

## FRANCE

### CERD 29<sup>th</sup> No.18 (A/9618) (1974)

210. It will be recalled that, after a preliminary discussion of the initial report of France at the eighth session, the Committee took cognizance of the statement contained in that report, and reaffirmed by the representative of the reporting State, to the effect that that report was a preliminary one and that a more comprehensive report was under preparation. Accordingly, further consideration was postponed until the ninth session (A/9018, foot-note 13). The supplementary report of France was received after the close of the ninth session; it was considered, together with the initial report, at the tenth session.

211. The Committee welcomed the comprehensive and thorough information contained in the reports before it. It noted with appreciation that that information was not confined to legislative measures, but dealt with judicial, administrative and other measures as well; and that the texts of legislative provisions, as well as the texts of two court decisions, were appended to the supplementary report. Furthermore, the organization of the material in accordance with the guidelines laid down by the Committee was noted with appreciation, as was the analytical introduction to the supplementary report. The candor with which the report discussed some difficulties which existed, and the readiness of the Government of the reporting State to consider additional measures and perhaps new approaches in the future should the need for such consideration arise, were also welcomed by the Committee. On the other hand, the Committee regretted that information on the ethnic composition of the population, as envisaged in the Committee's general recommendation IV, was not supplied except with respect to the foreign population. While the Committee welcomed the assertion that France had always condemned the policy of apartheid and the explanations given in the supplementary report of the reasons for the votes cast by the French delegation with respect to relevant resolutions in the General Assembly, it noted with regret that no information was furnished on the actual state of the relations between the reporting State and the racist régimes in southern Africa, as envisaged in the Committee's general recommendation III.

212. With regard to the implementation of the provisions of part I of the Convention, the Committee found it gratifying that the Convention had become part of the body of French law and that the principle of direct application had been affirmed by the Court of Cassation, which had invoked articles 2 and 5 of the Convention in one of its decisions. It was also gratifying that the reporting State had proceeded to a review of its laws following its ratification of the Convention and that Act No.72-546 of 1 July 1972 Concerning Action Against Racism had been passed to fill certain gaps. The Committee took note of one of the premises of the policy of the reporting State regarding the elimination of racial discrimination: that it was social and educational measures, rather than repressive policies, that produced results in the field of combating prejudice and protecting minorities. The various measures described in the report, regarding foreign labour in France, were also noted, as was the role given to certain anti-racist organizations, under Act No. 72-546, enabling them to institute proceedings in the courts on behalf of victims of acts of racial discrimination.

213. With regard to the foreign population in France, it was asked whether there was any difference, de jure or de facto, in the situation of European and non-European workers, what the practical result had been of the measures taken by the Government following the troubles which had occurred in 1973 in the south of France, and whether there were any schools in which pupils of other nationalities could study in their own language. The Committee had been informed in the initial report of the Government's powers to dissolve organizations; it was observed, however, that article 4, paragraph (b), required that organizations which promoted or incited racial discrimination should be declared illegal and prohibited, and it was asked whether consideration had been given to the need for amending existing legislation with a view to bringing it into line with the requirements of the Convention.

214. Some members expressed the hope that the second periodic report of France would include further information on the implementation of article 7 of the Convention, and information on the structure of certain organizations mentioned in the report and described as taking advantage of the facilities provided under the law for the goals established in the Convention, and on the implementation of the provisions of the Convention in the overseas territories.

215. The representative of France commented on some of the observations made in the course of the discussion and replied to some specific questions which had been put to her, assuring the Committee that information on the remaining questions would be supplied in future reports.

## CERD A/32/18 (1977)

129. The second and third periodic reports of France submitted in one document, were considered together with the information supplied by the representative of the Government of France in the introductory statement she made before the Committee.

