

MONITORING FRANCE’S PERFORMANCE UNDER THE STRATEGIC ACTION PLAN FOR ROMA AND TRAVELLER¹ INCLUSION (2020-2025)

By: Sarah Brody*

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¹ This Note will be using the British spelling of “traveller” for consistency and ease of reading.

* Articles Editor, *Cardozo Journal of Equal Rights and Social Justice*; J.D. Candidate, Benjamin N. Cardozo School of Law (June 2024); B.A., Appalachian State University (2020). I have a strong interest in international human rights law, as evidenced by my time in the Ferencz Human Rights and Atrocity Prevention Clinic and my participation in this journal.

INTRODUCTION

Roma² have been a persecuted minority in Europe for centuries.³ Historical discrimination and racism against Roma directly contributes to their exclusion from larger European society today, including in France.⁴ Anti-Roma racism remains a powerful force which functionally excludes them from French and larger European society.⁵ In fact, Roma have recently been found to be the least tolerated group in France.⁶ In France, they are subjected to systemic discrimination in practically every part of their lives, including housing, education, employment, and access to health care.⁷ The French government's policy of discouraging nomadic and semi-nomadic lifestyles has led to forced sedentism and a stifling of Roma traditions.⁸

Anti-Roma racism is fueled mainly by prejudice and stereotypes.⁹ Roma are regarded as outcasts from European society due to their language, customs, and perceived foreign appearance.¹⁰ They are stereotyped as social deviants and criminals, which further leads to their exclusion.¹¹ Many Roma in France lack access to essential services and live in undignified and unsanitary conditions.¹² Despite the various international and domestic policies which have been passed with the goal of improving the situation of Roma, there have been difficulties in their implementation, rendering the

² There is an ongoing debate regarding appropriate terminology when referring to the diverse cultural group in Europe frequently referred to as "Roma." This Note uses the term "Roma" to refer to an ethnic group of traditionally nomadic people often associated with the pejorative term "gypsy." IULIUS ROSTAS, COUNCIL EUR., COMM. EXPERTS ON ROMA & TRAVELLER ISSUES (ADI-ROM), ANTIGYPSYISM: CAUSES, PREVALENCE, CONSEQUENCES, POSSIBLE RESPONSES 14 (2021). The use of the word "Roma" is not intended to ignore the vast diversity within Roma groups and communities, nor to disrespect those who prefer not to be identified collectively as Roma. Throughout this Note, when using the term "Roma," I will also be referring to those stigmatized as Roma without having the corresponding ethnic background. This reflects the shared lived experiences of marginalization and stigmatization faced by this group, even if we ignore shared ethnic and cultural origins. This functions as an explanatory note, and not a definition of Roma and/or Travellers.

³ *Id.* at 24-28 (this portion of the report provides a historical literature review of the discrimination faced by Roma since their arrival in Europe).

⁴ *Id.* at 11.

⁵ DÉFENSEUR DES DROITS, ANNUAL ACTIVITY REPORT 2022 18 (2022) [hereinafter ANNUAL ACTIVITY REPORT 2022].

⁶ EUR. COMM'N AGAINST RACISM & INTOLERANCE, ECRI REPORT ON FRANCE 16 (2022) [hereinafter ECRI REPORT ON FRANCE].

⁷ ANNUAL ACTIVITY REPORT 2022, *supra* note 5, at 18.

⁸ ASSOCIATION SOCIALE NATIONALE INTERNATIONALE TZIGANE, DECODING THE FRENCH HALTING AND HOUSING POLICY AND LEGISLATION RELATING TO TRAVELLER NOMADIC WAY OF LIFE AND MOBILE ACCOMMODATION 15 (2019) [hereinafter DECODING THE FRENCH HALTING AND HOUSING POLICY].

⁹ ROSTAS, *supra* note 2, at 23-24.

¹⁰ *Id.*

¹¹ *Id.* at 30.

¹² *Id.* at 33-34; ECRI REPORT ON FRANCE, *supra* note 6, at 28.

policies ineffectual.¹³ When considering the exercise of integral rights like access to education, employment, housing, and political participation, Roma remain worse off than any other minority group in Europe.¹⁴

The French government made international headlines over a decade ago when it committed the mass eviction of Roma from slums and shanty towns, or bidonvilles, across France.¹⁵ Despite the international outcry at the time of the mass evictions, the situation of Roma in France has not significantly improved within the last ten years.¹⁶ In fact, these evictions are still taking place throughout France.¹⁷ Systematic clearing of Roma settlements regularly takes place, with no government action to fulfill obligations to provide safe and suitable stopping places.¹⁸ The ongoing COVID-19 pandemic has made already precarious conditions significantly worse for Roma in Europe.¹⁹ Roma are much more likely to die from COVID-19 than other populations, due purely to conditions of extreme poverty and marginalization.²⁰ Disinformation spread by politicians and on social media platforms has framed Roma and their cultural practices as a public health threat, which reinforces and politicizes the already-present hatred and discriminatory attitudes towards Roma.²¹

While there are policies in place to improve the lives of Roma, those promulgating the measures suggest that Roma are responsible for their own exclusion.²² The general attitude seems to be that Roma and their cultural practices are not in line with the majority European culture.²³ The former Prime Minister of France has insisted that Roma do not belong in France and are unwilling to integrate.²⁴ This suggests that Roma are actively pursuing the conditions described throughout this Note as though they prefer being

¹³ ROSTAS, *supra* note 2, at 43.

¹⁴ *Id.* at 35-36.

¹⁵ Bernard Rorke, *The French Recipe: Evict, Demolish and “Deliver Them Back to the Borders”*, EUR. ROMA RTS. CTR. (Jan. 9, 2020), <http://www.errc.org/news/the-french-recipe-evict-demolish-and-deliver-them-back-to-the-borders>.

¹⁶ ROSTAS, *supra* note 2, at 24-28.

¹⁷ Eur. Comm. on Soc. Rts., *European Roma Rights Centre (ERRC) v. France, Complaint No. 230/2023* COUNCIL EUR., <https://rm.coe.int/cc230casedoc1-en/1680acb8a1> [hereinafter Complaint].

¹⁸ ECRI REPORT ON FRANCE, *supra* note 6, at 5.

¹⁹ NEDA KORUNOVSKA & ZELJKO JOVANOVIĆ, OPEN SOC’Y FOUNDS., ROMA IN THE COVID-19 CRISIS: AN EARLY WARNING FROM SIX EU MEMBER STATES 7 (2020).

