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## مجلس حقوق الإنسان

الدورة الثالثة والأربعون

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تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

## زيارة إلى فرنسا

تقرير المقررة الخاصة المعنية بالسكن اللائق كعنصر من عناصر الحق في مستوى معيشي مناسب وبالحق في عدم التمييز في هذا السياق \*\*\* \*\* \*

## موجز

قامت المقررة الخاصة المعنية بالسكن اللائق كعنصر من عناصر الحق في مستوى معيشي مناسب وبالحق في عدم التمييز في هذا السياق، ليلاني فرحة، بزيارة إلى فرنسا في نيسان/أبريل 2019، عملاً بولايتها بموجب قرار مجلس حقوق الإنسان 9/34 بغرض تحديد النتائج الإيجابية والتحديات المطروحة فيما يخص إعمال الحق في سكن لائق.

وخلصت المقررة الخاصة إلى أن فرنسا قد اعتمدت عدة قوانين وسياسات وبرامج ترمي إلى ضمان الحق في سكن لائق. ويتمتع معظم الأفراد في فرنسا بإمكانية الحصول على سكن لائق. وعلاوة على ذلك، لدى البلد رصيد كبير من المساكن الاجتماعية، وقد خصّص موارد كبيرة لاستحقاقات السكن ولمساكن الطوارئ.

\* يُعَمَّم موجز التقرير بجميع اللغات الرسمية. أما التقرير نفسه، المرفق بهذا الموجز، فيعَمَّم باللغة التي قُدِّم بها وباللغة الفرنسية فقط.

\*\* قُدِّم هذا التقرير بعد انقضاء الموعد النهائي لتضمينه أحدث المعلومات.

\*\*\* يصدر تذييل هذا التقرير دون تحرير رسمي.



الرجاء إعادة الاستعمال

GE.20-11237(A)



\* 2 0 1 1 2 3 7 \*

وعلى الرغم من هذه الجهود، أصبحت القدرة على تحمل تكاليف السكن مشكلة كبيرة. وفي معظم المناطق الحضرية الكبيرة، لا يوجد ما يكفي من المساكن الاجتماعية لمن هم في أشد الحاجة إليها. ورغم أنه يمكن المطالبة بالحق في المسكن، لا يُمنح مقدمو طلبات الإسكان سكناً إلا بعد عدة سنوات في معظم الأحيان. ويحظر القانون الوطني حظراً صارماً التمييز فيما يتعلق بالحصول على السكن، لكن العديد من الأشخاص الذين يُنظر إليهم على أنهم قادمون من العالم العربي أو أفريقيا يعانون من هذا التمييز.

وكثيراً ما تكون الأحياء العشوائية التي يقطنها أفراد جماعة الروما والمهاجرون وغيرهم من الفئات المستضعفة محرومة من الخدمات الأساسية وتخضع بانتظام لعمليات الإخلاء القسري التي تنتهك معايير حقوق الإنسان. ويزداد التشرد بوتيرة كبيرة، ويوجد عدد قليل جداً من ملاجئ الطوارئ وخيارات الإسكان الطويلة الأمد المتاحة لهذه الفئات. ويعيش اللاجئون والمهاجرون في ظروف من أبشع الظروف على الإطلاق. ويوجد نقص في وحدات العيش المستقل للأشخاص ذوي الإعاقة. وتختتم المقررة الخاصة تقريرها بدعوة إلى اتخاذ إجراءات فورية وبعده توصيات لضمان تمتع الجميع تمتعاً كاملاً بالحقوق الإنساني في سكن لائق.

## Annex

### **Report of the 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, on her visit to France**

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## I. Introduction

1. The 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, Leilani Farha, visited France from 2 to 12 April 2019 at the invitation of the Government. The purpose of her visit was to identify positive outcomes and existing challenges with respect to the realization of the right to adequate housing in the country.

2. The Special Rapporteur thanks France for its invitation and its cooperation during the visit. She also thanks all of her interlocutors, including government officials, mayors, lawyers and civil society representatives, for the fruitful discussions and the sharing of information.<sup>1</sup> She warmly thanks those individuals and families whom she met living in various degrees of inadequate housing or homelessness who shared their personal experiences with her.

3. France has in many ways embraced the right to adequate housing, having adopted a number of ambitious housing laws and policies. Most notable is the fact that the right to adequate housing is both enforceable and justiciable. Despite the fact that France is a frontrunner in this regard, for a number of groups the right to adequate housing has become increasingly under threat.

4. In many metropolitan regions, for example, those who claim their right to housing in court have to wait for years before being provided with access to adequate housing. The country has one of the largest social housing stocks, yet social housing is scant for those most in need, forcing the most vulnerable to turn to the lowest echelons of the private market, often owned by “slumlords”. Discrimination against marginalized groups is frequently reported in the private housing market. Homelessness is on the rise, and informal settlements with deplorable conditions are growing in size and number.

5. While living standards in France have drastically improved over the past 50 years for the majority of the population, the poverty rate has stalled at 14 per cent, and extreme poverty is on the rise. Although most people in France enjoy a high standard of living, approximately 6 per cent of the population are estimated to live in substandard housing and approximately 18 per cent are in a vulnerable situation owing to increasing housing costs. An impressive and widely known national hotline (115) allows people who are homeless or living in dire housing conditions to call and seek immediate assistance, but owing to the volume of calls in Paris, for example, less than a third of the calls are answered. There is an unconditional right to shelter, regardless of administrative status, but shelters are at capacity. Despite significant efforts to prevent and reduce homelessness, the number of people living on the streets, in shelters, in so-called “social hotels” or in substandard housing continues to rise. In light of those challenges, a number of the people with whom the Special Rapporteur met were questioning whether the right to housing had become merely rhetoric.

6. As the seventh largest economy in the world, with a long tradition of social housing and human rights, it is difficult to justify the housing conditions experience by the most vulnerable in France. Although France faces a growing housing crisis, which is also a human rights crisis, the Government cut spending for the housing allowance of social housing tenants by 1.5 billion euros in 2017, incentivized the selling-off of social housing units, and increased taxes for social housing providers, potentially curbing their ability to develop much-needed housing. The Special Rapporteur encourages the Government to reverse this course and strengthen its commitment to the right to adequate housing.

## II. Legal framework

### A. International human rights law

7. France has ratified most international human rights treaties, including the International Covenant on Economic, Social and Cultural Rights, which sets out the right to adequate housing in article 11, and its Optional Protocol, which allows individuals to

<sup>1</sup> See appendix.

submit communications after the exhaustion of domestic remedies. According to the Covenant, France has the obligation to progressively realize the right to adequate housing through reasonable measures, to the maximum of its available resources. The right to adequate housing should not be interpreted narrowly, to mean, for example, the right merely to have a roof over one's head; rather, it should be seen as the right to live somewhere in security, peace and dignity. The following characteristics must be taken into account when determining whether housing can be considered adequate: (a) legal security of tenure; (b) availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) location; and (g) cultural adequacy.<sup>2</sup> Furthermore, States are prohibited under international human rights law from taking retrogressive measures, meaning that France should not take backward steps with respect to the realization of the right to housing.

8. France has signed and ratified the European Social Charter, which guarantees the right to housing in article 31, and in 1999 ratified the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints, which allows social partners and non-governmental organizations to lodge collective complaints.

9. France has committed to the Sustainable Development Goals, target 11.1 of which requires France to end homelessness, ensuring access for all to adequate, safe and affordable housing and upgrading informal settlements to include basic services, by 2030 (see A/HRC/34/51).