130. Referring to the information on the implementation of article 4, paragraph (a), of the Convention, some members of the Committee expressed satisfaction at the judgements passed by the Paris Court of Appeal and Grenoble Court of Main instance, which appeared to them to give priority to the obligations under the relevant provisions of the Convention over freedoms such as the freedom of expression. It was observed by other members, however, that the attitude of France to dissemination of racist ideas by groups was clearer than its attitude to dissemination of racist ideas by individuals. As for the situation with regard to the implementation of paragraph (b) of article 4 of the Convention, the report under consideration left some members of the Committee uncertain as to whether all the requirements of the Convention were satisfied by French legislation - for the texts of the relevant provisions of French law had not been supplied to the Committee. It was not clear, for example, whether the dissolution of racist organizations was optional or mandatory. Moreover, it appeared that the legislation provided that penalties might be imposed on persons who attempted to re-establish associations which had been dissolved, but not on persons who had previously joined those organizations. It was observed, however, that that limited application of the provisions of article 4, paragraph (b), of the Convention must be considered in the light of the declaration of interpretation made by France: in order to protect freedom of association, French law made no provision for punishing a person belonging to an association pursuing illegal aims before the association itself was banned.

131. In the opinion of some members of the Committee, insufficient information was given in the report under consideration about the implementation of articles 5 and 7 of the Convention by the Government of France.

132. While the statistical information on the population of overseas départements was received with appreciation, some members of the Committee expressed their regret that the report under consideration contained no information about the implementation of the provisions of the Convention in those territories, although a request to that effect had been made by the Committee at a previous session (A/9618, para. 214).

133. The information on judicial measures taken to give effect to anti-racist legislation was welcomed by members of the Committee; it was observed that the accounts of specific prosecutions and of legal proceedings instituted on charges brought by individuals testified to the extent of the action taken to combat racial discrimination in France. Certain judgements passed by French courts were the subject of praise voiced by several members of the Committee. However, it was regretted that insufficient information was supplied on most of the cases cited and on the judgements passed by the courts. And it was suggested that the provisions of the Law of 1 July 1972 were perhaps not sufficiently well known; if they were, a larger number of actions might be brought by individuals under the law; at present, most proceedings were instituted on the initiative of the parquet.

134. Several members of the Committee expressed their regret that the report under consideration contained no information on the relations of the reporting State with racist régimes, as envisaged by the Committee in general recommendation III and decision 2 (XI); and critical comments were made regarding those relations.

135. Although the report contained useful information about the composition of the foreign population, it did not give any statistics of the French population based on ethnic or national origin. The Committee took note of the statement that, in the absence of statistics on the subject, it was difficult to compile demographic information and present it to the Committee. Some members inquired about measures taken to assist certain language groups, such as German-speaking Alsatians and the Basques and the Bretons: did children in such minority groups have the right to receive an education in their own language? And, if not, were they in danger of being put at a permanent disadvantage?

136. As for the foreign population, some members praised the policy of the French authorities of offering the same education to French and foreign children and also taking special measures to enable foreign children to continue their studies in their national language. It was observed, however, that - with respect to residence permits - the status of nationals of countries of the European Economic Community differed from that of nationals of African States. Some members asked for information about the immigration policy of the reporting State and the laws and regulations which gave effect to that policy.

137. The detailed information on migrant workers contained in the report gave rise to a detailed discussion in the Committee. Some members felt that the attitude revealed in the first periodic report had obviously changed for the better: conditions were now more favourable for a fuller implementation of the provisions of the Convention. However, it was noted that nationals of countries of the European Economic Community, nationals of the African States formerly under french administration and Algerian nationals enjoyed a special status, since they were exempted from the obligation to possess a work permit; and it was not clear to some members how the Government of France could reconcile that situation with the provisions of article 1 of the Convention, which did not allow any exceptions. Some members expressed the hope that an information campaign would be launched, in order to bring about a better understanding among the French population of the problems of foreign workers.

138. A request was made by some members of the Committee for the actual text of the relevant provisions of Law No. 72-546 and the Articles of Association Act.

139. The representative of the Government of France commented on some of the observations and questions mentioned in the preceding paragraphs. She asserted that the French courts interpreted article 4, paragraph (a), of the Convention in exactly the same way for individuals as for groups and that articles 3, 7 and 8 of the Articles of Association Act of 1901 satisfied the requirements of article 4, paragraph (b), of the Convention. The French Government did not view its interpretative declaration relating to article 4 of the Convention as a reservation. The overseas départements were part of France and their inhabitants were French citizens; the provisions of the Convention were applied in the départements in the same way as in other parts of France. Information on some of the sentences handed down by French courts was given orally to the Committee. France maintained