²⁰ *Id.* at 2.

²¹ ROSTAS, *supra* note 2, at 34.

²² See Reding, *Freedom of Movement ‘Not Up for Negotiation’*, EURONEWS, <https://www.euronews.com/2014/01/16/european-commission-s-viviane-reding-says-freedom-of-movement-not-up-for-> (last updated Dec. 9, 2019, 10:08 AM).

²³ ROSTAS, *supra* note 2, at 14.

²⁴ *Pour Valls, «les Roms ont vocation à rentrer en Roumanie ou en Bulgarie»*, LIBÉRATION (Sept. 24, 2013, 11:09 AM), https://www.liberation.fr/societe/2013/09/24/pour-valls-seule-une-minorite-de-roms-veulent-s-integrer-en-france_934265.

seen as lesser-than. Roma have endured centuries of marginalization and still do today.²⁵ Unfortunately, this anti-Roma sentiment is pervasive and almost unavoidable in Europe.²⁶

Throughout this Note, the term “anti-Roma racism” will be most often used to describe the persecution and discrimination that Roma and other similarly situated individuals and communities are experiencing in France today. “Anti-gypsyism” is the most commonly used term to refer to anti-Roma racism, but it is not a universally accepted term.²⁷ Roma activists and academics have protested the use of the term, as it includes the pejorative term “gypsy,” which many want to distance themselves from.²⁸ This Note will also avoid using the term. For the purposes of this Note, discrimination occurs when someone is targeted on the basis of personal characteristics which fall under protected categories as defined under international human rights law.²⁹

Part I of this Note discusses France’s obligations under international law, and how they apply to, and may protect the rights of, Roma living within France. Part I also discusses how French domestic law is antithetical to fundamental principles of minority and group rights. Part II of this Note illustrates how France has failed to successfully perform under the legal framework provided by the *Strategic Action Plan on Roma and Traveller Inclusion (2020-2025)* created by the Council of Europe. Finally, Part III of this Note proposes what France should do in order to successfully fulfill the goals set by the *Strategic Action Plan on Roma and Traveller Inclusion (2020-2025)*.

I. BACKGROUND

A. *International Obligations*

There is a robust international legal framework in place to protect the rights of Roma within France. Additionally, the international bodies to which France belongs provide guidance which may further the protection of Roma rights in France.³⁰ France has signed all but one of the core international

²⁵ ROSTAS, *supra* note 2, at 14, 25-28.

²⁶ *Id.* at 31.

²⁷ *Id.* at 13.

²⁸ *Id.* at 14.

²⁹ G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948). These categories include distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. *See id.*

³⁰ France belongs to several such bodies, including the United Nations and the Council of Europe. *See France and the Institutions Protecting and Promoting Human Rights*, MINISTÈRE DE L’EUROPE ET DES AFFAIRES ÉTRANGÈRES, <https://www.diplomatie.gouv.fr/en/french-foreign-policy/human-rights/france-and-the-institutions> (last updated Mar. 2013).

human rights instruments, many of which deal with non-discrimination, equality rights and minority rights.³¹ These international conventions prohibit all forms of discrimination and unfair treatment in public life on the basis of race, color, descent, or national or ethnic origin.³²

France is a monist state.³³ This means that international law, once it is acceded to by the French government, automatically becomes an integrated part of French domestic law.³⁴ International law is given a high degree of importance by France, with Article 55 of the French Constitution giving ratified treaties and agreements higher authority than that of statutes.³⁵ While it is arguable whether this is true in practice, this means in effect that international treaties and European Union law have primacy over French domestic law.³⁶ France's courts have further underlined the importance of adhering to international law.³⁷ There does not appear to be any French jurisprudence, however, suggesting whether international law would preempt the French Constitution.

France is subject to international law through various international frameworks.³⁸ The European Convention on Human Rights (“Convention”) enshrines the protection of human rights and political freedoms in all Council of Europe member states.³⁹ Protocol 12 to the European Convention on Human Rights (“Protocol 12”) is an anti-discrimination treaty that ensures that all human rights are enjoyed without discrimination on any grounds such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.⁴⁰ The prohibition on discrimination within Protocol 12 is not limited

³¹ *United Nations Human Rights Treaty Bodies, Ratification Status for France*, UNITED NATIONS OFF. HIGH COMM’R FOR HUM. RTS., https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=62&Lang=EN (last visited Dec. 18, 2023) [hereinafter *Ratification Status for France*]. France has not signed the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. *Id.*

³² G.A. Res. 2106 (XX), International Convention on the Elimination of All Forms of Racial Discrimination (Dec. 21, 1965).

³³ Dr. Sharifullah Dorani, *The Primacy of EU Law Over French Law: EU Law Takes Precedence Over National Law?*, in 7 POL. REFLECTION MAG. 48 (2021).

³⁴ *Id.*

³⁵ 1958 CONST. art. 55.

³⁶ Dorani, *supra* note 33.

³⁷ *Id.* For example, the Constitutional Court has amended the current Constitution and established that France's European Union membership is subject to the principle of reciprocity. Reciprocity in international law involves the application of law when accepted equally by other states. *Id.*

³⁸ *Ratification Status for France*, *supra* note 31.

³⁹ European Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, art. 1, 14, 213 U.N.T.S. 221 [hereinafter European Convention for the Protection of Human Rights and Fundamental Freedoms].

⁴⁰ Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, 213 U.N.T.S. 221, art. 1.

to the rights provided by the Convention, but instead provides for a general prohibition of all discrimination.⁴¹ Protocol 12 protects the enjoyment of any right specifically granted to an individual under domestic law by the actions of a public authority in the exercise of discretionary power, and by any other act or omission by a public authority.⁴² Protocol 12 similarly protects the enjoyment of rights which may be inferred from any clear obligation of a public authority under domestic law.⁴³

France is also a member state of the Council of Europe, an international organization created under the European Social Charter, established to uphold human rights in Europe.⁴⁴ The Council of Europe cannot make or enforce laws, but it may push for the enforcement of the conventions to which its member states have acceded.⁴⁵ For example, the Steering Committee on Anti-Discrimination, Diversity, and Inclusion (“ADI-ROM”)⁴⁶ and its subordinate body, the Committee of Experts on Roma and Traveller Issues, have worked towards Roma inclusion by producing legal research and related scholarship.⁴⁷ The European Committee of Social Rights (“ECSR”) is another body within the Council of Europe⁴⁸ which monitors compliance with the European Charter and oversees the protection of economic and social rights within member states.⁴⁹ In September 2023, the European Roma Rights Centre filed a complaint to the ECSR against France, alleging discrimination against Roma and the criminalization of their itinerant lifestyle.⁵⁰

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Our Member States*, COUNCIL EUR. PORTAL, <https://www.coe.int/en/web/about-us/our-member-states> (last visited Feb. 25, 2024); *Values: Human Rights, Democracy, Rule of Law*, COUNCIL EUR. PORTAL, <https://www.coe.int/en/web/about-us/values> (last visited Feb. 25, 2024).