## **B. Constitutional and national law**

10. There is no explicit reference to the right to adequate housing in the Constitution. However, in a 1995 decision, the Constitutional Council confirmed that the opportunity for everyone to have decent housing was an objective with the force of constitutional law, and that it was for Parliament and the Government, in accordance with their respective remits, to determine arrangements for achieving that objective.<sup>3</sup>

11. The right to adequate housing and its principles have been incorporated into several national laws. Under the 1989 tenancy act, the right to housing is a fundamental right and property owners must provide their tenants with decent housing that does not jeopardize physical safety and health and that meets minimum energy efficiency and habitability standards. Under the 1990 act on the right to housing, securing the right to housing is a duty of solidarity for the entire nation.<sup>4</sup> The Social Action and Family Code underlines that combating exclusion based on respect for the equal dignity of all human beings is a priority of all public policies of the nation and that the State, all territorial governments and all public institutions State actors should ensure effective access to all fundamental rights, including the right to housing.<sup>5</sup>

12. In 2007, France adopted an act establishing the enforceable right to housing.<sup>6</sup> This act is a considerable achievement towards making the right to housing justiciable. According to the act, a claim for the right to housing may be initiated through an amicable procedure when an individual or family is homeless or living in shelters or temporary accommodation, facing eviction or living in dangerous, substandard or overcrowded housing; when the individual or family has a very low income; or when the household is considered a priority and has been on a waiting list for social housing for an unreasonable amount of time. French nationals and all persons with a valid residency permit may file applications under the act after having submitted a request for social housing. If the State is unable to offer them a social housing unit within six months, litigation may be initiated.

13. The act also establishes an unconditional right to emergency accommodation for all persons in need, including those who do not have a valid residency permit. Under article L345-2-2 of the Social Action and Family Code, all persons living in homelessness who are

<sup>2</sup> Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing.

<sup>3</sup> Constitutional Council, decision No. 94-359 DC, 19 January 1995.

<sup>4</sup> Act No. 89-462 of 6 July 1989, arts. 1 and 6, and Act No. 90-449 of 31 May 1990, art. 1.

<sup>5</sup> Social Action and Family Code, art. L115-1.

<sup>6</sup> Act No. 2007-290 of 5 March 2007 (also known as the "DALO" act).

in medical, psychological or social distress should have access to emergency accommodation at any time. Such emergency accommodation must conform with the principle of human dignity and guarantee the security of the person and their personal effects. The Code also states (art. L345-2-3) that those who receive emergency accommodation should benefit from personalized support with a view to ensuring long-term housing.

14. The right of access to emergency accommodation is also enforceable before national administrative courts. Persons without a valid immigration status are, however, excluded from the right to claim accommodation in institutions providing longer-term temporary housing.

### **III. Issues related to the right to adequate housing**

#### **A. Discrimination in accessing housing**

15. The tenancy act (art. 1) prohibits discrimination based on factors such as origin, sex, sexual orientation, gender identity, family situation, physical appearance or age when requesting to rent an apartment or home. Landlords that use discriminatory criteria to disqualify prospective tenants may be sanctioned with a fine and imprisonment.<sup>7</sup>

16. The Defender of Rights carried out a survey in 2016 which identified clear patterns of discrimination in the private housing market. The study found that French nationals and those perceived as “white” were twice as likely to find a home within one year of commencing their search, as compared to immigrants and those perceived as “Arab” or “black”. Discrimination also affected larger families and single-parent families, for which it took significantly longer to be able to rent a home than for couples without children.<sup>8</sup> Almost half of the respondents in the study believed that there was “often” or “very often” discrimination in accessing housing. Of those who considered themselves victims of discrimination, only 11 per cent had filed complaints. Among the reasons cited for not filing a complaint were that it would not serve any purpose, that it was not worth the effort, that there was a lack of proof and that they lacked trust in the justice system.<sup>9</sup>

17. Discrimination in housing is also experienced by persons with disabilities, many of whom are unable to access the psychosocial supports necessary for independent living or cannot find an accessible unit to accommodate their physical disability. The Special Rapporteur regrettably observes that this situation will only deteriorate further under the amended act reforming housing, planning and digital technology, under which the percentage of new-build multistorey houses that are required to be fully accessible to persons with disabilities was reduced from 100 per cent to just 20 per cent. The Special Rapporteur considers this a retrogressive measure, as it will decrease the supply of homes built despite an existing shortage of adapted housing. This measure is also not in keeping with article 19 of the Convention on the Rights of Persons with Disabilities or articles 2 and 11 of the International Covenant on Economic, Social and Cultural Rights.

#### **B. Housing quality and affordability**

18. Housing quality has significantly improved since 1978. The average living space increased from 30.7 square metres per person in 1984 to 40.3 square metres per person in 2013, and while more than 25 per cent of housing lacked sanitation facilities in 1978, today the figure is less than 1 per cent.<sup>10</sup>

19. Despite these gains, households in the lowest income bracket are more likely to suffer substandard housing conditions. Overcrowding affects 16.9 per cent of all residents

<sup>7</sup> See Penal Code, arts. 225-1 and 225-2.

<sup>8</sup> See Defender of Rights, “Enquête sur l’accès aux droits: volume 5 – les discriminations dans l’accès au logement”, December 2017.

<sup>9</sup> Ibid.

<sup>10</sup> National Institute of Statistics and Economic Studies, *Les conditions du logement en France: édition 2017* (Paris, 2017), pp. 141 and 143.

living in social housing, 20 per cent of single-parent households and 25 per cent of immigrant households.<sup>11</sup> Fuel poverty increased between 2002 and 2013, reaching a rate of 20.4 per cent of all households.<sup>12</sup>

20. The Special Rapporteur is particularly concerned about housing affordability. Between 2007 and 2017, housing costs for poor households adjusted in line with inflation increased by 33.3 per cent, posing a serious burden, particularly for those without access to social housing. Low-income households renting in the private market already spend over 40 per cent of their income on housing.<sup>13</sup> A total of 16.8 per cent of poor households faced rent arrears or mortgage arrears in 2017.<sup>14</sup>

21. In contrast, housing costs for the most affluent have increased only marginally. A total of 85 per cent of the richest quarter of society live in a dwelling that they own, and less than half pay mortgages. Those homeowners that have already paid their mortgage spend only 6.7 per cent of their income on housing and are thus able to accumulate further wealth.<sup>15</sup> In turn, despite the long tradition of social housing in France, homeownership has become a leading determinant of inequality.

### C. Social housing and housing benefit

22. Social housing in France is not targeted solely at the lowest-income earners. It has been estimated that one in every two citizens has lived in social housing at some point in their life. In 2018, 18 per cent of the population lived in social housing, provided by 550 social housing organizations. Since 2000, municipalities with more than 3,500 inhabitants are legally obliged to ensure that at least 25 per cent of all housing stock is social housing.<sup>16</sup> This obligation, however, is often ignored by municipalities because the fine for non-compliance is low. To remedy this, the Government raised the penalty in 2013, with limited success.

23. One third of households living in social housing have an income below the official poverty line, and single-parent families are overrepresented. Approximately 33 per cent of the social housing stock is located in 1,300 urban policy priority areas (*quartiers prioritaires de la politique de la ville*). These areas are identified by their concentration of low-income households, as measured by the census.

24. Social housing rents are 40 per cent lower than on the private market, creating high demand as private housing has become increasingly unaffordable. In 2017, there were over 2 million requests open for social housing. An applicant spent an average of nearly two years on a waiting list before receiving a housing unit, although waiting times varied drastically by region: in Paris, the average was 40 months.<sup>17</sup>

25. Sixty-six per cent of applicants for social housing fall into the lowest income category, making them eligible only for units designated for low-income households. However, only 4 per cent of total units are designated as such.<sup>18</sup> The Special Rapporteur welcomes the fact that the Government has increased the construction of social housing units for the most marginalized to 32,727 units in 2018. While an important step, this increase will still not meet the current demand.

26. The shortage of social housing units for the most disadvantaged is undermining the act establishing the enforceable right to housing. Of the 950,000 applicants since the act

<sup>11</sup> Ibid., p. 145.

