



Illegal caravan park: application inadmissible

In its decision in the case of [Balta v. France](#) (application no. 19462/12) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerns the decision by the Prefect of Seine-Saint-Denis to serve formal notice on the applicant and other caravan occupiers illegally parked in La Courneuve to leave the area.

The Court reiterated that Article 2 of Protocol No. 4 (freedom of movement) was applicable only to a person lawfully within the territory of a State and observed that the applicant had not provided any evidence to show that he was entitled to remain in France beyond the statutory three-month period. It concluded that Mr Balta could not therefore rely on the freedom of movement guaranteed by Article 2 of Protocol No. 4, thus rendering Article 14 (prohibition of discrimination) inapplicable as it could only be relied on in conjunction with another Article of the Convention.

Principal facts

The applicant, Puiu Balta, is a Romanian national who was born in 1968.

In April 2009 Mr Balta and others parked their caravans in a cul-de-sac near a public road in the municipality of La Courneuve. In November 2009 a Traveller park was opened locally. As a result, the mayor issued an order prohibiting the parking of caravans in any public places except for the areas specifically catering for them.

On 29 December 2009 the Prefect of Seine-Saint-Denis served formal notice on Mr Balta and other caravan occupiers to leave their parking spaces in the cul-de-sac within twenty-four hours.

On 30 December 2009 Mr Balta challenged the notice in the Montreuil Administrative Court. In a judgment of 4 January 2010 the court dismissed the claim. Mr Balta appealed and requested that a priority question of constitutionality be referred to the *Conseil d'État* (highest administrative court). The *Conseil d'État* referred the question to the Constitutional Council. In his pleadings in support of the reference, Mr Balta argued that the impugned provisions were contrary to the principle of equality since they were intended to prohibit Travellers – and only them – from parking outside the special areas, thus restricting their freedom to come and go on an ethnic basis.

The Constitutional Council found the disputed provisions to be in conformity with the Constitution. It said they were based on a difference in the situation of individuals, between those, regardless of origin, who lived in mobile homes and who chose an itinerant way of life, and those who lived sedentary lives. The distinction was based on objective and rational criteria to fulfil the legislature's aim of accommodating Travellers in conditions compatible with public order and the rights of third parties.

On 30 December 2010 the Administrative Court of Appeal upheld the judgment of 4 January 2010.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 27 March 2012.

Relying on Article 14 (prohibition of discrimination) in conjunction with Article 2 of Protocol No. 4 (freedom of movement), the applicant complained about the rules governing the eviction of Travellers.

The decision was given by a Committee of three judges, composed as follows:

Mārtiņš Mits (Latvia), *President*,
André Potocki (France),
Lado Chanturia (Georgia), *Judges*,

and Anne-Marie Dougin, *acting Deputy Section Registrar*.

Decision of the Court

Article 14 in conjunction with Article 2 of Protocol No. 4

The Court reiterated that Article 2 of Protocol No. 4 (freedom of movement) was applicable only to a person lawfully within the territory of a State. The criteria and requirements for lawful residence were primarily matters of domestic law. That provision did not grant a right to a foreign national to reside or continue to reside in a country of which he was not a national and did not govern the conditions in which a person was entitled to reside in a State.

Like the Government, the Court observed that Mr Balta had not provided any evidence to show that he was entitled to remain in France beyond the three-month period provided for by Article L 121-1 of the Code on the immigration and residence of aliens and the right of asylum. It concluded that Mr Balta could not therefore rely on the freedom of movement guaranteed by Article 2 of Protocol No. 4, thus rendering Article 14 inapplicable as it could only be relied on in conjunction with another Article of the Convention.

Consequently the Court declared the application inadmissible and rejected it.

The decision is available only in French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.