⁴⁵ *Monitoring Bodies of the Council of Europe*, COUNCIL EUR., <https://www.coe.int/en/web/portal/monitoring-bodies> (last visited Feb. 4, 2024).

⁴⁶ *Steering Comm. on Anti-Discrimination, Diversity and Inclusion (CDADI)*, COUNCIL EUR. PORTAL, <https://www.coe.int/en/web/committee-antidiscrimination-diversity-inclusion/subordinate-bodies> (last visited Feb. 25, 2024).

⁴⁷ *Id.*

⁴⁸ *European Committee of Social Rights*, COUNCIL EUR. PORTAL, <https://www.coe.int/en/web/european-social-charter/european-committee-of-social-rights> (last visited Feb. 4, 2024).

⁴⁹ *Id.*

⁵⁰ Complaint, *supra* note 17.

*B. Strategic Action Plan for Roma and Traveller Inclusion
(2020-2025)*

With input from ADI-ROM, the Council of Europe recently published the *Strategic Action Plan on Roma and Traveller Inclusion (2020-2025)* (“SAP”).⁵¹ SAP is a successor to the Council of Europe’s *Thematic Action Plan on the Inclusion of Roma and Travellers (2016-2019)*.⁵² There is still further work in guaranteeing better conditions for Roma which needs to be done, and SAP provides an updated framework to implement policies to increase the social and intercultural inclusion of Roma and Travellers throughout Europe.⁵³

SAP is comprehensive and designed to address the challenges faced by Roma throughout Europe.⁵⁴ It focuses on areas such as education, employment, housing, and healthcare.⁵⁵ It has three main objectives: (1) combating anti-Roma discrimination and supporting equality; (2) supporting democratic participation and promoting public trust and accountability; and (3) supporting Roma access to inclusive quality education and training.⁵⁶ It is above all a framework, and serves as a practical tool for the design and implementation of Roma-inclusive programs and state actions.⁵⁷ Member states are encouraged to implement the measures outlined in the plan to improve the social, political, and economic inclusion of Roma people.⁵⁸ SAP functions best with the participation of Roma in all decisions affecting them, at both individual and collective levels.⁵⁹ SAP recognizes that many Roma experience multiple levels of discrimination, especially those who live in specific situations of vulnerability due to their intersecting identities.⁶⁰ SAP wants the Council of Europe and member states to remain sensitive to multiple discrimination and intersectionality as cross-cutting issues in enacting Roma inclusion policies and throughout all state action.⁶¹

The first main objective of SAP is to combat anti-Roma discrimination and support equality.⁶² ADI-ROM identifies various forms of discrimination that Roma experience throughout Europe, “including school segregation,

⁵¹ COUNCIL EUR., STRATEGIC ACTION PLAN FOR ROMA AND TRAVELLER INCLUSION (2020-2025) (2020) [hereinafter STRATEGIC ACTION PLAN].

⁵² *See generally id.*

⁵³ *Id.* at 11.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.* at 12.

⁶⁰ *Id.* at 21.

⁶¹ *Id.*

⁶² *Id.* at 11.

forced sedentary lifestyles, hate speech, and hate-motivated violence.”⁶³ To combat anti-Roma discrimination, ADI-ROM suggests the following: legal responses and standard-setting work; training of the legal profession, public authorities and law enforcement in Council of Europe standards and relevant case law of European Court of Human Rights; capacity building of national, regional, and local level authorities and civil society; specific empowerment for particular groups, such as Roma women and children; and awareness-raising actions for the general public.⁶⁴

SAP also aims to improve the democratic participation of Roma and to promote public trust and accountability, particularly at the local level.⁶⁵ Participation of Roma in political and public life in Europe does not adequately reflect the demographic weight of Roma communities, particularly at local levels.⁶⁶ This invisibility in political and public life impedes Roma from participating in the discourse and decision-making processes which affect them.⁶⁷ Supporting democratic participation and promoting public trust and accountability means inclusive policy measures at local levels.⁶⁸ Thus, SAP emphasizes that inclusive policy measures should focus on education, housing, employment, and health care.⁶⁹

The final objective of SAP is to support Roma access to inclusive and quality education and training.⁷⁰ Educational institutions throughout Europe have historically neglected Roma children, and Roma children are impacted from challenges such as non-enrollment, school drop-outs, early school drop-outs, and irregular attendance.⁷¹ ADI-ROM has identified school segregation as a major factor contributing to the low academic performance of Roma children.⁷² There is a considerable and persistent gap between Roma and non-Roma children in school attendance and academic achievements.⁷³ Low educational outcomes have been directly linked to poor health, unemployment, poverty, and social exclusion.⁷⁴ SAP encourages the removal of all concrete obstacles to the access of quality education for Roma.⁷⁵

⁶³ *Id.* at 14.

⁶⁴ *Id.*

⁶⁵ *Id.* at 11.

⁶⁶ *Id.* at 17.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.* at 11.

⁷¹ *Id.* at 19.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

SAP recognizes the enhanced capacity of teachers to manage diversity and adopt inclusive teaching methods as necessary elements to improving the quality of education for Roma schoolchildren.⁷⁶ Part of improving education under SAP also means promoting Roma history within school curricula and textbooks, including the recognition of victims and survivors of the Roma Holocaust.⁷⁷ SAP also addresses issues that Roma youth face in transitioning from education to employment.⁷⁸ Roma youth—in particular Roma youth who are not in education, employment, or training—have been recognized as the most disadvantaged youths within the European Union.⁷⁹ SAP also aims to increase the chances for a successful transition from education to employment for all Roma youth.⁸⁰

C. *Gens du voyage* and France's Lack of Recognition

While it is difficult to determine exact numbers, it is estimated that the total Roma population in France ranges from 350,000 to 500,000.⁸¹ Additionally, there are around 13,000 Roma and other itinerant people of Eastern European origin living in France in similar, often slum-like, conditions.⁸² This lack of demographic clarity is because the French government does not recognize ethnic minorities or keep any statistics on Roma.⁸³ France justifies this by framing it as French republican tradition, the laudable principle of equality which could not possibly allow for measures to be passed which specifically target a minority group.⁸⁴ Instead, Roma are categorized under the administrative title “*Gens du voyage*,” or “Travellers”/“traveling people,” and grouped with any and all other itinerant people in France.⁸⁵ France argues this can be done without precluding

⁷⁶ *Id.* at 20.