<sup>12</sup> Environment and Energy Management Agency, *La précarité énergétique à la lumière de l'Enquête National Logement 2013: synthèse* (Angers, 2016), pp. 4–5.

<sup>13</sup> National Institute of Statistics and Economic Studies, *Les conditions du logement*, p. 161. The phrase “low-income households” refers to the lowest-income quarter of all households.

<sup>14</sup> Fondation Abbé Pierre and European Federation of National Organisations Working with the Homeless, *Fourth Overview of Housing Exclusion in Europe 2019* (Paris and Brussels, 2019), p. 68.

<sup>15</sup> National Institute of Statistics and Economic Studies, *Les conditions du logement*, p. 161.

<sup>16</sup> See Act No. 2000-1208 of 13 December 2000.

<sup>17</sup> Fondation Abbé Pierre, *L'état du mal-logement en France 2019* (Paris, 2019), p. 217.

<sup>18</sup> Information provided to the Special Rapporteur by the National Consultative Commission for Human Rights.

came into force on 1 January 2008, 270,000 households have been identified as priority cases in terms of access to housing. As at 20 February 2019, 167,200 households (62 per cent) had been assigned a social housing unit, while 62,900 households (38 per cent) still needed to be rehoused. Larger cities and metropolitan areas are experiencing this shortage more acutely. For example, one in two priority households identified in 2017 in Greater Paris had not been provided with adequate housing as of February 2019.

27. The High-level Committee on Housing of Disadvantaged Persons has expressed concern that mediation commissions, which are charged with the assessment of claims, have tended to interpret the act in an increasingly restrictive manner, accepting fewer claims owing to the lack of available housing in their respective departments rather than on the basis of the applicants' needs.<sup>19</sup>

28. Applicants accorded priority status who are not granted a unit within six months are entitled to go to court to have their application enforced. At court, local governments are frequently ordered to provide social housing to the applicant and to pay a fine, which goes into a fund for organizations providing social support to persons living in inadequate housing conditions. In many cases, the local authorities pay the fine but do not assign a housing unit to the applicant. The applicant's only recourse is to return to court for a one-time compensation of approximately 2,000 to 3,000 euros. Ultimately, the effect is a denial of justice, whereby local governments pay to opt out of respecting the right to housing.

29. The Special Rapporteur welcomes the fact that the Government offers means-tested housing benefits that can be accessed by households renting accommodation, including those in social housing. In total, there are over 6 million beneficiary households. The various schemes are expected to have cost 13 billion euros in 2019.

30. However, housing benefits in the form of rental subsidies for low-income households have been insufficiently adjusted to offset rising housing costs. Between 2000 and 2010, rent paid by beneficiaries increased by 32 per cent, while benefits were adjusted by only 15 per cent. In 2017, 9 out of 10 beneficiaries renting on the private market were paying a monthly rent that was higher than the rent upon which the benefit had been calculated.<sup>20</sup>

31. The Special Rapporteur is concerned that austerity measures have been imposed that may undermine the enjoyment of the right to housing. In October 2017, the personal housing benefit was cut by 5 euros per month. One year later, social housing associations were obliged to reduce their social rents to compensate for a further cut to housing benefits for persons living in social housing.<sup>21</sup> At the same time, value added tax for the construction and renovation of social housing almost doubled, from 5.5 to 10 per cent. These measures are expected to reduce the annual revenues of social housing associations by 2 billion euros,<sup>22</sup> exacerbating the housing crisis and limiting their ability to provide more social housing.

## D. Financialization of housing

32. The Special Rapporteur is concerned that the "financialization of housing" – whereby housing is promoted and used as a commodity rather than as a social good, undermining the realization of the right to housing (see A/HRC/34/51) – will quickly evolve in France, particularly since the promulgation of the 2018 act reforming housing, planning and digital technology. This act incentivizes the sale of social housing units, with a yearly target of 40,000 units. This policy is well under way; in 2018, the State railway company SNCF auctioned 4,000 public housing units for 1.5 billion euros to a group of domestic and foreign investment firms. While these units will remain classified as social housing, there are real concerns that these private owners will not be adequately regulated by the Government to meet international human rights standards and obligations related to the right to adequate housing.

<sup>19</sup> High-level Committee on Housing of Disadvantaged Persons, *L'effectivité du droit au logement opposable* (Paris, 2016), p. 12.

<sup>20</sup> Fondation Abbé Pierre, *L'état du mal-logement*, p. 280.

<sup>21</sup> *Ibid.*, pp. 278–279.

<sup>22</sup> See [www.union-habitat.org/actualites/pourquoi-les-organismes-hlm-sont-ils-legitimement-inquiets](http://www.union-habitat.org/actualites/pourquoi-les-organismes-hlm-sont-ils-legitimement-inquiets).



33. Real estate speculation has had a tremendous impact on housing stock in Paris, where 7.5 per cent of all residential dwellings – 107,000 homes – are vacant. The Special Rapporteur welcomes the fact that, in an attempt to curb speculation, the Paris authorities increased the tax on vacant homes to 60 per cent.<sup>23</sup> Though regulated, Paris is the largest market globally for online rental platform Airbnb, with approximately 65,000 housing units listed, which potentially erodes the availability of housing for local residents.<sup>24</sup>

34. The Special Rapporteur would like to warn that the social housing stock in France could easily become prey to international private equity firms, judging by the interest shown in the SNCF portfolio. This could have a devastating impact on an already overburdened housing system.

## **E. Substandard housing and urban areas of concern**

35. According to national law, owners face strict penalties if they rent units that are unfit for habitation and local governments have an obligation to inspect housing to ensure safety and compliance with international human rights law.<sup>25</sup> Nevertheless, there are an estimated 420,000 homes on the private market in France that are considered substandard, failing to meet minimum criteria for habitability. In Marseilles, approximately 40,000 housing units are estimated to be substandard.<sup>26</sup>

36. In 2018, two buildings collapsed in the Noailles neighbourhood of Marseilles, resulting in eight deaths and displacing over 100 residents. This incident triggered the emergency evacuation of 2,400 residents from over 300 buildings. Five months later, most of them were still living in hotels. Of particular concern is the fact that local authorities had disregarded calls from the residents, who for years had tried to alert the authorities to the risks posed by the dilapidated state of their homes. Affected residents told the Special Rapporteur that they were being asked to return to their homes and pay rent despite ongoing concerns relating to health and safety.

37. The Special Rapporteur applauds the Government for implementing urban renewal programmes to improve living conditions and access to transport, work and education in impoverished urban areas. Since 2014, these areas have been known as urban policy priority areas, where 42.2 per cent of residents live below the poverty line, compared to just 14.3 per cent of the general population. Seventy-four per cent of residents of urban policy priority areas live in social housing, compared to just 16 per cent elsewhere in France. Homes in urban policy priority areas suffer higher rates of defects, such as faulty wiring or crumbling exteriors, than those in other urban areas. Twenty-two per cent of households in urban policy priority areas face overcrowding.<sup>27</sup>

38. During her visit, the Special Rapporteur met with residents of Clichy-sous-Bois, a suburb of Paris, who told her of their deplorable housing conditions and their isolation from the rest of Paris. When visiting several housing blocks, the Special Rapporteur was able to see the appalling conditions for herself. Residing 10 kilometres from the centre of Paris, residents lacked direct transport to the city, but expressed hope that a new tramway would improve their situation. This isolation causes long commutes, creating additional hardship in accessing employment and education. They also noted that at times in the evening, city buses strayed from their routes and refused to enter Clichy-sous-Bois, forcing people to walk to their destinations, including persons with disabilities, women and older persons. Residents also stated that they faced discrimination based on their address when looking for employment.