official relations with States, not with Governments; the fact that France maintained trade relations with South Africa could not be interpreted as conflicting with its position on apartheid, which it did not support; lately, France had prohibited all sales of arms to South Africa. The concept of a minority did not exist in the French Constitution; requests for information on the ethnic composition of the French population might be impossible to meet, because, ethnically, the population was very mixed; and any information which might be given could only be provided against the background of the non-recognition in France of an ethnic minority distinct from French nationality. If certain foreign workers enjoyed what appeared to be preferential treatment, that was due to the fact that their status was regulated by reciprocal agreements with their countries of origin. A publicity campaign had been launched concerning the 1972 Act, addressed to the French people and to enterprises; the representative of France gave the Committee some information about that campaign.

## **CERD A/34/18 (1979)**

330. The fourth periodic report of France (CERD/C/18/Add.3) was considered by the Committee together with the information given by the representative of the reporting State in his introductory statement. The representative of France touched upon recent developments as regards application of the Convention in France, and stressed that the report had to be read in conjunction with the three previous reports.

331. Members of the Committee expressed their satisfaction at the report which was considered to be very comprehensive, well-organized, reflecting the intentions of the French Government to implement all aspects of the Convention and taking into account most of the observations and questions raised by the Committee during the discussion of the third periodic report.

332. One member of the Committee drew attention to the statement contained in the report to the effect that the concept of a minority did not exist in the French Constitution. It was pointed out that such a point of view was rather subjective, and clarification was sought in that respect. Some members were of the opinion that it was intended to promote a sense of equality and national unity. Concern was expressed in connection with the reference in the report to the conditions of availability of qualified voluntary teachers in the Alsatian “dialect” since absence of such voluntary teachers would endanger the possibilities for the children to be taught in that “dialect”. Speaking about examples of court decisions concerning racial discrimination cited in the report, some members suggested that the secretariat might consider compiling a compendium of such decisions. Divergent views were expressed by other members in that respect.

333. It was noted that the report gave useful information on various programmes benefitting aliens which showed that the French Government was dealing with the problems of its large immigrant population in a far-reaching and comprehensive manner. However, more information was requested on the exceptions in the field of social welfare, which were said to be under review, and on the special regulations regarding work permits for foreigners. The hope was expressed that restrictions affecting family reunion in respect of immigrants would be lifted as soon as conditions on the labour market had improved. The French decision to suspend the number of immigrants admitted into the country owing to the prevailing economic circumstances created a serious problem for the countries of origin, which did not have the capacity to find employment for returning migrant workers. Information was sought as to whether the expulsion of foreigners was subject to certain rules or guarantees. A question was asked why the proportion of aliens among the trade union members holding administrative or executive posts could not exceed one third, and why aliens had to have worked in France at least five years on the date of appointment. Some members wished to know whether any system existed for monitoring the efficacy of the laws and administrative measures adopted for dealing with the foreigners. With regard to the office of mediator, described in section IV of the report, questions were asked on details of its functions and whether efforts were made to inform immigrants about the existence of that office.

334. With reference to measures in the field of education and training of foreign children described in the report, further information was sought on programmes alleviating their problems.

335. The Committee's attention was drawn to the fact that although there had been many requests on its part for information on the implementation of article 3 of the Convention and corresponding recommendation III of the Committee, there was no reference to either of them in the report. The hope was expressed that the next report would provide information on the French Government's attitude to the racist régimes in southern Africa in view of recent developments in the situation in that area and the campaign being waged against those régimes.

336. It was noticed that article 9 of Act No. 72-546 of 1 July 1972, quoted in section I of the report, which envisaged dissolution of organizations inciting racial discrimination made no reference to the concept of prohibiting the establishment of such organizations in accordance with article 4 (b) of the Convention. It was suggested that the legislation should be modified to ban such organizations. A question was raised, if provisions of the French legislation concerning discrimination in economic activities had been invoked at any time and, if so, what racial or ethnic groups had been involved. It was also asked what provisions existed for penalties for discrimination in other fields, for instance in the cultural field.

337. It was observed that the French Government had modified in 1961 its Nationality Code to enable citizens of its former colonies to maintain French nationality if they so wished. In that connection, a question was asked whether cases of non-renewal of passports had occurred and, if so, whether it could be assumed that those cases were based exclusively on legal grounds.

