

# France's Expulsion of Roma Migrants: A Test Case for Europe

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Roma, the largest minority group in Europe, have lived throughout the continent for centuries and have long faced discrimination and high levels of poverty. Romania and Bulgaria, which joined the European Union (EU) in 2007, have particularly large Roma populations.

In recent years, Roma have come under new pressure in EU Member States like Italy and France as those countries have emphasized expulsion as a means of addressing migration concerns. For Roma from Romania and Bulgaria in France, 2010 marked an escalation of this pressure.

Although EU countries routinely return Roma to their countries of origin through readmission agreements or other mechanisms, those returns often involve Roma who have migrated from countries outside the European Union. France, by contrast, has drawn attention for its policy of returning Roma who are residents of Bulgaria and Romania and thus EU citizens whose rights to free movement within that area are protected.

This distinction has placed France's response to Roma migrants at the head of the current controversy, but it is not the only European country whose actions toward Roma are under scrutiny.

Since 2008, Italy has conducted similar expulsions of Roma, and the vice mayor of Milan recently confirmed an agenda to dismantle all Roma camps in that city. In addition, rights groups have alleged clandestine removal of Roma from camps in Belgium.

France's actions have prompted a strong reaction from the European Union and generated concern over how much latitude EU Member States have to conduct their own policies in the migration arena. This article therefore focuses on what has happened in France and the EU response.

## Background on Roma

The term Roma is the most commonly used umbrella description for a group of people who originally migrated from India nearly 1,000 years ago.

"Roma" encompasses a variety of ethnic subgroups and is sometimes used interchangeably with "gypsy" or "traveler." The term "traveler," however, does not necessarily signify the same population. In France, many travelers, who are largely itinerant French nationals some of whom live in caravans, view themselves as separate from the Roma.

## About the Author

### Kristi Severance

Kristi Severance is a lawyer specialized in human rights and immigration law, and a former policy analyst for the Migration Policy Institute. She previously worked on Roma issues for the United Nations High Commissioner for Refugees in Bosnia and Herzegovina.

The Roma share historical roots and some cultural practices but are far from the homogeneous unit often portrayed. A shared history of discrimination and persecution, including the killing of an estimated 200,000 to 1 million Roma in World War II concentration camps, may be their most obvious unifying characteristic.

The Council of Europe, whose mission is to ensure respect for the fundamental values of human rights, democracy, and the rule of law throughout the European continent, estimates the number of Roma in Europe to be slightly more than 11 million. Precise numbers are notoriously hard to generate. Given the history of prejudice against them, Roma are frequently wary of engaging with authorities and can be reluctant to identify themselves as Roma for fear of reprisals.

In France, there are between 300,000 and 400,000 Roma, as compared with approximately 700,000 to 800,000 in Bulgaria and as many as 2 million in Romania according to Jean-Pierre Liégeois, a French sociologist and Roma expert. The Council of Europe reports similar statistics on its website.

Liégeois notes that the current number of Roma in France who are foreigners is only 10,000 to 12,000, a relatively small number compared with the total Roma population. The majority of Roma in France has lived there for long periods of time; throughout Europe, more Roma live in established communities within their resident countries than are migratory.

A significant portion of the Roma migrants in France has come from Romania and Bulgaria. Government officials in both countries have acknowledged that more prosperous countries like France are attracting Roma. Factors “pushing” them to emigrate are poverty and pervasive prejudice.

### Overview of What Happened in France in Summer 2010

Following a spate of violence in July involving French police and some Roma and traveler individuals, French President Nicolas Sarkozy announced a crackdown on unauthorized settlements. The government estimated the number of such settlements at 539.

Roma settlements in France vary in size but are often located near urban zones. Shelters are constructed out of whatever materials are available, and many do not have running water or electricity. In the case of travelers, the government is supposed to provide designated sites for them to congregate, but rights groups have said this process is not fully implemented.

French police dismantled numerous settlements, primarily occupied by Roma from Bulgaria and Romania, and the French government expelled more than 1,000 of their inhabitants between July and September, sending them back to their home countries.

Sarkozy, for whom security is a hallmark issue, justified the hard-line stance on the grounds that the settlements were illegal and presented a security risk. A statement from the

president's office identified the camps as sources of illegal trafficking, appalling living standards, exploitation of children through forced begging, prostitution, and crime.

Sarkozy also characterized the deportations as voluntary, because a significant number of the Roma Bulgarian and Romanian citizens were given 300 euros (US\$380) in exchange for their cooperation in the return process.

A furor ensued when official French government memos leaked to the French press and published in September revealed that Roma settlements had been identified as priority targets of the campaign. This information contradicted statements the French government had made saying that the intensified measures were directed at illegal settlements in general, and not just at those where Roma lived.

Following the leak, the United Nations, the European Union, the Vatican, various rights groups, and politicians opposed to Sarkozy's policies began criticizing the French government. In a variety of fora, they argued that the Roma were targeted for expulsion from France based on their ethnicity, in violation of EU laws prohibiting discrimination and guaranteeing freedom of movement.