⁷⁷ *Id.*

⁷⁸ *Id.* at 19.

⁷⁹ *Id.*

⁸⁰ *Id.* at 20.

⁸¹ 2020-2030 FRENCH STRATEGY IN RESPONSE TO THE RECOMMENDATION BY THE COUNCIL OF THE EUROPEAN UNION OF 12 MARCH 2021 FOR ROMA EQUALITY, INCLUSION AND PARTICIPATION 3 (2022) [hereinafter 2020-2030 FRENCH STRATEGY]. This number refers to French citizens whose permanent dwelling is a caravan, but this administrative term is generally associated with Roma. *Id.*

⁸² *Id.* at 4.

⁸³ Jeremie Gilbert & David Keane, *Equality Versus Fraternity? Rethinking France and its Minorities*, 14 INT'L J. CONST. L. 883, 889 (2017).

⁸⁴ 2020-2030 FRENCH STRATEGY, *supra* note 81, at 3; *see also* 1958 CONST. art. 1 (“[France] shall ensure the equality of all citizens before the law, without distinction of origin, race or religion.”).

⁸⁵ Chuck Sudetic, *Roma in Political Life: France—Gens du Voyage and the Roma of France*, OPEN SOC'Y FOUNDS. (Sept. 10, 2013), <https://www.opensocietyfoundations.org/voices/roma-political-life-france-gens-du-voyage-and-roma-france>.

targeted policies which work towards Roma inclusion.⁸⁶ Despite the relatively small size of the Roma community in France, it faces a disproportionate amount of prejudice and violence.⁸⁷ Many Roma currently in France have migrated from Romania and Bulgaria, which are both in the European Union.⁸⁸ France's status as a member state to a majority of core international human rights instruments⁸⁹ means that even Roma without French citizenship but living in France should be able to enjoy the full exercise of their rights as guaranteed to other European citizens.⁹⁰ Unfortunately, the majority of Roma in France still live in a state of precarity.⁹¹

Historically, itinerants in France have been required to comply with strict laws and regulations which do not apply to French citizens living in sedentary accommodations.⁹² Until recently, those classified under the administrative grouping of *gens du voyage* were required to carry with them internal travel documents which had to be approved and stamped by local officials periodically.⁹³ In the past, any itinerant person who failed to stay up to date with the requirements of their particular internal travel document could face steep fines or time in prison.⁹⁴ In 2010, the ECSR found that the laws governing *gens du voyage*, including those governing identification documents, violated the Revised European Social Charter.⁹⁵ The Reception

⁸⁶ 2020-2030 FRENCH STRATEGY, *supra* note 81, at 3. France makes a distinction between two target groups in its strategy: Travellers and European citizens living in slums/bidonvilles. *Id.*

⁸⁷ Comm. on Elimination of Racial Discrimination, Concluding Observations on the Combined Twenty-Second and Twenty-Third Periodic Reports of France, U.N. Doc. CERD/C/FRA/CO/22-23 (Dec. 14, 2022) [hereinafter Concluding Observations on the Periodic Reports].

⁸⁸ Hum. Rts. Council, National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21, U.N. Doc. A/HRC.WG.6/FRA/1 (Nov. 13, 2017) [hereinafter National Report].

⁸⁹ *Ratification Status for France*, *supra* note 31.

⁹⁰ Sandrine Gil, *The State of Roma Integration in Europe: A Look into Human Rights Violations, Rejection, and New Initiatives*, HUMAN. ACTION (Oct. 2016), https://humanityinaction.org/knowledge_detail/the-state-of-roma-integration-in-europe-a-look-into-human-rights-violations-rejection-and-new-initiatives.

⁹¹ *Id.*

⁹² Sudetic, *supra* note 85.

⁹³ Hum. Rts. Council, Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context, 14, U.N. Doc. A/HRC/43/43/Add.2 (Aug. 28, 2020) [hereinafter Special Rapporteur on Adequate Housing].

⁹⁴ Complaint, *supra* note 17; Eur. Comm. on Soc. Rts., *European Roma Rights Centre (ERRC) v. France, Collective Complaint No. 51/2008*, COUNCIL EUR., https://www.errc.org/uploads/upload_en/file/resolution-on-the-decision-by-the-committee-of-ministers-30-june-2010.pdf [hereinafter Collective Complaint]; Sudetic, *supra* note 85.

⁹⁵ Sudetic, *supra* note 85; *see also* Collective Complaint, *supra* note 94.

and Accommodation of Travellers Act (“Besson Act”) removed this system of identification requirements.⁹⁶

The Besson Act requires all municipal settlements in France with a population greater than 5,000 to provide areas for *gens du voyage* and other itinerants to stop and camp.⁹⁷ The Besson Act allows halting only on these specific sites, which are limited in number and constraining on the Roma way of life.⁹⁸ These sites require these municipalities to guarantee access to drinking water, sanitary facilities, and electricity.⁹⁹ This simply has not happened, and halting sites that do exist are often planned in areas unfit for human habitation, such as near landfills and manufacturing sites.¹⁰⁰ Further, almost three-fourths of the reception areas created under the Besson Act are outside residential zoning areas and far from town centers.¹⁰¹ The Besson Act is not strictly followed, and many Roma and other itinerant individuals and groups have been forced to camp illegally throughout France and without access to integral services.¹⁰² Even if all municipalities fulfilled their obligations under the Besson Act, the available legal areas for halting in France would remain inadequate.¹⁰³ The Besson Act effectively functions as a nationwide ban on Roma halting in all areas not designated for them.¹⁰⁴ Note that the traditional Roma nomadic and semi-nomadic way of life is incompatible with application of the Act. For instance, in September 2022, a complaint was made against France to the ECSR regarding the Besson Act, which they allege has not been adequately enforced.¹⁰⁵

France does not legally recognize the identity or existence of minorities in French territory.¹⁰⁶ France has reported to the Human Rights Council that the French Constitution, with its principles of unity and equality under the law, prohibits the granting of collective rights to any group defined by a community of origin, culture, language or belief.¹⁰⁷ France has reserved itself

⁹⁶ Sudetic, *supra* note 85. See Loi 2000-614 du 5 juillet 2000 relative à l'accueil et à l'habitat des gens du voyage (Law 2000-614 of July 5, 2000 on the Halting and Housing of Travellers) JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O.] [OFFICIAL GAZETTE OF FRANCE] 2000, p. 10189 [hereinafter Besson Act].