<sup>23</sup> Better Dwelling, “Vacant homes are a global epidemic, and Paris is fighting it with a 60% tax”. 2 March 2017.

<sup>24</sup> Short Term Rentalz, “Paris family exodus attributed to Airbnb”, 10 July 2019.

<sup>25</sup> See Building and Housing Code, arts. L521-1–L521-3-4.

<sup>26</sup> See [www.hclpd.gouv.fr/parution-du-rapport-marseille-de-la-crise-du-a183.html](http://www.hclpd.gouv.fr/parution-du-rapport-marseille-de-la-crise-du-a183.html).

<sup>27</sup> Information provided to the Special Rapporteur by the National Urban Policy Observatory.

## F. Informal settlements

39. Informal settlements in France are generally inhabited by the poorest, most marginalized groups who lack access to housing, including Roma from Eastern Europe (who amount to about two thirds of the population of informal settlements), traveller communities, and migrants and refugees.

40. According to Government data, 16,090 persons live in 497 informal settlements. One third of those settlements are in the Greater Paris area. More than one quarter of the residents are children.<sup>28</sup> The Office of the United Nations High Commissioner for Human Rights (OHCHR) documented that conditions at such sites ranged from rough and unsafe to humble but decent living quarters. The worst conditions observed included rat infestations, extreme levels of poor sanitation and environmental degradation, and other serious health hazards. Sites visited were usually excluded from services such as water, sanitation, electricity and solid waste removal.<sup>29</sup>

41. The Special Rapporteur was struck by the appalling conditions that she observed in an informal settlement in Marseilles, where she visited a Roma settlement of 120 people in which no water or sanitary services were provided by the Government. The community siphoned water from a fire hydrant and had no toilets or showers on site, though health-care services were available and children attended the local school.

42. In Toulouse, the Special Rapporteur visited a former office building occupied by more than 300 migrants and refugees, including women and single-parent families. Though the complex had running water and electricity, there were persistent sewage problems due to insufficient sanitation facilities. The building had no showers or cooking facilities and was severely overcrowded, with up to 15 people sharing former office rooms and others in corridors. Mattresses and furniture had been salvaged from garbage dumps and there was a bedbug infestation. The city had not intervened to improve the conditions or to ensure security of tenure for the residents. Since the visit, this residence has been shut down, and the Special Rapporteur has been told that most of the residents moved to another building with worse conditions, housing approximately 700 people.

43. In both cases, the residents were under threat of eviction and alternative accommodation had not been proposed by the State. While the Special Rapporteur did receive reports of successful examples of long-term housing solutions having been developed in close collaboration with residents of informal settlements, such as those in Strasbourg, the residents that she interviewed indicated that they had not been meaningfully consulted.<sup>30</sup> The Special Rapporteur reminds the Government that participation is a human right and that residents of informal settlements must be given the opportunity to meaningfully participate in decision-making that affects their housing.

44. When alternative sites are offered to Roma, municipalities often fail to ensure social integration, forcing them to live in enclosed or desolate former industrial areas. Some are under video or guard surveillance.<sup>31</sup>

45. The Government's programme of "reabsorption" to reduce informal settlements stresses the need to provide access to water, sanitation, adequate housing, education and work. The Special Rapporteur's visit, however, revealed a different story. Policies denying access to core elements of the right to adequate housing, including the right to water and sanitation, to health and to live in security, are in violation of international human rights law. The Special Rapporteur reminds the Government that it is obliged under international human rights law to ensure human dignity.

<sup>28</sup> Interministerial Task Force on Accommodation and Access to Housing, *Etat des lieux des bidonvilles en France métropolitaine au 1<sup>er</sup> Juillet 2018* (Paris, 2018), p. 3.

<sup>29</sup> OHCHR, "No one left behind: mission report on the right to housing and related human rights of Roma in France", June 2018, p. 8.

<sup>30</sup> Ibid., p. ii.

<sup>31</sup> Ibid., p. 9.

## G. Forced evictions

46. Forced evictions are a *prima facie* violation of the right to adequate housing.<sup>32</sup> Such evictions in France have been the subject of several reports and recommendations by the United Nations human rights system and human rights organizations.<sup>33</sup> In 2018, approximately 65 per cent of all of those living in informal settlements and originating from Eastern Europe experienced a forced eviction: 9,688 of these persons were evicted from 171 informal settlements and squats, most of which were constructed on public property.<sup>34</sup>

47. The Special Rapporteur is concerned that, during the course of her visit, she learned of several imminent evictions: she toured an encampment in Porte de la Chapelle, Paris, scheduled for eviction the following day; a squat in Toulouse, scheduled for eviction on 15 April 2019; and a Roma informal settlement in Marseilles, scheduled for eviction in July 2019.

48. The 2017 act on equality and citizenship provides additional procedural protection for persons living in informal circumstances, as it recognizes that a judicial order is required before evicting any inhabited place, including tents or informal structures including motor vehicles.<sup>35</sup> Most evictions of informal settlements are carried out after judicial orders, but national courts do not always implement international human rights standards, as they frequently authorize evictions without ensuring alternative housing, rendering the evictees homeless.

49. It is estimated that less than 5 per cent of all persons evicted are relocated to new long-term housing options, in compliance with international human rights standards.<sup>36</sup> A 2018 study conducted by Romeurope found that only 12.7 per cent of evicted households were provided with temporary accommodation, often in social hotels. The study also found that long-term housing solutions with social support were offered to only 2.5 per cent of households evicted, while only 18 persons (0.2 per cent) were accommodated in traditional housing units.<sup>37</sup>

50. The Special Rapporteur welcomes the fact that, since 1954, a winter moratorium has been in place on evictions, except in cases posing a threat to security or health. However, these exceptions have proved too broad, as there were still more than 1,800 persons evicted during winter 2017–2018.

51. The Special Rapporteur is similarly concerned about the rise in eviction procedures initiated against tenants in rental accommodation, the majority due to arrears. In 2017, 65,828 eviction orders were approved by the courts. While most tenants leave their home before enforcement measures are ordered or implemented, evictions that were enforced by police doubled from 6,337 evictions in 2001 to 15,547 in 2017.<sup>38</sup> As a consequence, many of those evicted spent several months in emergency accommodation, financed or subsidized by the State. These high costs could be avoided if households were offered alternative and affordable long-term housing prior to their eviction.

<sup>32</sup> See Committee on Economic, Social and Cultural Rights, general comment No. 7 (1997) on forced evictions.

<sup>33</sup> See, for example, communications FRA 3/2014, FRA 3/2016 and FRA 1/2018 and the responses to them by the Government, available at <https://spcommreports.ohchr.org/>; Amnesty International, *Chased Away: Forced Evictions of Roma in Ile-de-France* (London, 2012); and Amnesty International, *Told to Move On: Forced Evictions of Roma in France* (London, 2013).

<sup>34</sup> Collectif National Droits de L'Homme Romeurope, "Note d'analyse: expulsions de bidonvilles et squats habités par des personnes originaires d'Europe de l'Est en France métropolitaine", March 2018.

<sup>35</sup> Act No. 2017-86 of 27 January 2017.

<sup>36</sup> Interministerial Task Force on Accommodation and Access to Housing, *Résorption des Bidonvilles : Bilan 2017 – Panorama 2018* (Paris, 2018), p. 7.

<sup>37</sup> Collectif National Droits de L'Homme Romeurope, "Note d'analyse".

<sup>38</sup> Fondation Abbé Pierre, *L'état du mal-logement*, p. 244.

52. Despite official regulations prohibiting the eviction of households that have received priority status under the act establishing the enforceable right to housing, more than 140 of these households were evicted in 2019.<sup>39</sup>

53. International human rights law strictly prohibits eviction into homelessness, which constitute severe violations of the right to housing. Evictions are justifiable only if all feasible alternatives have been explored in consultation with the resident and once nearby alternative accommodation has been secured and agreed upon by the residents.<sup>40</sup> National legislation on eviction must ensure protection from forced evictions in accordance with international human rights law.