### **The French Government Position and the Memos**

France's practice of returning Bulgarian and Romanian Roma is not new; it has been ongoing in various forms since 2007. However, the government's public discourse about the issue did change during the summer.

In late July, not long after the violence, Sarkozy publicly announced an intensified anticrime and immigration control agenda. On July 28, the French president held a special ministerial meeting to discuss Roma. Afterward, Interior Minister Brice Hortefeux announced that the government had set a target of dismantling 300 illegal settlements in the short term.

On July 30 in Grenoble, where some of the earlier violence had occurred, Sarkozy outlined several key components of the security crackdown, including his intention to make it easier to expel migrants who committed crimes. The previous week the French president had noted "the problems posed by the behavior of certain travelers and Roma."

Sarkozy made public his intent to take a tough line against illegal camps amid some of the lowest approval ratings he has experienced during his presidency. Numerous news organizations, including the BBC, Agence France Presse, and Bloomberg, have identified Sarkozy's crackdown as a strategy to improve his ratings and to bolster his position for the next election.

The leaked official memos later demonstrated that even before Sarkozy held the ministerial meeting and made his speech, the French government was already crafting its strategy for demolishing Roma and traveler settlements. In fact, the first memo was issued June 24, before the violence took place.

The memos, which the Interior Ministry and the Immigration Ministry sent to police and local authorities, provide instructions on how to deal with illegal settlements and their residents.

The first memo identifies three concerns illegal settlements raise: the infringement of property rights; the health and security risks associated with the occupants' living conditions, which act as an impediment to integration; and the camps' potential as havens

for illegal activity.

Another memo, issued August 5, contained more pointed language. It directed the dismantlement of 300 illegal settlements as the French president had previously announced, but it specifically stated that Roma camps should be made a priority. It was this memo that outraged the European Union and other critics of Sarkozy's tactics when a French newspaper published it.

## **EU Response**

On September 9, the same day the information in the leaked memo was published, the European Parliament passed a resolution strongly condemning France's actions against the Roma and calling for an immediate end to the expulsions.

The Parliament's resolution, while not legally binding, served as a strong public rebuke to France for its policies toward the Roma and travelers.

The Parliament's resolution was also critical of the European Commission, which is responsible for ensuring that EU Member States respect EU laws and properly incorporate them into national legislation, a process called transposition.

The Parliament accused the Commission of failing to exercise its enforcement mandate by not taking legal action against France for breaking EU laws on discrimination and freedom of movement.

Several days later, the Commission weighed in. It called France's actions toward the Roma and their settlements discriminatory and threatened punitive action against France for breaching EU antidiscrimination law, as well as failing to ensure the right to freedom of movement for EU citizens.

The punitive action the Commission named was infringement, a process that begins administratively, with the Commission communicating with the Member State and requesting responses to questions regarding the alleged failure to adhere to the governing law. Litigation can follow if the Commission chooses to refer the matter to the European Court of Justice.

On September 13, the same day that Commission Vice President Viviane Reding — who is EU Commissioner for Justice, Fundamental Rights, and Citizenship — criticized France and raised the possibility of the infringement process, the French government issued another memo to amend the August 5 memo.

Signed by Hortefeux, the new memo stated that police and relevant local officials were to evacuate all illegal settlements, regardless of who occupied them. Language in the September 13 memo also indicated that this had been the government's policy all along, implying that it had never singled out Roma or travelers.

The new memo persuaded the Commission to back away from its readiness to institute legal proceedings against France for discrimination. On September 29, the Commission announced that the language in the September 13 memo, as well as assurances from French authorities, convinced it that France was not behaving in a discriminatory manner toward Roma and travelers in pursuing its security policies.

However, the Commission did find that France had failed to transpose the EU Directive on Freedom of Movement into its national legislation; directives mandate a minimum standard that all Member States must meet. As a result, it announced it would send a letter of formal notice in the context of infringement procedures if, by October 15, France did not show how it would transpose the directive into French law and provide a detailed schedule for implementing the proposed changes.

## **EU Directive on Freedom of Movement**

The EU Directive on Freedom of Movement contains several provisions to ensure the right of EU citizens to move freely within the European Union.

According to the directive, EU citizens with a valid identification card or passport can enter any other EU country and may remain for up to three months. People who stay longer than three months must demonstrate that they are employed or that they have sufficient means of support and health insurance to avoid becoming a burden on the host country.

EU citizens can be expelled for reasons of public health, public security, or public policy; however, the expulsion can only be based on the personal conduct of the individual in question. Expulsions of a group based on one or two individuals' actions are therefore prohibited.

Furthermore, procedural guarantees in the directive require that the host country conduct an assessment of each person's circumstances and that the individual be notified of any decision to deport him or her at least a month before the scheduled departure date.

## **Other Responses**

Not everyone with an interest in France's actions was as willing as the European Commission to accept France's assurances that it was not discriminating against Roma and travelers.

Some members of the European Parliament expressed dismay that the Commission was not pursuing France on discrimination grounds, calling the official memos clear evidence of discrimination, which the EU Charter of Fundamental Rights prohibits.

Human rights organizations such as Amnesty International also criticized the Commission's decision not to move forward with proceedings against France for violating EU antidiscrimination law.

