



Romani CRISS
Roma Center for Social Intervention and Studies

19 Buzesti st., 1st district
011011 Bucharest
Tel: +40 21 3107070
+40 21 3107060
Fax: +40 31 8157623
office@romanicriss.org
www.romanicriss.org

Bucharest, September 15, 2010

To: Jose Manuel Barroso, President of the European Commission
Viviane Reding, Commissioner for Justice, Fundamental Rights and Citizenship
Emil Boc, Prime Minister of Romania
Boyko Borisov, Prime Minister of Bulgaria

Ref: Approving and Endorsing the Infringement Proceedings against France

DEAR MADAM AND SIRS,

Romani CRISS is saluting the announcement made by Commissioner Reading on initiating infringement proceedings against France. We kindly ask President Barosso to approve the initiative. We also kindly ask the EU member states, particularly Romania and the Bulgaria to support the infringement proceedings.

We believe there are three main violations worth analyzing. First, France violated EU legal standards in terms of freedom of movement. Second, the French Government violated community law with regard to the protection of personal data. Lastly, as of the end of July 2010, the French government started persecuting Roma in France, in violation of the EU anti-discrimination legislation.

A number of critical provisions of the Directive 38/2004 were conveniently not transposed or inadequately transposed by the French Government. As a consequence, the government granted itself a large margin of appreciation, in violation of the minimal standards imposed by the directive. This margin is now serving for the unlawful expulsion practices. To exemplify and support this allegation, the main failures relate to the improper transposition of the standards on unreasonable burden for the social system and right to acquire permanent residence as well as the lack of transposition of art. 14, par. 2 and 3 and art. 28 of the Directive, pertaining to the interdiction of automatic measures of expulsion and protection against expulsion.¹

Another important violation is the manner in which the expulsions were carried out. The French government – before and after the July 2010 – did in fact carry out collective

¹ For a detailed criticism on the transposition, see GISTI, Memorandum of July 31, 2008 to the DG Justice.

expulsions. No consideration was given to the concrete circumstances exemplified by the Directive to serve as a basis for the individual assessment. The orders for expulsion were framed in general language and did not stem from any sort of individual assessment, in violation of art. 28 of the Directive. Numerous decisions of French courts stand as proof for the violation of the national and European legislation on freedom of movement².

We draw the attention on the question of collecting personal data from persons who use the voluntary repatriation program. This includes taking photographs and fingerprinting both adults and minors over 12 years old and keeping them for 5 years in the OSCAR database.³ This is a gross violation of the Directive as such a measure is disproportionate. Further, the subjects are not suspected of having committed any crimes but rather persons who want to benefit what the French government proudly describes as a humanitarian program.

As the internal communication between French authorities was made public, the true rationale of this campaign comes to light.⁴ At the core of the campaign lies ethnic persecution; the systematic use of the French state apparatus against an ethnic group. This is clearly proved (apart from the initial statements of the French President) by at least two elements presented in the circular of August 5.

First, the campaign is targeting irregular camps and it is explicitly shown that Roma camps are to be demolished with priority. No objective justification was presented in the circulars, nor can any such justification be accepted, considering the fact that camps should be dismantled pursuant to their legal status and not to the ethnic origin of their inhabitants.

Second, the Roma are being placed in the same situation with the gens du voyage. Again, no objective justification can be found for this association, none other than the true animosity of the French government, that is to say to target the Roma ethnic group, regardless of their social, economic, legal situation or even their citizenship. Indeed, Eastern European Roma on French soil are mainly Romanian and Bulgarian citizens whilst gens du voyage are mainly French citizens of Roma origin. Further, gens du voyage live a nomadic life and travel from camp to camp (pursuant to the Besson law), which is hardly the case for the Eastern European Roma who live rather in the same camp and do not live a nomadic life.

To sum up, the intent of the French authorities is to unlawfully curtail the freedom of movement and collect personal data of Roma from Eastern Europe, unlawfully and revengefully sanction gens du voyage on fiscal and administrative grounds. All these to

² E.g. decisions by courts in Lille and Nantes.

³ For a more detailed presentation see GISTI, IRIS and LDH, L'annulation du fichier OSCAR par le Conseil d'Etat deviant urgent [The Annulment of the OSCAR Database by the Conseil d'Etat Becomes Urgent].

⁴ More concretely, circulars IOCK10163295 of the 24th of June 2010, IOCK10178815 of the 5th of August 2010 and IOCK1021288J of the 9th of August 2010 between the Ministry of Interior, Overseas and Territorial Collectivities, the Ministry of Immigration, Integration, National Identity and Solidary Development and the Police Prefect, General Directors of National Police and Gendarmerie and Prefects.

give voice to their true animation: there is no place for gypsies in France and Gypsies will be hunt down until they leave “voluntarily”.

To make matters worse, the French government tried to deceive the public, their Romanian and Bulgarian partners, the Roma as well as the European Commission. Eric Besson stated Roma were not specifically targeted by the French authorities, but rather all illegal foreign citizens were considered⁵. This was a plain lie.

Further, the French representatives continue to defy all their partners, by announcing that the repatriations will not be put an end, despite the requests of the European Parliament and the initiative of the European Commission.

France is the second member state to adopt discriminatory practices and legislation against Roma and it is with good reason we say that absent concrete legal action by the European Commission, other member states will follow. Spain, Ireland and Finland may well be adopting similar measures.

Warm regards,
Margareta Matache



⁵ See Adevarul, Tiganii, principal tinta a expulzarilor din Franta, potrivit unui document intern al Ministerului Imigratiei, [Gypsies, the Main Target of the Expulsions from France according to an Internal Document of the Ministry of Immigration] available at http://www.adevarul.ro/international/europa/Tiganii-principala_tinta_a_expulzarilor_in_Franta-potrivit_unui_document_intern_al_Ministerul_Imigratiei_0_333566719.html.