## IV. Groups at risk of discrimination and social exclusion

### A. Persons living in homelessness

54. According to the most recent official data, homelessness increased by 58 per cent from 2001 to 2012 (93,000 to 141,500 persons), with the number of children living in homelessness increasing by 85 per cent.<sup>41</sup> A further rise is expected in the upcoming 2020 census. More than one person living on the street dies every day.<sup>42</sup> The Government expressed concern to the Special Rapporteur regarding this alarming statistic.

55. France has adopted a national plan to combat homelessness – the Five-year Plan for Housing First and the Fight against Homelessness (2018–2022) – with the following objectives: increase affordable housing units by 40,000 yearly; establish 10,000 additional housing units for persons living in homelessness, under the management of social welfare organizations and adapted to the needs of families, isolated persons or persons requiring therapeutic support; collect better data in order to understand the needs of persons living in homelessness; and provide long-term housing to persons living in homelessness.<sup>43</sup>

56. In its review of the plan, the High-level Committee on Housing of Disadvantaged Persons recommends that in order to significantly reduce homelessness, the following measures must also be included: providing effective and unconditional access to emergency accommodation for all persons in need, addressing the backlog of persons requiring rehousing under the act establishing the enforceable right to housing, and ensuring sufficient financial resources and qualified personnel to provide the necessary social, medical, psychological and legal support to implement the plan.<sup>44</sup>

57. France has increased the annual budget devoted to emergency shelters from 305 million euros in 2012 to 820 million euros in 2017, and has significantly increased investment in housing with social support. In total, more than 2 billion euros were included in the 2018 national budget for combating homelessness.<sup>45</sup>

58. While the Special Rapporteur commends the Government for its efforts, she is concerned that the plan fails to meaningfully address the systemic causes of homelessness and inadequate housing, as will be necessary to prevent and eliminate homelessness.

59. The French shelter system is guided by the principle of unconditional, universal access to shelter for any person who is homeless and experiencing a medical, mental health or social emergency. The point of entry to the system is to call the emergency hotline, 115. Since 1997, those seeking information regarding services, emergency accommodation and

<sup>39</sup> High-level Committee on Housing of Disadvantaged Persons, “Le Haut Comité au Logement des Personnes Défavorisées s’indigne des expulsions des ménages reconnus Dalo”, 23 October 2019.

<sup>40</sup> See Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing and general comment No. 7.

<sup>41</sup> Bénédicte Mordier, “Introduction de cadrage: les sans-domicile en France – caractéristiques et principales évolutions entre 2001 et 2012”, *Economie et Statistique*, No. 488–489 (September 2016).

<sup>42</sup> See Collectif les Morts de la Rue, “Mortalité des personnes sans-domicile 2018”, October 2019.

<sup>43</sup> See [www.gouvernement.fr/sites/default/files/contenu/piece-jointe/2018/07/plan\\_lda\\_vf.pdf](http://www.gouvernement.fr/sites/default/files/contenu/piece-jointe/2018/07/plan_lda_vf.pdf).

<sup>44</sup> See High-level Committee on Housing of Disadvantaged Persons, *5 conditions nécessaires à la mise en œuvre du « Logement d’abord »* (Paris, 2018).

<sup>45</sup> Five-year Plan, p. 7.

day centres, as well as health care, food and showers, can call 115, toll free, 24 hours a day, 7 days a week and 365 days a year.

60. Today, the 115 service is overwhelmed by the increasing demand, despite the Government doubling the number of emergency accommodation spaces in a five-year period from 75,347 in 2012 to 136,889 in 2017. During the winter of 2016/17, only half of requests for emergency accommodation were met. In Paris, 64 per cent of requests were not met, including half of the total requests placed by families.<sup>46</sup> In Toulouse, the Special Rapporteur was told that only 10 per cent of 115 calls placed were answered by an operator, and that of the calls answered, only 29 per cent resulted in the provision of accommodation.

61. The Special Rapporteur called 115 several times during her visit. She waited for more than 20 minutes on each call, and finally managed to speak to an operator on her fourth attempt, only to be told that there was no emergency accommodation available in Paris that night. Despite being widely known, those in need have stopped calling 115. In a 2017 survey, 67 per cent of persons living on the street had never even tried to call or had given up.<sup>47</sup> Eighty per cent of those who are provided with emergency accommodation receive a place for just one night (E/C.12/FRA/CO/4, para. 35), forcing them to repeat the 115 process all over again in the morning. The system not only creates intense instability for those living homelessness, but also consumes their days as they spend hours calling 115 with, at best, only a sliver of hope that they will sleep in a warm bed two nights in a row.

62. The lack of sufficient emergency accommodation has undermined the unconditional right to emergency accommodation. The Special Rapporteur spoke to women fleeing domestic violence, lesbian, gay, bisexual, transgender and intersex youth no longer welcome in their family homes, migrant and refugee families sleeping on pavements and many others who had called for days and even months before having their call answered, and who expressed their desperation at being incapable of securing their unconditional right to shelter.

63. The Special Rapporteur is concerned that the Government is more focused on short-term solutions (gymnasiums and hotels) rather than long-term housing with the necessary social support. Such short-term shelters are a poorly equipped substitute for housing and at times families are forced to separate in order to be sheltered. Moreover, many who find accommodation over the winter must return to the streets by April. At the end of 2017/18 winter period, 36 per cent of those who had received shelter were not provided with an alternative durable housing solution, in contravention of article L345-2-3 of the Social Action and Family Code and the right to adequate housing under international law.

64. The Special Rapporteur is also deeply concerned by the use of hotel rooms as a longer-term solution for people living in homelessness, a view shared by the Government, though the policy remains in place. She visited several families living in hotels, including a woman from Guinea undergoing the asylum process who was living in a hotel room with her infant child. She had been provided a small, damp, windowless room on the ground floor, adjacent to the hotel bar's toilets, which were in regular use. As a survivor of sexual violence during her harrowing journey to France, the noise of men walking to and from the toilets exacerbated her trauma.

65. The Special Rapporteur also met a young family of five sheltered in two non-adjointing hotel rooms for over a year. The children were too young to sleep alone, so the entire family had to sleep in one small room. They had access to shared bathrooms, but lacked access to a kitchen or laundry room. As one resident stated plainly: "How can a hotel room feel like a home?" Frequently, residents have to move from one hotel to another, disrupting education and contributing to tension within the family.<sup>48</sup> In extreme cases, children are placed in childcare institutions because of their parents' inadequate housing situation. This prospect causes parents extreme stress and anxiety.

<sup>46</sup> Fédération des acteurs de la solidarité, "Baromètre du 115 et enquête flash maraudes/Samu sociaux – synthèse hivernale 2016–2017", 29 December 2017, p. 7.

<sup>47</sup> Ibid, p. 9.

<sup>48</sup> See Defender of Rights, "Adolescents sans-logement: grandir en famille dans une chambre d'hôtel", February 2019.

66. The Special Rapporteur was pleased to learn that with support of the national Government, social services associations in eight cities, including Bordeaux, Dijon, Lyons and Grenoble, were embarking on Housing First programmes modelled after a pilot programme, which had an 85 per cent housing-retention success rate. Furthermore, she welcomes the fact that homeless persons or residents of informal settlements have the right to a formal address (domiciliation) in order to be able to access social benefits and exercise other rights.<sup>49</sup> She is, however, concerned that social welfare centres have occasionally refused to provide a certificate of residency to homeless persons or residents of informal settlements, thus excluding them from access to social support.<sup>50</sup>

## B. Refugees and migrants

67. The Special Rapporteur is deeply concerned about the housing and living conditions of refugees and migrants in the Hauts-de-France region near Calais, and in other informal encampments such as in Porte de la Chapelle in Paris. She is not alone. Similar concerns have been repeatedly raised by the Defender of Rights, the National Consultative Commission for Human Rights, other special rapporteurs of the United Nations and non-governmental organizations.<sup>51</sup> The Special Rapporteur notes the particular challenges that authorities face in responding to migrants who are in the region with the aim of securing passage to the United Kingdom of Great Britain and Northern Ireland. Nonetheless, she wishes to underline that the right to adequate housing and protection against forced evictions must be extended to all, including migrants.