The European Roma Rights Center (ERRC), a Hungary-based public-interest law organization that provided legal briefs to the Commission on the Roma expulsion issue, argued that France's actions violated not only the Freedom of Movement Directive and the Charter of Fundamental Rights (known as the Charter) but also the European Convention on Human Rights (ECHR).

In particular, ERRC has argued that its research with Romanian and Bulgarian Roma who were deported from France reveals they received preprinted official expulsion documents, with only their names and birthdates filled out by hand.

ERRC contends this indicates the deported Roma were not given the individual consideration EU law requires, and that mass expulsions may have taken place. Mass expulsions are

contrary to the Freedom of Movement Directive, the Charter, and ECHR. It also disagrees with France's position that the returns were voluntary, saying the right to freedom of movement is fundamental and therefore the Roma do not waive it simply by accepting money from the French government.

France's actions did receive some support, however. In a debate in the European Parliament on September 2, two members from right-wing parties in the Netherlands and Belgium spoke out in support of France's right to deport the Roma and foreigners in general.

Indirect support also came from Italy and Hungary, which ERRC said appeared to view France's actions against Roma as "giving legitimacy to their own ongoing anti-Romani policies and encouraging new ones."

According to the independent EU watchdog organization Statewatch, during the height of the French crisis, Italian Interior Minister Roberto Maroni gave a speech focusing on the issue of "nomads." Members of the far-right Hungarian party Jobbik also increased their rhetoric against Roma.

### **The Situation in Fall 2010**

In the week before the October 15 deadline, Immigration Minister Eric Besson signaled France's intention to comply with the Commission's demands by the deadline. Although he indicated that French law already contained the necessary protections, he said the government would provide an outline of legislation that would fully incorporate the procedural guarantees the Commission had highlighted as missing.

Shortly before the deadline, France did submit the documentation the European Commission had requested. On October 19, Reding pronounced the Commission satisfied with the submission. She noted that France had provided draft legislative measures and "a credible calendar" for putting the Freedom of Movement Directive procedural guarantees into its national legislation by early 2011.

As a result, Reding said the Commission "will now, for the time being, not pursue the infringement procedure against France," but she emphasized that the Commission "will closely watch over the full implementation of the commitments made by France."

### **The Expulsions in the Larger Immigration Context**

As Sarkozy has made clear, the crackdown on unauthorized settlements or camps is part of a larger immigration and security debate within France.

On October 12, French lawmakers in the National Assembly, the lower house of parliament, approved an immigration bill whose purpose, the government says, is to transpose EU immigration directives. Passage by the lower house is the first step in its journey to becoming law.

That bill, which was originally introduced by Besson earlier this year, includes amendments made at the height of the Roma expulsion controversy. Those amendments would expand the grounds for deporting EU citizens from France in instances where they profit from begging, occupy land illegally, abuse the welfare system, or threaten public order.

The amendments do not specifically mention Roma, but rights groups and other critics say



the amendments scarcely disguise that Roma are the real target.

## **Moving Forward**

The firestorm over France's policies toward Roma has taken place at the halfway mark of the Decade of Roma Inclusion, an initiative that select European governments, intergovernmental and nongovernmental organizations, and Roma civil society began in 2005. The initiative seeks to improve the situation of Roma throughout Europe, particularly in the areas of employment, education, housing and health, and to construct concrete measures to accelerate Roma integration.

Currently, 12 countries participate: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, Hungary, Macedonia, Montenegro, Romania, Serbia, Slovakia, and Spain. EU Member States not participating in the Roma Decade program have committed to tackling Roma issues through other programs, with EU funding.

Addressing the many longstanding problems that Roma face, however, will require a more effective use of financial resources than has been demonstrated thus far.

According to the European Commission, Romania has spent less than 1 percent of the money it has been allotted for Roma integration. Bulgaria has spent approximately 5 percent of the funds available. On average, Western European countries have spent more but only about 16 percent of the total funds available to them.

In recognition of this financial gap, and of the inequality Roma continue to face, many leaders in Europe are calling for a renewed commitment to invigorating Roma integration throughout Europe.

According to the *EU Observer*, Livia Jaroka, the only Roma member of the European Parliament, has called the events following France's crackdown a good opportunity for change: "I hope it's a good time to come up with constructive policies, because now everybody wants a European response to the failure of Roma integration in most Member States."

As a result of the recent events in France and an expressed concern over the rise in anti-Roma rhetoric, the Council of Europe organized a high-level meeting on October 20 to address Roma issues. At that meeting, the Council's Member States adopted the Strasbourg Declaration on Roma, which affirms their commitment to recognizing Roma rights and improving the situation for Roma in several areas, including nondiscrimination and social inclusion.

These various commitments, if sustained, could change the situation for Roma in France and the rest of Europe. In the meantime, some of the Bulgarian and Romanian Roma deported from France told the press they intended to return as soon as it was feasible, because the opportunities in France were still greater than those at home.

The number of foreign Roma in France, which has stayed relatively constant over the past few years, suggests that those who are sent home are returning, or others are taking their place.

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