⁹⁷ *Id.*

⁹⁸ Complaint, *supra* note 17, at 18. Halting is when the traditionally mobile Roma home is stopped. *Id.*

⁹⁹ DECODING THE FRENCH HALTING AND HOUSING POLICY, *supra* note 8, at 9; Besson Act, *supra* note 96.

¹⁰⁰ Complaint, *supra* note 17.

¹⁰¹ *Id.*

¹⁰² *Id.*; see Special Rapporteur on Adequate Housing, *supra* note 93, at 14-15.

¹⁰³ Complaint, *supra* note 17.

¹⁰⁴ DECODING THE FRENCH HALTING AND HOUSING POLICY, *supra* note 8, at 5.

¹⁰⁵ Complaint, *supra* note 17.

¹⁰⁶ See Gilbert & Keane, *supra* note 83.

¹⁰⁷ National Report, *supra* note 88, at 3.

from Article 27 of the International Covenant on Civil and Political Rights (“ICCPR”), which recognizes the existence of ethnic, religious or linguistic minorities.¹⁰⁸ A member state’s reservation is functionally that member state declining to abide by the provision, or essentially ignoring that provision.¹⁰⁹ This lack of recognition of minorities in France is a continuous disregard for United Nations Special Procedures which have encouraged France to act under its positive obligation to create favorable conditions for the exercise of the rights of minorities.¹¹⁰ Under its most recent Universal Periodic Review, France has once again defended its lack of recognition for ethnic, religious and linguistic minorities.¹¹¹ France asserted that its Constitution guarantees equal rights to all of its citizens.¹¹² In its most recent report to the Human Rights Council, France lauds its passage of the Besson Act.¹¹³ Regarding the evictions and disassembling of Roma encampments that received public condemnation in 2012, France cited the need to “reconcile public order with the necessary respect of human rights.”¹¹⁴

France has released its own strategy for Roma inclusion.¹¹⁵ The *2020-2030 French Strategy* largely reflects the goals of SAP.¹¹⁶ The goals of the French strategy are to fight anti-Roma racism and to support the inclusion of *gens du voyage* and people considered to be Roma, in compliance with the laws of France.¹¹⁷ In addition to committing itself to the goals of SAP, in its own strategy, the French government claims to be particularly committed to

¹⁰⁸ G.A. Res. 2200A (XXI), International Covenant on Civil and Political Rights, art. 27 (Dec. 19, 1966); *Reservations and Declarations Made by State Parties of the International Covenant on Civil and Political Rights (ICCPR) (as of 31 March 2017)*, CTR. FOR CIV. & POL. RTS., https://ccprcentre.org/files/media/List_of_ICCPR_reservations.pdf (last visited Feb. 25, 2024) [hereinafter *Reservations and Declarations*].

¹⁰⁹ *Reservations and Declarations*, *supra* note 108.

¹¹⁰ National Report, *supra* note 88.

¹¹¹ *Id.* at 2.

¹¹² *Id.*

¹¹³ *Id.* at 16; Loi 2017-86 du 27 janvier 2017 relative à l’égalité et à la citoyenneté (Law 2017-86 of January 27, 2017, on Equality of Citizenship) JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O.] [OFFICIAL GAZETTE OF FRANCE] 2017.

¹¹⁴ National Report, *supra* note 88, at 16. The public order in question refers to access to housing, healthcare, employment and schooling. France additionally maintains these evictions are being carried out with particular attention being paid to vulnerable children. *Id.*

¹¹⁵ 2020-2030 FRENCH STRATEGY, *supra* note 81.

¹¹⁶ *Id.*; STRATEGIC ACTION PLAN, *supra* note 51.

¹¹⁷ 2020-2030 FRENCH STRATEGY, *supra* note 81.

fight against all forms of racism.¹¹⁸ The strategy itself is not law, but part of France's wider social inclusion policy.¹¹⁹

II. LEGAL ANALYSIS

The extent to which France, or any other member state of the Council of Europe, follows SAP varies since it is not a legally binding document.¹²⁰ France has autonomy to adapt and implement policies according to their specific national context.¹²¹ Yet, France is still expected to treat SAP as best practice and implement it depending on national priorities, political will, and the effectiveness of current policies in place for the social and economic inclusion of Roma.¹²² The Mid-Term Review Report of SAP was recently published and provides an overview of the activities under each priority area throughout Europe from SAP's adoption on January 22, 2020, to December 31, 2022.¹²³ The Mid-Term Review Report mentions Roma in France sparingly.¹²⁴ Information regarding France's adherence to SAP must be gleaned from other sources published in the time period in question.

France has thus far failed to reach the goals that the Council of Europe envisioned for the social and economic inclusion of Roma.¹²⁵ Recall that the first goal of SAP is to combat anti-Roma discrimination.¹²⁶ France's efforts towards Roma inclusion were heavily critiqued by the Committee to End Racial Discrimination ("CERD") in its most recent concluding observations for France, which contained comments and recommendations on several matters related to race and racial discrimination in France, including the current situation of Roma.¹²⁷ Racism is extremely present in French society and is reinforced by the media and political discourse.¹²⁸ This encourages

¹¹⁸ *Id.* In the fight against anti-Roma racism, France lists the following strategic challenges: fighting prejudice and discrimination of Roma; improving how Roma are received and the type of accommodation on offer, and diversifying this to better consider the needs of people; access to social rights; access to schooling and continuing education; access to primary and preventative health care; access to culture and cultural inclusion; consideration of memory issues and historiographical work, and; improving dialogue and discussion with Roma associations, civil society and public authorities, and taking into account Roma participation during public policy development and monitoring. *Id.*

¹¹⁹ *Id.*

¹²⁰ See generally STRATEGIC ACTION PLAN, *supra* note 51.