338. In connection with the appointment of the mediator, which was considered a welcome development by members of the Committee, it was pointed out that it should not be necessary for the complaint first to be addressed to a deputy or a senator for transmission to the mediator, and that the terms of reference of the mediator could usefully be broadened.

339. The information provided in the report on the implementation of article 7 of the Convention was considered incomplete. It was pointed out that it was not enough to refer to previous reports and that States parties should report regularly on all measures adopted in the fields of teaching, education, culture and information to combat racial discrimination.

340. The representative of the reporting State answered some of the questions raised by the members of the Committee and said that other questions would be dealt with in the fifth periodic report. He said that the statement in the report concerning the absence of the concept of minorities in the French Constitution was not contrary to the Convention. His Government believed that any action to promote at the legal level respect for human rights must focus on the rights of individuals who, as a group, represented a political problem the solution of which depended on conditions particular to each State.

341. With regard to the situation of migrant workers, he pointed out that the Convention did not apply to distinctions, exclusions, restrictions or preferences made by a State party between citizens and non-citizens. The status of migrant workers in France was governed by the same principles of equality before the law and non-discrimination with which all French legislation was imbued. Touching upon deportation procedures, he indicated that there were legal safeguards which were applicable to aliens in France, particularly those enjoying political asylum. An alien could be expelled only on the order of the Minister of the Interior when the presence of the alien posed a clear

threat to ordre public.

342. As to the questions asked concerning the function of the mediator, he indicated that the mediator intervened in disputes between natural persons and government departments and agencies. A complaint could be lodged with the mediator only through the intermediary of a legislator. The involvement of the mediator in a matter did not preclude the institution of legal proceedings at a later stage.

343. Turning to questions asked concerning apartheid he said that although the relations of States parties with South Africa were not within the scope of the Convention, he wished to inform the Committee that France condemned apartheid and provided humanitarian assistance to the victims. The reservations which his Government had made with regard to sanctions against South Africa were based on its belief that such an approach would not contribute to the peaceful evolution of the situation and the elimination of apartheid.

344. As regards the suppression of associations which propagated racist ideas, he did not see how it was possible to ban in advance an association which had not yet been established. French law was geared instead to the punishment or disbanding of existing associations.

## **CERD A/36/18 (1981)**

191. The fifth periodic report of France (CERD/C/65/Add.2) was considered by the Committee together with the introductory statement made by the representative of the reporting State, who stated that the fifth report was intended to bring the previous reports up to date and related mainly to developments that had taken place in 1978 and 1979. In accordance with the request of the Committee some information had been given concerning the role of the Mediator. With regard to article 7 of the Convention, he noted that since the previous reports had provided details on education the current report contained hardly any new facts on the subject but, if the Committee considered that additional details were necessary, they would be provided. On 27 January 1981, the French Minister of Justice had issued a circular reproducing the 1975 circular quoted in a previous report. The circular duly described the measures taken by the Government of France to combat racial discrimination and extended the measures referred to in the fifth report. In the matter of vigilance regarding associations that promoted racist ideas, he said that an association of that kind had been dissolved and its director punished according to the law.

192. Most members of the Committee commended the report of France, stressing that it supplemented the previous reports and followed the Committee's guidelines. The inclusion in the report of particulars of judicial decisions in French courts was also commended. It was underlined that the report did not confine itself to theoretical considerations or statements that racial discrimination did not exist in the country, but openly stated that cases of discrimination had occurred and described the action taken.

193. Referring to article 2 of the Convention, measures taken to integrate aliens into French society were commended. At the same time it was pointed out that since the number of aliens in France made racist tensions inevitable, the standing instructions issued to the Prefects to act against any manifestation of racism or resurgence of Nazism should be extended to other officials and in particular to the police. More information was requested on the present problems of immigrants and on the agreements concluded with other countries regarding the terms and conditions applicable to foreign workers. Concerning the local languages which were studied in primary schools, the question was asked whether any statistics were available regarding the percentage of primary school children who were being taught their mother tongue. Concerning ethnic minorities, it was recalled that the French Government had said in its previous reports that the concept of ethnic minorities did not exist in France and a question was asked as to whether that was still really the case. Noting that 40 per cent of scholarships for secondary education of aliens had gone to children of Algerian nationality and approximately 17 per cent in each case to children of Spanish, Portuguese or Italian nationalities information was requested on the position with regard to children of other nationalities. Referring to the report, which said that immigrant children were as far as possible taught the language of their country of origin under agreements between the French Government and the Governments of countries concerned, the question was asked as to whether immigrant children could not be taught their mother tongue unless it was requested by the Government of their country of origin.