68. The Government has employed several tactics that have led to a vicious cycle of forced evictions, increased homelessness and short-term encampments in places such as Calais and Porte de la Chapelle. Dismantling the large informal settlement near Calais in October 2016 affected up to 8,000 migrants, who were forced to disperse into smaller encampments where they were subject to eviction (sometimes every 48 hours). While the Government is utilizing these tactics to deter the growth of informal settlements, they are making already completely unacceptable living conditions even worse. Urgent State action is required to bring the situation into conformity with international human rights norms.

69. The Government acknowledged that the housing of refugees and asylum seekers remained a priority in 2019 and the Special Rapporteur commends France for having doubled the number of places of accommodation for asylum seekers and refugees, from 50,548 in 2014 to 107,183 in 2019.<sup>52</sup> Despite this step forward, approximately 19,000 refugees remain in emergency shelters.<sup>53</sup> Currently, only half of all asylum seekers who request shelter will receive it.<sup>54</sup> An increasing number of asylum seekers are forced to live in hiding owing to their immigration status, and often endure the most deplorable conditions without the hope of access to housing or other social support.

70. The Special Rapporteur learned that integrated reception and guidance centres ("SIAO"), responsible for managing emergency accommodation, have been instructed to share information with the French Office for Immigration and Integration.<sup>55</sup> This instruction has the potential to drive migrants and refugees fearing deportation further into hiding. Moreover, it does not comply with international guidelines that require effective and

<sup>49</sup> Social Action and Family Code, art. L264-1.

<sup>50</sup> National Consultative Commission for Human Rights, "Avis relatif au suivi des recommandations du Comité des Nations unies sur les droits économiques, sociaux et culturels adressées à la France", 6 July 2017.

<sup>51</sup> See Defender of Rights, *Exilés et droits fondamentaux, trois ans après le rapport Calais* (Paris, 2018); and Human Rights Watch, "'Like living in hell': police abuses against child and adult migrants in Calais", 26 July 2017.

<sup>52</sup> Statistics provided to the Special Rapporteur by the Ministry of the Interior.

<sup>53</sup> Instruction No. INTV1904604J, dated 4 March 2019, of the Ministry of the Interior and the Ministry for Territorial Cohesion.

<sup>54</sup> National Consultative Commission for Human Rights, "Avis sur l'instruction ministérielle relative à la coopération entre les SIAO et l'Office français de l'immigration et l'intégration", 24 September 2019, p. 6.

<sup>55</sup> Interministerial instruction No. DGCS/SD1A/DGEF/2019/143, dated 4 July 2019.

binding data firewalls between social services on the one hand and immigration enforcement authorities on the other (A/HRC/37/34/Add.1, principle 13, guideline 4).<sup>56</sup>

71. On 7 November 2019, after the Special Rapporteur's visit, migrants were forcibly evicted from an encampment in Porte de la Chapelle. Approximately 1,600 migrants were transported in buses to various gymnasiums and emergency accommodation centres, in most cases against their will.<sup>57</sup> It was the fifty-ninth eviction of an informal encampment of migrants in Paris since 2015. Despite the frequency of these evictions, it is commonplace that, after a few weeks, encampments start to form again, because of new arrivals and because alternative accommodation is unsuitable or provided only for short periods. A month after the eviction in November 2019, only half of the migrants were in long-term accommodation. Over 800 were still housed in emergency shelters, while 156 were reported to have voluntarily left the shelters.<sup>58</sup>

72. As of April 2019, near Calais and Grande-Synthe an estimated 600 to 700 migrants and refugees were living in tents and small encampments, suffering the harsh weather conditions with extremely limited access to emergency shelter. For example, in Calais there was only one emergency shelter open for 20 days during the winter period when the weather was expected to drop below 2°C.

73. Since the spring of 2017, a deliberate and systematic policy has been implemented involving the regular eviction of persons camping on private and public land in this area. From 1 January to 31 March 2019, over 200 evictions at encampments were documented by local human rights organizations. These evictions usually took place in the morning, without prior notice, and tear gas was occasionally employed.<sup>59</sup> The Special Rapporteur heard from individuals who told her that they were being evicted every 48 hours. They also reported that, when evicted, they were not permitted to pack up their tents or collect personal belongings. In fact, tents, sleeping bags and personal items are often destroyed or confiscated.

74. Migrants and asylum seekers evicted from their encampments in Calais are normally only offered accommodation in reception centres located more than 75 kilometres away, while international human rights standards require relocation nearby. The systematic nature of repeated evictions by police is a source of extreme stress, anxiety and sleep deprivation, for an already traumatized population.

75. On 28 February 2019, the European Court of Human Rights ruled in *Khan v. France* (Application No. 12267/16) that the failure to provide care for an unaccompanied minor after the makeshift camps set up in the southern section of the Calais heath area had been dismantled and his hut demolished constituted violation of article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) prohibiting inhuman and degrading treatment.

76. The practices reported to the Special Rapporteur by residents of the encampments around Calais are a gross violation of the right to adequate housing and other human rights, such as the rights to water, sanitation, health, food and physical integrity. The systematic and repeated nature of these cases of forced eviction suggest that they also constitute cruel, inhuman or degrading treatment of one of the most vulnerable population groups in France.

## C. Travellers

77. "Travellers" (*"gens du voyage"*) is a French administrative term for various itinerant groups with French nationality. Travellers often face stigmatization and discrimination

<sup>56</sup> See also Defender of Rights, decision No. 2019-259, and National Consultative Commission for Human Rights, "Avis sur l'instruction ministérielle relative à la coopération entre les SIAO et l'Office français de l'immigration et l'intégration".

<sup>57</sup> Angelique Chrisafis, "French police begin clearing makeshift migrant camp in Paris", *Guardian*, 7 November 2019.

<sup>58</sup> Julia Pascual, "Campements à Paris: que deviennent les migrants mis à l'abri?", *Le Monde*, 9 December 2019.

<sup>59</sup> Human Rights Observers, "Les expulsions de terrain à Calais et Grande-Synthe : 1er août 2018–1er juin 2019", 1 June 2019.

similar to Roma with foreign nationality. In total, approximately 206,000 persons are estimated to live in caravans.<sup>60</sup>

78. While the Special Rapporteur welcomes the 2017 act on equality and citizenship, which abolished the requirement for travellers to carry a special travel pass, she is concerned about several policies that undermine their right to housing.

79. Under the “Besson” act of 5 July 2000, municipalities with more than 5,000 inhabitants are required to create a permanent caravan site in which travellers can stay with their motor vehicles. To date, not all communities have established such sites. In the Greater Paris region, only 3,104 pitches of the 5,471 required have been created. Municipalities claim that they are constrained by financial difficulties and public resistance to the creation of caravan sites.<sup>61</sup> The act, even when enforced, is problematic as it requires travellers to stay in the dedicated sites, thereby cementing spatial segregation and reducing the development of permanent housing. Owing to a lack of alternatives, these caravan sites become permanent solutions, although they were never intended for long-term stays. They are often located far from public services and educational institutions, near highways or industrial zones, and are poorly serviced, posing environmental or health risks.<sup>62</sup>

80. Most traveller communities are moving towards an increasingly sedentary life. However, even if they own or have access to land, they often face difficulties receiving water and electricity, particularly if the spot is located outside an official residential zone. Only a small number of municipalities have established so-called “family terrains” allowing for a mix of standard housing, structures and caravans. In addition, French law does not recognize caravans as housing, so residents are not entitled to the housing benefits and legal protection afforded to other households, such as a prohibition on cutting electricity and water supply during the winter period.<sup>63</sup>

81. The Special Rapporteur welcomes the culturally appropriate social housing initiatives developed by several municipalities in consultation with traveller communities and calls for their expansion, as only 514 such housing units were provided between 2005 and 2014.<sup>64</sup>

## V. Access to justice

82. The ability to claim the right to housing through an accessible mechanism is a core component of the right, as the Special Rapporteur detailed in her thematic report (A/HRC/40/61).