¹²¹ *Id.*

¹²² *Id.*

¹²³ ADI-ROM(2022)21, DIRECTORATE GEN. DEMOCRACY & HUM. DIGNITY, ROMA & TRAVELLERS TEAM, STRATEGIC ACTION PLAN FOR ROMA AND TRAVELLER INCLUSION (2020-2025): MID-TERM REVIEW REPORT 3 (2022) [hereinafter MID-TERM REVIEW REPORT].

¹²⁴ See generally *id.*

¹²⁵ Concluding Observations on the Periodic Reports, *supra* note 87, at 3.

¹²⁶ STRATEGIC ACTION PLAN, *supra* note 51, at 11.

¹²⁷ Concluding Observations on the Periodic Reports, *supra* note 87.

¹²⁸ *Id.* at 8.

racial discrimination and intolerance against certain minority groups, including Roma.¹²⁹ CERD's first recommendation for France is to begin collecting data disaggregated by ethnic origin.¹³⁰ The absence of this ethnically-based data is a severe limitation on the development and implementation of effective public policies that could take into account the specific needs of different minority groups.¹³¹ For instance, many Roma remain targets of systemic police brutality and racism in France.¹³² The criminalization of the traditional itinerant Roma lifestyle is likely to increase the hostility against a group already stigmatized by larger French society.¹³³

Many Roma in France live under conditions of social exclusion and poverty.¹³⁴ Roma lack access to secure housing and are often forced into precarious living conditions.¹³⁵ This inaccessibility partly stems from the fact that mobile accommodations used as main residences do not have the same legal status as sedentary dwellings.¹³⁶ Roma caravans and mobile homes lack housing rights and are additionally denied those safeguards afforded to tourist caravans.¹³⁷ Many Roma live in slum-like conditions due to the French government failing to effectively guarantee Roma their unconditional right to emergency accommodation.¹³⁸ Accommodation is considered adequate if the occupants have safe drinking water, adequate sanitation, energy for cooking, heating, lighting, food storage, or refuse disposal.¹³⁹

Throughout France, slums are cleared without accompanying measures addressing the causes of the bidonvilles, and thus slums reform in increasingly precarious conditions.¹⁴⁰ When alternative accommodations are provided by the French government, they are not appropriate for the social realities of Roma families, particularly those with children.¹⁴¹ For itinerant Roma, there is an insufficient number of reception areas for caravans, as well as the excessive application of criminal fines when Roma are forced to park their caravans illegally.¹⁴² Even children have been charged with these

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² See Complaint, *supra* note 17.

¹³³ *Id.*

¹³⁴ Concluding Observations on the Periodic Reports, *supra* note 87, at 3.

¹³⁵ *Id.*

¹³⁶ DECODING THE FRENCH HALTING AND HOUSING POLICY, *supra* note 8.

¹³⁷ ECRI REPORT ON FRANCE, *supra* note 6, at 27.

¹³⁸ DÉFENSUEUR DES DROTIS, REPORT: FOR EFFECTIVE PROTECTION OF THE RIGHTS OF ROMA 9 (2021) [hereinafter PROTECTION OF THE RIGHTS OF ROMA].

¹³⁹ Special Rapporteur on Adequate Housing, *supra* note 93, at 9.

¹⁴⁰ PROTECTION OF THE RIGHTS OF ROMA, *supra* note 138, at 11.

¹⁴¹ *Id.* at 13.

¹⁴² Concluding Observations on the Periodic Reports, *supra* note 87, at 3.

finances.¹⁴³ Roma in France have experienced eviction from these spaces for years, and these measures are typically carried out without any alternative housing solutions.¹⁴⁴ CERD has emphasized the importance of the French government recognizing the caravan as housing.¹⁴⁵ Once caravans are recognized as legitimate forms of housing, France has been instructed to provide sufficient numbers of reception areas for these caravans to park.¹⁴⁶

The Defender of Rights (“DDD”) is an independent, single-member administrative authority in France responsible for fighting discrimination prohibited by French domestic and international law.¹⁴⁷ DDD hears individual claims relating to situations of discrimination, including from Roma exercising their human rights¹⁴⁸ and directs the competent authorities in ensuring rights and freedoms that have been violated.¹⁴⁹ One of DDD’s key strategies for Roma inclusion is the recognition of caravans as housing.¹⁵⁰ Roma caravans and mobile homes have been excluded from protections given to homes and also those safeguards provided to tourist caravans.¹⁵¹ DDD asserts that the Besson Act has the effect of restricting the freedom of movement of Roma, which presents an obstacle to their traditional itinerant ways of life.¹⁵² The Besson Act creates an obligation for itinerant Roma to park on the land set aside for them and prohibits them from parking anywhere else in a municipality’s territory, provided the municipality has fulfilled its reception obligations.¹⁵³ These reception sites are unsuitable for habitation, lacking essential services such as water, electricity, and waste disposal.¹⁵⁴ For these reasons, Roma are often forced to camp illegally, for which they may face criminal or civil reprisal.¹⁵⁵

¹⁴³ Complaint, *supra* note 17.

¹⁴⁴ Concluding Observations on the Periodic Reports, *supra* note 87, at 3.

¹⁴⁵ *Id.* at 4.

¹⁴⁶ ECRI REPORT ON FRANCE, *supra* note 6, at 35.

¹⁴⁷ Jacques Chevallier, *Le Défenseur des droits: unité ou diversité?*, 139 REVUE FRANÇAISE D’ADMINISTRATION PUBLIQUE 433 (2011).

¹⁴⁸ PROTECTION OF THE RIGHTS OF ROMA, *supra* note 138, at 5.

¹⁴⁹ Loi 2011-333 du 29 mars 2011 loi organique (Law 2011-333 of March 29, 2011 Organic Law), JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O.] [OFFICIAL GAZETTE OF FRANCE], March 30, 2011.

¹⁵⁰ DÉFENSUEUR DES DROITS, REPORT: TRAVELLERS: BREAKING DOWN BARRIERS TO RIGHTS 11 (2021) [hereinafter TRAVELLERS: BREAKING DOWN BARRIERS TO RIGHTS].

¹⁵¹ *Id.* at 11. ECRI REPORT ON FRANCE, *supra* note 6, at 27.

¹⁵² TRAVELLERS: BREAKING DOWN BARRIERS TO RIGHTS, *supra* note 150, at 12.

¹⁵³ Besson Act, *supra* note 96.

¹⁵⁴ Special Rapporteur on Adequate Housing, *supra* note 93, at 14-15; Complaint, *supra* note 17.