194. Several questions were asked concerning the implementation of article 3 of the Convention. It was stressed that France was a Western Country with an important part to play in the solution of

basic international problems, among which was the fight against racism in South Africa. However, the report contained no reference to France's attitude to South Africa, to the contribution it had made to the achievement of a new economic order in that region or to the breaking off of its relations with South Africa.

195. Several questions were asked concerning measures taken in France against racist movements. With reference to domestic laws of 1901 and 1972, the opinion was expressed, by one member, that implementation of these laws seemed too complicated to ensure speedy and effective action, since 1901 Act made no direct reference to racist organizations and the 1972 Act did not explicitly prohibit organization of racist or neo-Fascist character. Although the 1901 Act "allowed for" the judicial dissolution of racist associations, it was pointed out that such dissolution should be automatic. Satisfaction was expressed that one racist organization had been banned but additional information was requested on the whole matter. The opinion was expressed that France should in future consider measures for the more effective implementation of article 4 of the Convention. One member also asked as to whether Fascist ideology as such was punishable under French penal law and, if so, under what law. Additional information was requested with reference to Press Act of 29 July 1881, under which different acts of propagating racist ideas were prohibited and punishable; whether the Act was interpreted in the light of the conditions prevailing in 1881, when, with the exception of anti-Semitism, racial discrimination had been less pronounced than at the present time; or whether the Act covered all cultural activities.

196. A number of comments were made concerning the implementation of article 5 of the Convention. Concerning the subject of favorable conditions of work, it was noted with satisfaction that ILO Convention No. 19 on Equality of Treatment regarding worker's compensation for accidents as well as the corresponding domestic law was applied to aliens in France. It was asked whether the mounting number of jobless in Western Europe was having an impact on foreign workers in France, and whether the bilateral agreements entered into with labour-exporting countries safeguarded the interests of their workers in times of crises. A question was also asked as to whether there were any areas of employment in France, except for those affected by considerations of State security, from which aliens were excluded even if they had received their entire education in France but had retained their nationality of origin. Concerning migrant workers, additional information was requested on the steps taken in France to reconcile the political need to stem unemployment with the desire to adopt a liberal attitude towards migrant workers. Some members of the Committee noted that the report contained much interesting information on assistance to foreign workers, but further information was requested on educational opportunities in France for children of immigrants. It was asked, in particular, what developments had taken place in that respect since the submission of France's fourth report. Several questions were asked on the implementation of paragraphs d (i), (ii) and (iv) of article 5 of the Convention. In particular, the progress made with regard to reunion of families of immigrant workers was welcomed but it was asked, whether although family members could apply to be gainfully employed, the statement that their application could be refused if the employment situation so required meant that application of the principle of reunion was dependent on the situation in the labor market. Information was also requested as to what policy was being followed by the French Government with respect to the repatriation of immigrant workers, since in view of the present economic situation in Western Europe, measures with that end in view were of critical concern both to importers and exporters of migrant labor. A member recalled that the denunciation of a treaty concerning the waiver of visas between the Philippines and France in March

1980 had been explained by the Government of France as non-discriminatory, since it applied to all Asians. The member asked whether this act did not represent discrimination against Asians, as a particular exception affecting a particular group of non-citizens, which was contrary to the letter and the spirit of the Convention.

197. In connection with the implementation of article 6 of the Convention, a number of questions were asked concerning the relations between authorities and migrant workers. Since it was known to be the policy of some Western European countries, including France, to reduce the number of immigrant workers, a question was put as to whether an immigrant worker whose residence permit was terminated but who was not regarded as constituting a danger to ordre public could be considered to be in an unlawful position and therefore automatically expelled. As far as expulsion was concerned, the report stated that aliens threatened with expulsion could apply to appear before an expulsion committee. Information was requested as to whether such an application automatically had the effect of suspending the execution of the expulsion measure. Furthermore, the statement that an application could be made "except in an absolute emergency" was not very explicit and seemed to imply that a person could be expelled without any possibility of defending himself. With regard to the activities of the Mediator, it was recalled, that the office had been established under an act of 3 January 1973, article 6 of which provided that any person could avail himself of the services of the Mediator by applying to a deputy or a senator after complying with the necessary administrative formalities. However, the opinion was expressed that while a French citizen, as a voter, could readily make such an application an alien would have greater difficulty in bringing his complaint to the Mediator's notice.