83. In France, the National Housing Information Agency maintains a network of offices in more than 1,000 locations throughout France where lawyers and civil society organizations provide legal advice, usually free of charge. It also maintains two hotlines, one for residents to submit complaints related to insalubrious housing and another to assist tenants and homeowners who fall into arrears with rent, mortgage or bill payments.<sup>65</sup> Residents falling below a certain income threshold are entitled to free legal aid. While the support available is commendable, linguistic and cultural barriers can prevent access to these legal support structures by migrants, Roma and persons living in homelessness.

<sup>60</sup> European Committee of Social Rights, *Follow-up to Decisions on the Merits of Collective Complaints: Findings 2018* (Strasbourg, 2018), para. 224.

<sup>61</sup> Court of Audit, *Rapport public annuel 2017*, vol. 2, *L'organisation, les missions, le suivi des recommandations* (Paris, 2017), p. 211.

<sup>62</sup> Lise Foisneau, “Dedicated caravan sites for French *gens du voyage*: public health policy or construction of health and environmental inequalities?”, *Health and Human Rights Journal*, vol. 19, No. 2 (December 2017), pp. 89–98.

<sup>63</sup> See National Consultative Commission for Human Rights, “Avis sur le respect des droits des « gens du voyage » et des Roms migrants au regard des réponses récentes de la France aux instances internationales”, 22 March 2012; and Fédération Nationale des Associations Solidaires et d’Action avec les Tsiganes et les Gens de Voyage, *Habitat permanent en résidence mobile* (Paris, 2016).

<sup>64</sup> Court of Audit, *Rapport public annuel 2017*, vol. 2, p. 221. See also Fédération Nationale des Associations Solidaires et d’Action avec les Tsiganes et les Gens de Voyage, “Ancrages et besoins des habitants permanents de résidence mobile”, February 2017, p. 29.

<sup>65</sup> See [www.anil.org](http://www.anil.org).



84. In order to avoid flooding the judicial system, legal claims under the act establishing the enforceable right to housing are first assessed by mediation commissions, and there is a right of appeal before an administrative tribunal. The Council of State is the court of last instance for claims and has so far made over 140 decisions related to the interpretation of the act.<sup>66</sup>

85. The Special Rapporteur is concerned that some decisions of the administrative tribunals and the Council of State have limited the unconditional right to emergency accommodation and the right to housing. For example, living in homelessness is not always considered sufficient to be granted emergency accommodation, as courts have occasionally required claimants to show proof of additional medical, psychological or social distress.<sup>67</sup> In some decisions, it was argued that the State was incapable of ensuring emergency shelter or adequate housing because of a lack of financial means. The Special Rapporteur reminds authorities that human rights are generally not subject to derogation based on availability of funds or means. Homelessness threatens the right to life, health and physical integrity and must be accorded the utmost priority, even in times of fiscal pressures.

86. The Special Rapporteur applauds the Defender of Rights, which receives claims related to the right to housing and provides support to victims whose right has been or is at risk of being violated. The Defender also submits legal opinions to courts in judicial decisions, and issues recommendations on draft legislation. The Defender also undertakes official inquiries into alleged violations of human rights, including the right to housing.<sup>68</sup>

87. France enjoys functioning monitoring and advisory mechanisms for the implementation of the right to housing. Both the National Consultative Commission for Human Rights and the High-level Committee on Housing of Disadvantaged Persons have monitored the implementation of the right to housing.<sup>69</sup> Their work is complemented by civil society organizations such as the Foundation Abbé Pierre, which issues an annual report on housing.<sup>70</sup>

88. The Special Rapporteur commends France for accepting collective complaints procedures before the European Committee of Social Rights. The Committee has heard several complaints against France, regarding eviction, the allocation of social housing, and the insufficient progress made towards the elimination of homelessness and substandard housing in both quantitative and qualitative terms (complaints No. 33/2006, No. 39/2006, No. 51/2008, No. 63/2010, No. 64/2011, No. 67/2011 and No. 119/2015). It also ruled (decision No. 114/2015) that leaving unaccompanied foreign minors on the street violates the rights of children and that accommodating unaccompanied foreign minors in hotels for weeks or months cannot be considered appropriate accommodation. In December 2018, the Committee reviewed implementation by France of its decisions and noted various efforts to improve the housing situation of homeless persons, Roma and travellers, but found that violations relating to the right to housing had not been adequately addressed.<sup>71</sup>

89. In *Winterstein and Others v. France*, the European Court of Human Rights held that the eviction of a number of traveller families in Val d'Oise had constituted a violation of article 8 (right to respect for private and family life) of the European Convention on Human Rights.<sup>72</sup> In *Tchokontio Happi v. France*, the Court held that the Government had violated the claimant's right to a fair trial by failing to rehouse her under the act establishing the

<sup>66</sup> Available at <http://droitaulogementopposable.org/>.

<sup>67</sup> High-level Committee on Housing of Disadvantaged Persons, *5 conditions nécessaires à la mise en œuvre du « Logement d'abord »*, pp. 69–78.

<sup>68</sup> See, for example, decisions No. 2019-259, No. 2019-068 and No. MLD-MSP-2015-291.

<sup>69</sup> See National Consultative Commission for Human Rights, “Avis « Logement: un droit pour tous? » : permettre un accès effectif et non discriminatoire au logement”, 16 June 2016, and “Avis sur le respect des droits fondamentaux des populations vivant en bidonvilles”, 20 November 2014.

<sup>70</sup> See [www.fondation-abbepierre.fr](http://www.fondation-abbepierre.fr).

<sup>71</sup> European Committee of Social Rights, *Follow-up to Decisions on the Merits of Collective Complaints*, paras. 244, 246 and 249.

<sup>72</sup> European Court of Human Rights, *Case of Winterstein and others v. France*, Application No. 27013/07, Judgment (Merits), 17 October 2013.

enforceable right to housing for over three years after she had been deemed eligible, and that the Government could not cite lack of resources as an excuse for the delay.<sup>73</sup>

## VI. Conclusion and recommendations

90. The housing conditions experienced by vulnerable and marginalized persons in France stand in contradiction of a nation that has a long tradition of the promotion of human rights and is now the seventh wealthiest on the planet. Housing affordability has become a significant problem, with housing prices and rental costs on the rise. There is an insufficient supply of social housing in metropolitan areas for those in need. Those in informal settlements are often denied basic services and regularly subjected to forced eviction. Homelessness is increasing at a significant pace as an acute shortage in emergency shelters and longer-term housing deepens. Migrants fleeing civil conflict or extreme poverty, who are living in some of the most egregious conditions, have put additional strain on national and local governments to ensure adequate and affordable housing for all. This situation, which includes barriers to access to justice and the opening of the housing market to private investors, has resulted in a housing sector under siege, despite Government efforts. Immediate Government attention is required to ensure that the human right to adequate housing is fully respected and enjoyed by all.

