travellers in Europe provides that legislation should also strictly define the procedures for legal eviction, and such legislation should comply with international human rights standards and principles [...] 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.

In pursuit of the effective implementation of the above, the Essex Human Rights Clinic notes the importance of the Council of Europe, the European Union and member States working in partnership with representatives of Roma, Gypsies and Travellers to monitor whether progress is being made and to consult and cooperate in finding both temporary arrangements and long-term solutions in line with European norms and standards of human rights as well as good and democratic governance.



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