¹⁵⁵ TRAVELLERS: BREAKING DOWN BARRIERS TO RIGHTS, *supra* note 150, at 19; Sudetic, *supra* note 85.

Roma in France are also subject to fines for illegally halting in order to set up a home, even temporarily.¹⁵⁶ These fines have been specifically levied at Roma, with President Emmanuel Macron allegedly advocating for lump-sum criminal fines for the illegal occupation of land by Travellers.¹⁵⁷ Illegal halting has other consequences such as an entry in the criminal record, seizure of vehicles, forced eviction, or even a year's imprisonment.¹⁵⁸ A complaint has been filed against France with the ECSR, vehemently protesting said fines¹⁵⁹ and criticizing the Besson Act.¹⁶⁰ Many of the designated halting sites established by the Besson Act do not provide the services required for adequate shelter, particularly regarding sanitation and access to water and electricity.¹⁶¹ There is a concerning trend of French municipalities failing to successfully assess the needs of Roma in their district in education, economic assistance, and social programs.¹⁶² France is hindering access to housing for Roma and contributing further to their social exclusion.¹⁶³ The facts alleged in the complaint further contribute to the conclusion that France is not adequately meeting any of the goals prescribed by SAP.¹⁶⁴

Insecure housing combined with a lack of access to healthcare is a common experience for Roma living in France who lack French citizenship.¹⁶⁵ Note, however, that this lack of access is not unique to Roma, as there are difficulties to accessing care faced by many foreigners in an irregular situation in France.¹⁶⁶ Foreign nationals in France receive less healthcare coverage than French nationals under France's universal healthcare scheme.¹⁶⁷ Additionally, foreign nationals are more exposed to the risk of discriminatory refusal of care.¹⁶⁸ For example, the likelihood of contracting COVID-19 is higher among Roma living in overcrowded and squalid conditions.¹⁶⁹ Throughout the COVID-19 pandemic, Roma have received less information regarding COVID-19 and have faced restricted

¹⁵⁶ Complaint, *supra* note 17.

¹⁵⁷ *Id.*

¹⁵⁸ ECRI REPORT ON FRANCE, *supra* note 6, at 27-28.

¹⁵⁹ Complaint, *supra* note 17.

¹⁶⁰ *See generally id.*

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ PROTECTION OF THE RIGHTS OF ROMA, *supra* note 138.

¹⁶⁶ *Id.* at 19.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ KORUNOVSKA & JOVANOVIĆ, *supra* note 19, at 7; EUR. UNION AGENCY FOR FUNDAMENTAL RTS., IMPLICATIONS OF COVID-19 PANDEMIC ON ROMA AND TRAVELLERS COMMUNITIES: FRANCE 11 (2020) (available at: https://fra.europa.eu/sites/default/files/fra_uploads/fr_report_-_covid-19_impact_on_roma_en.pdf) [hereinafter IMPLICATIONS OF COVID-19 PANDEMIC].

access to medical care for COVID-19 compared to their non-Roma counterparts.¹⁷⁰ Not only are Roma more likely to contract COVID-19, DDD has identified many instances of Roma being denied access to isolation sites and to vaccinations against COVID-19.¹⁷¹

SAP lists another goal of promoting democratic participation of Roma and encouraging accountability from federal and municipal governments in their treatment of Roma.¹⁷² France held hearings and accepted written contributions from different stakeholders in developing its inclusion policy.¹⁷³ The Commission nationale consultative des Gens du voyage, which was founded in 2015,¹⁷⁴ additionally held listening sessions that resulted in advisory reports.¹⁷⁵ Listening has thus far not led to any massive change; Roma in France still have their fundamental rights violated.¹⁷⁶

The final goal of SAP is to support Roma access to inclusive quality education and training.¹⁷⁷ Many Roma families lack information on registration procedures for public school, which is often difficult to access and sometimes not translated into a language the families understand.¹⁷⁸ Precarity in housing is explicitly keeping Roma children out of school; local authorities use administrative disputes against families staying on illegally occupied land to hinder or even prohibit children's access to school.¹⁷⁹ Roma schoolchildren, who already underperformed compared to their peers pre-COVID-19 pandemic, face additional barriers to accessing and enjoying education.¹⁸⁰ Lack of electricity, internet, and other services severely impacted Roma children, who could not access electronic learning software, during the spring 2020 COVID-19 lockdowns.¹⁸¹ Further, only ten to twenty percent of Roma children returned to school in June 2020 following the spring 2020 lockdowns.¹⁸² This is in spite of a statute which makes schooling

¹⁷⁰ KORUNOVSKA & JOVANOVIĆ, *supra* note 19, at 7; IMPLICATIONS OF COVID-19 PANDEMIC, *supra* note 169.

¹⁷¹ TRAVELLERS: BREAKING DOWN BARRIERS TO RIGHTS, *supra* note 150, at 22.

¹⁷² STRATEGIC ACTION PLAN, *supra* note 51, at 17.

¹⁷³ 2020-2030 FRENCH STRATEGY, *supra* note 81.

¹⁷⁴ *Id.*

¹⁷⁵ *Id.* A listening session is similar to a focus group and is a type of facilitated discussion with a group of people, aimed at collecting information about their experience. *Id.*

¹⁷⁶ Concluding Observations on the Periodic Reports, *supra* note 87, at 3.

¹⁷⁷ STRATEGIC ACTION PLAN, *supra* note 51, at 19.

¹⁷⁸ TRAVELLERS: BREAKING DOWN BARRIERS TO RIGHTS, *supra* note 150, at 19, 26; PROTECTION OF THE RIGHTS OF ROMA, *supra* note 138, at 16.

¹⁷⁹ TRAVELLERS: BREAKING DOWN BARRIERS TO RIGHTS, *supra* note 150, at 19.

¹⁸⁰ *Id.*

¹⁸¹ *Id.* at 21.

¹⁸² *Id.*

compulsory for children aged three to six.¹⁸³ The low enrollment rate of Roma children in school is correlated with the high unemployment rate among Roma, particularly Roma women.¹⁸⁴

III. PROPOSAL

There is ample evidence indicating that Roma and similarly situated itinerant communities in France continue to suffer from widespread discrimination and lack access to integral resources and services, such as housing and education.¹⁸⁵ This is in spite of France's membership in the Council of Europe and the associated obligations and duties attached to such membership.¹⁸⁶ The French government has failed in its implementation of international and European frameworks to guarantee Roma the enjoyment of their human rights.¹⁸⁷ There has been a lack of appropriate action within France and on the larger international stage with regard to anti-Roma racism, violence, and discrimination.¹⁸⁸ The Convention enshrines rights that Roma are unable to exercise, such as the right to housing or the right to be free from discrimination.¹⁸⁹ If France actually adhered to its many international obligations, it would be able to better meet the goals of SAP.