91. France must be commended for enshrining the right to housing in its national legal order. The Special Rapporteur welcomes the fact that France has put in place laws, policies and programmes intended to guarantee the right to adequate housing. For example, the act establishing the enforceable right to housing makes that right justiciable, a national hotline has been established to assist in accessing emergency services, and substantial resources have traditionally been allocated towards social housing and housing benefits, making France one of the top spenders in the European Union. France must increase its efforts to ensure that its commitment to the right to adequate housing reaches all people, particularly the most vulnerable and marginalized groups.

92. In this regard, the Special Rapporteur recommends that the Government of France:

(a) Review its national housing strategy – the Five-year Plan for Housing First and the Fight against Homelessness (2018–2022) – and make any necessary amendments to ensure that it is fully consistent with international human rights law and with its obligations, as outlined in the report of the Special Rapporteur on this issue (A/HRC/37/53);

(b) Improve cooperation and coordination between the national, regional and local governments in addressing homelessness and other violations of the right to housing;

(c) With respect to social and subsidized housing:

(i) Immediately reverse the decision to scale back social housing expenditure, which constitutes a retrogressive measure that is contrary to international human rights law;

(ii) Retain and upgrade where necessary social housing units, and ensure that resources are available to increase the supply of social housing to meet demand;

(iii) Prohibit the sale of social housing to financial entities such as private equity and asset management firms, particularly in areas identified as having a tense housing market;

(iv) Ensure that housing benefits are set at levels that are commensurate with household income and regional housing costs, so that beneficiaries are not required to pay more than a reasonable percentage of their income on housing;

<sup>73</sup> European Court of Human Rights, *Case of Tchokontio Hapi v. France*, Application No. 65829/12, Judgment, 9 April 2015.

(d) Improve the implementation of the act establishing the enforceable right to housing to ensure that applicants identified as a priority for social housing or rehousing are offered a decent and affordable home close to their current place of residence within six months; to this end:

(i) Further enhance investment in social housing, particularly for the most disadvantaged, on a priority basis;

(ii) Increase fines for subnational governments that fail to construct sufficient social housing, and explicitly stipulate that new social housing must be constructed, to ensure that the payment of fines cannot replace the effective implementation of the right to housing;

(iii) Develop creative ways to enhance the efficacy of the act establishing the enforceable right to housing, such as by augmenting the number of private market housing units that it rents or has otherwise acquired in order to ensure that those who have been on the priority list for an unreasonable amount of time are housed immediately;

(e) In order to address homelessness:

(i) Adopt into domestic law policies and programmes that have as a key goal the elimination of homelessness by 2030, in keeping with its commitments under target 11.1 of the Sustainable Development Goals, including identifying and addressing the structural causes of homelessness and implementing a robust “housing first” approach in all departments across the country;

(ii) Ensure, within a reasonable time frame, that all requests for emergency accommodation through the 115 hotline are responded to immediately and that those using the service are provided with accommodation as needed; this will require the number of short-term emergency shelters, with support services, to be increased to meet the needs of each jurisdiction, shelters to remain open 12 months of the year, and those using shelters to be allowed to remain until longer-term housing options are made available;

(iii) Ensure that emergency shelters are accessible to anyone who identifies as homeless, with no additional criteria required, and that those using emergency shelters are offered, within the shortest possible time frame, stable long-term housing options in public or private housing with appropriate support; hotels should not be used as long term housing as they do not meet adequacy requirements under international human rights law;

(iv) Ensure that homelessness, or having no fixed address, is not used to deny individuals or families access to social benefits and services;

(f) Recognize in law, policy and practice that the right to adequate housing extends to all individuals regardless of their immigration status, including by ensuring that emergency and temporary accommodation is available to all in need, irrespective of immigration status; and establish binding and secure firewalls to ensure that service centres do not share their clients’ data with immigration services, since failing to do so will only exacerbate the number of migrants and asylum seekers living in homelessness and are too afraid to seek shelter with social institutions for fear of deportation;

(g) Regulate the private market, including through legislative measures, in order to:

(i) Curb real estate speculation and the transformation of private accommodation into tourist rentals, with a view to ensuring that existing and new housing stock is predominantly occupied by local residents;

(ii) Review existing rent controls to ensure that rent levels cannot be increased beyond the annual rate of inflation;

(iii) Improve public inspection of housing and the enforcement of legislation requiring landlords to comply with housing, health and safety regulations, and impose substantial penalties and consider expropriation in cases in which a

landlord fails to consistently discharge this responsibility, thus placing at risk the well-being of their tenants;

(h) With respect to informal settlements:

(i) Immediately discontinue the practice of withholding basic services as a means of curbing the growth of informal settlements, and recognize by law that caravans may be a form of housing;

(ii) Ensure security of tenure and access to basic services in all informal settlements in compliance with international human rights law and in consultation with affected communities, as set out in a recent report of the Special Rapporteur (A/73/310/Rev.1);

(iii) Impose a moratorium on all forced eviction – including of irregular migrants residing in abandoned buildings, tents or makeshift structures on sidewalks or on public land – until the national legal framework governing eviction is brought fully into conformity with international human rights law and international guidelines concerning eviction;

(i) Prohibit by law any lawful eviction – including for rental or mortgage arrears – that will result in homelessness; where eviction cannot be prevented or avoided, it must be coupled with appropriate rehousing or resettlement solutions, in compliance with the right to adequate housing under international human rights law, through the offer of sufficient and suitable emergency shelter followed by long-term housing options in reasonable proximity to the original site;

(j) Continue to provide financial subsidies and support to improve housing conditions in urban policy priority areas, while ensuring that improvements in these communities do not result in gentrification and the displacement of existing residents;

(k) In compliance with the rights to non-discrimination and to equality, ensure protection for everyone – including migrants, asylum seekers, Roma and traveller communities and single-parent families – against discrimination with regard to all aspects of housing; and make greater efforts to ensure that those living in urban policy priority areas do not experience discrimination based on their place of residence;

(l) Modify building regulations to ensure that a sufficient percentage of all newly built housing, private or public, is fully adapted to ensure independent living for persons with disabilities within their communities, and expand schemes to make existing housing stock accessible and adapted;

(m) Implement the recommendations, decisions and judgments pertaining to the right to housing and related rights by the Defender of Rights, the National Consultative Commission for Human Rights and the High-level Committee on Housing of Disadvantaged Persons;<sup>74</sup> by the United Nations Committee on Economic, Social and Cultural Rights and OHCHR;<sup>75</sup> and by the European Committee of Social Rights and the European Court of Human Rights.

<sup>74</sup> Defender of Rights, *Exilés et droits fondamentaux*, pp. 70–75; National Consultative Commission for Human Rights, “Avis « Logement: un droit pour tous? »”, pp. 46–55; and High-level Committee on Housing of Disadvantaged Persons, *5 conditions nécessaires à la mise en œuvre du « Logement d’abord »*.

<sup>75</sup> E/C.12/FRA/CO/4, paras. 35–43; and OHCHR, “No one left behind”, pp. 11, 14 and 16.

## Appendix

Public institutions consulted during the visit of the Special Rapporteur:

Ministry for Territorial Cohesion

Ministry for Europe and Foreign Affairs

Ministry for Social Solidarity and Health

Ministry of Interior

Inter-ministerial Delegation for Accommodation and Access to Housing (DIHAL)

High Committee for the Housing of Marginalized Persons (HCLPD)

National Consultative Commission for Human Rights (CNCDH)

Defender of Rights (DDD)

National Statistical Office (INSEE)

National Observatory on Urban Policies (ONPV)

National Observatory Poverty and Social Exclusion (ONPES)

National Observatory on Energy Poverty (ONPE)

Mayor of Paris

Mayor of Clichy-sous-Bois,

City representatives of Grande-Synthe and Toulouse

Under-Prefecture of Calais,

Integrated Service of Reception and Orientation (SIAO) in Paris and Toulouse,

Paris Habitat

Representative of the United Nations High Commissioner for Refugees (UNHCR) to France.

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