



## NEWS REPORT

**Date:** 29 December, 2009  
**Expert:** Latraverse, Sophie  
**Title:** Tribunal de Grande Instance of Lyon, SALA, COVACI et al. n° 2009/02850, 16 November, 2009  
**Country:** France

### Context

**Issue at stake:** Can the right to private and family life of Romanian Romas be opposed to a request for expulsion by reason of illegal occupation of State property?

**Ground of discrimination:** Race/ethnic origin

**Source:** National court decision

**Field:** Housing

**Legislative provisions:** Article 544 of the Civil Code  
Articles 8 and 14 ECHR  
Article 809 paragraph 1 of the Code of civil procedure

### Content

**Case:** 19 Romanian Roma adults and their children camped illegally on a public property situated between the national railway tracks and the city tramway tracks in Lyon. The prefect of the department filed for injunctive relief alleging that the occupation of this plot is manifestly illegal and generates trouble to public order. In addition, the prefect alleges that it is urgent that the property be evacuated since the presence of these families hampers the execution of construction work for the future departmental archives.

The defendants alleged absence of trouble to public order and subsidiarily requested a five months delay to evacuate the premises. They further plead that they are Roma from Romania, that they have been expelled a number of times from other camps around Lyon, that some of them work but that none have adequate housing. Considering that this camp constitute their family housing, they argue that there is no emergency requiring immediate expulsion, since this plot is neither occupied nor for sale. In addition, they plead that they are victims of discrimination in their native country and that since they have chronically faced expulsion in their own country and in France, their right to normal family life and right to privacy, and the right of their children to care and education, justify that special consideration be given to their vulnerability. Therefore they consider that violation of their right to privacy which would result from their expulsion must be limited to particularly urgent considerations of public interest which are absent from this situation.

They further argue that it is the duty of the judge to weigh opposing rights and that the right to private property can be restricted in the face of the superiority of the right to dignity and to family life.



**Decision of the Court:** Article 809 of the Code of Civil Procedure allows the juge sitting for injunctive relief to order conservative measures in order to prevent irreparable damage.

According to the Court, the prefect did not demonstrate that the conditions of life on the Roma camp are such that they present particular danger and risks other than those which have been constant for a number of years in the various camps of Lyon. Even if the defendants occupy public property illegally, it is undeniable that this camp constitutes their domicile. It should therefore be protected as such by article 8 ECHR. Since the States' right of property, as defined by article 544 of the Civil Code, is not jeopardized by this occupation, and since the prefect does not demonstrate immediate need to use the plot, in the absence of damage or trouble to public order, expulsion of the occupying families does not seem appropriate.

The Prefect's demand in the name of the State was dismissed.