A. *Recognition of Minorities*

France must legally recognize the ethnic identity of Roma. A massive barrier in protecting the rights of Roma in France is the fact that France actively refuses to recognize the existence of minorities within its country.¹⁹⁰ Refusing to recognize Roma as a distinct minority group creates an automatic barrier to social and economic inclusion for many Roma.¹⁹¹ In order to effectively address the precarious conditions affecting Roma in France, France must recognize Roma as a distinct ethnic group with particularized experiences. The complete lack of ethnically based data collected by the French government severely limits the development and implementation of

¹⁸³ See Loi 2019-791 du 26 juillet 2019 pour une école de la confiance (1) [Law no. 2019-791 of July 26, 2019, for trustworthy education], JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O.] [OFFICIAL GAZETTE OF FRANCE], July 28, 2019.

¹⁸⁴ Concluding Observations on the Periodic Reports, *supra* note 87, at 4.

¹⁸⁵ Special Rapporteur on Adequate Housing, *supra* note 94, at 14-15.

¹⁸⁶ *Our Member States*, *supra* note 44.

¹⁸⁷ Concluding Observations on the Periodic Reports, *supra* note 87, at 3.

¹⁸⁸ *Id.* at 3.

¹⁸⁹ European Convention for the Protection of Human Rights and Fundamental Freedoms, *supra* note 39.

¹⁹⁰ National Report, *supra* note 88, at 3.

¹⁹¹ See *supra* Part I(C).

any effective public policies that take into account the specific needs of Roma in particular.¹⁹²

Anti-Roma racism remains a dominant force in France, with French media and politics exacerbating prejudice and hate.¹⁹³ If France begins collecting ethnicity disaggregated data, it will be able to develop policy more effectively for Roma inclusion and the ultimate end of anti-Roma racism in France.¹⁹⁴ While Roma are marginalized in part for their itinerant culture, France needs to recognize Roma as *Roma*. It is disingenuous to suggest that Roma are indistinguishable from other French citizens but-for their itinerant lifestyle. Roma in France have faced centuries of persecution and marginalization,¹⁹⁵ and any policy the French government creates addressing the continued marginalization of Roma must recognize this unfortunate history and the Roma community's unique position and needs.

B. Housing and Freedom of Movement

Secure housing for all Roma in France is a massive roadblock in the path to Roma social, political, and cultural inclusion in Europe. The Besson Act limits freedom of movement by excluding mobile caravans from housing definitions and limiting the number of authorized halting areas.¹⁹⁶ France should recognize the caravan as a proper form of housing, eligible for the same benefits as stationary residential structures. Further, authorizing only certain areas for halting effectively makes all other areas off-limits for Roma practicing their traditional itinerant lifestyle. Illegal occupation of land should not deprive any individual or group of the exercise of their fundamental rights. France's current policy discourages nomadic practices and may force Roma in France to give up this centuries-old tradition. Roma should be permitted to halt throughout France except on specifically forbidden areas. Any laws criminalizing nomadic lifestyles should be repealed.

Lack of housing, and/or lack of housing subsidies have a corresponding negative effect on the exercise of other rights.¹⁹⁷ Having access to safe and secure housing would improve Roma access to quality inclusive education and training. Roma children in France face many barriers in accessing their allegedly guaranteed public education.¹⁹⁸ France must guarantee equal

¹⁹² ECRI REPORT ON FRANCE, *supra* note 6, at 27.

¹⁹³ *Id.* at 5.

¹⁹⁴ Concluding Observations on the Periodic Reports, *supra* note 87, at 2-3.

¹⁹⁵ Sudetic, *supra* note 85.

¹⁹⁶ Besson Act, *supra* note 96.

¹⁹⁷ Special Rapporteur on Adequate Housing, *supra* note 93, at 12.

¹⁹⁸ TRAVELLERS: BREAKING DOWN BARRIERS TO RIGHTS, *supra* note 150, at 19-21.

educational opportunities to Roma children, regardless of their form of domicile or where they live.

CONCLUSION

Roma have historically been one of the most persecuted minorities in Europe, and their marginalization continues into the present day.¹⁹⁹ In France, Roma continue to face social exclusion, discrimination, and racism.²⁰⁰ Public officials justify anti-Roma practices by expressing concern over the alleged antisocial behavior and the failed assimilation of Roma into larger European culture.²⁰¹ France is subject to several instruments of international human rights law and is part of many international bodies working in the human rights field such as the United Nations and the Council of Europe.²⁰² These international human rights instruments provide protection for Roma in France, which includes the right to be free from discrimination.²⁰³

The Council of Europe published the *Strategic Action Plan on Roma Inclusion for 2020-2025* to serve as a roadmap for Roma social and economic inclusion for the Council of Europe and its member states.²⁰⁴ SAP is not mandatory, but it provides a framework for Roma inclusion in the immediate future.²⁰⁵ SAP aims to end anti-Roma racism, to support the political participation and public trust of Roma, and to ensure equal educational opportunities for Roma children and young adults.²⁰⁶ This Note has illustrated that these goals have not been met by France, at least by the midterm review of SAP.²⁰⁷ France has not ensured the effective implementation of a national strategy for equality, inclusion, and participation of Roma.²⁰⁸ Recognizing Roma as a minority group in need of special protections will be a necessary first step in guaranteeing the free exercise of their rights in the future.

¹⁹⁹ See generally ROSTAS, *supra* note 2, at 5-7.

²⁰⁰ Concluding Observations on the Periodic Reports, *supra* note 87, at 3-4.

²⁰¹ Pour Valls, «les Roms ont vocation à rentrer en Roumanie ou en Bulgarie», *supra* note 24.

²⁰² See *supra* Part I(A).

²⁰³ *Id.*

²⁰⁴ STRATEGIC ACTION PLAN, *supra* note 51, at 11.

²⁰⁵ *Id.*

²⁰⁶ *Id.* at 5.

²⁰⁷ See *supra* Part II.

²⁰⁸ *Id.*; see Concluding Observations on the Periodic Reports, *supra* note 87, at 3.