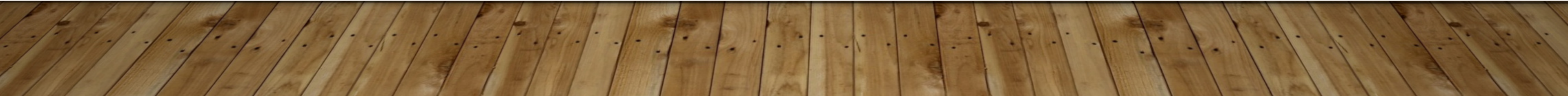


# Loss of home : what are the requirements of the principle of proportionality

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Forced evictions cases against france and belgium

Senada Sali, legal director  
european roma rights centre  
16 May, brussels



# Hirtu v. France

## Application no. 24720/13

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- Romanian Roma community living in France for over 10 years
- Unauthorized encampment of 141 persons , 50 children
- 7 applicants before ECtHR
- Eviction ordered by Prefect of Seine-Saint-Denis on Good Friday , 29 March 2013
- 11 April 2013 people left the site to avoid eviction
- Based on “Besson law” – targeting travelers who stop without a permit

## Hirtu v. france

### Application no. 24720/13

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- Eviction based on formal notice, (section 9 of the Law of 5 July 2000), not on court decision
- Number of consequences: short time to react, no account on repercussions, the applicants individual circumstances (education, health, housing),
- No alternative accommodation offered – caravans seized, applicants slept outside in cars

# Hirtu v. france

## Application no. 24720/13

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- Appeal against the order – Administrative court
- Urgent proceedings to block the eviction – Administrative court
- Both refused as inadmissible
- The domestic remedy had come into play after decision had been taken by the administrative authorities
- ECtHR Rule 39 Request – not considered by the court as applicants left the camp on 11 April 2013

# Hirtu v. france

## Application no. 24720/13

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- Judgment delivered on 14 May 2020
- No violation of Article 3 : not established that caravans were seized, no violence by authorities.
- Violation of Article 8 and 13 :
  - clearance of encampment inevitably had repercussions on private life and family ties;
  - proportionality of interference first time assessed by Administrative court 18 months after eviction ;
  - 7000 EUR non- pecuniary damage to each applicant plus 7920 EUR jointly for costs

## Hirtu v. france

### Application no. 24720/13

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- As part of the procedural safeguards of Article 8 any person subjected to interference under the provision should be able to have the proportionality of the measure reviewed by an independent tribunal.
- Proportionality: "the applicants belonged to underprivileged social group and their particular needs had to be taken into consideration in the proportionality assessment that national authorities had duty to undertake, not only when considering approaches to deal with the unlawfull settlement but also, if eviction was necessary, when deciding on its timing, manner and if possible arrengements of alternative accommodation".

# Errc v. belgium

## collective complaint no. 185/2019

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- The conduct of the Belgian authorities in relation to Traveller community against Belgium since 7 May 2019
- Belgian police deployed 1200 officers in what was named Operation Strike – largest police operation in last two decades
- 19 sites targeted, 52 people arrested (suspected in fraudulent sale of cars)
- Ethnically targeted collective punishment : 90 Caravans seized, 91 other vehicles, 34 valuable goods, large sums of cash
- Elderly, adults and children forced to wait in the centre of the sites until late afternoon with no water, shade, food
- Bank accounts frozen , deregistered vehicles
- Federal Prosecutor reselling caravans to compensate victims of organized crime for their stolen cars

# Errc v. belgium

## collective complaint no. 185/2019

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- Alleged violations : Article 1 § 2, 11§ 1, 12 § 1, 13 § 1, 15 § 3, 16, 17 and Article E taken with all the provisions ( work, protection of health, social security, independence and social integration of persons with disabilities, social, economic and legal protection of family, rights of children, non-discrimination)
- Report by UNIA – Belgian Equality Body
- Request for interim measure based on Article 36 of the Rules of the European Committee on Social Rights: to cease the sale of caravans, return the seized caravans or provide alternative accommodation, ensure access to bank account, stop seizure of belongings, assist in re-registration of cars.
- Complaint registered on 12 July 2019



## Errc v. belgium collective complaint no. 185/2019

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- Decision on admissibility and immediate measures – 14 May 2020
- Government argument – legitimate purpose to safeguarding the proper course of criminal investigation and the fight against organized crime
- Admissible and interim measure granted to avoid he risks of a serious and irreparable injury or harm and ensure effective respect for the rights recognized under the Charter, as several families were left destitute and homeless.
- “the Committee notes that where such a situation arises from a police operation aimed at combating internationally organized crime, the State retains an obligation to adopt all possible measures to avoid irreparable injury or harm to persons and their rights under the Charter”.

Thank you for your attention

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