198. As far as article 7 was concerned, it was pointed out that the report contained no information on what was being done in the country as a whole to evoke an awareness that racial discrimination did exist and was to be condemned. The hope was expressed that omission would be remedied in France's next report.

199. Replying to the questions of the Committee, the representative of France said that any questions to which he was unable to provide a complete reply would be answered more fully in the next report. Referring to the question about the standing instructions to Prefects, he said that it was the practice of the Minister of Justice to issue circulars to public prosecutors that had binding effect. The representative of France enumerated a number of particular circulars. As far as ethnic minorities were concerned, he said that there had been no new developments during the period under review. In any event, the constitutional law of France did not recognize the concept of minorities.

200. The representative of France said that no specific reference was made in the report to steps taken under article 3 of the Convention, since there had been no new developments since the submission of the preceding report. The public authorities took steps to ensure that there was no institutionalized form of apartheid or racial discrimination in the country. France had always strongly condemned the policy of apartheid and had associated itself with the humanitarian assistance provided to the victims of apartheid through the United Nations. As far as organizations of the racist type were concerned, he assured the Committee that the penal legislation was as rapid as such legislation could be and that it had never been found complicated or imprecise, although it was subject to the necessary formalities to ensure respect for freedom, particularly of the press. In this connection, the representative of France referred to the question which had been asked about

the Press Act 1881, and said that it had to be interpreted as including racism and as applying to all cultural activities.

201. Where the migrant workers and their children were concerned, the representative of France said that migration agreements were international instruments that endeavored to take account of all aspects of the situation, particularly the state of the labor market and to safeguard the interests of migrant workers. There was no model agreement, but all agreements endeavored to reconcile the interests of the various parties. School attendance was carefully monitored by the national education authorities. According to the wish of the Committee, the Government of France would endeavor to include the next report figures and more clarified information on education of the migrant worker's children. As far as the procedure governing the expulsion of aliens was concerned, the representative explained that an alien who was the subject of an expulsion order could refer his case to the expulsion committee provided for by the law. The act of expulsion was not a governmental act but an administrative act, which came within the purview of the administrative courts. The Mediator's activities related not only to French nationals but to foreign nationals, and a campaign had been launched to make the public aware of the fact. Referring to article 7 of the Convention, the representative of France provided the Committee with specific information on the curricula of French schools, which include the subject of human rights in various respects.

## **CERD A/38/18 (1983)**

312. The sixth periodic report of France (CERD/C/90/Add.3) was considered by the Committee together with the introductory statement made by the representative of the reporting State, who pointed out that his Government had wished to give tangible expression to its desire to promote the objectives of the Convention by making, on 16 August 1982, the declaration provided for by article 14 of the Convention. He also pointed out that his Government's report dealt with some of the questions asked by the Committee during the consideration of the fifth periodic report, and stated that many of the measures adopted as part of the general reform that was under way following a change of Government would have a bearing on the elimination of racial discrimination, even though very few of those measures dealt specifically with racial discrimination.

313. He then referred to judicial and administrative procedures available to the competent authorities of his country for disbanding associations and movements which incited to racial discrimination. In that connection, he drew particular attention to judicial decisions taken by the Court of Appeal of Paris on 4 March 1981 and by the Court of Cassation on 28 June 1983 concerning cases of provocation or incitement to racial hatred and racial discrimination.

314. The representative also referred to recent legislation repealing a provision concerning the need for prior authorization to form associations of aliens, increasing the guarantees enjoyed by them and liberalizing conditions for the entry and sojourn of aliens in France. He stated that a number of regulatory measures, such as the circular of 11 August 1981, had changed the status of immigrant workers with a view to a further improvement in their situation regarding in particular family reunion, the issue and renewal of work permits and the education and training of aliens and their children. Questions relating to expulsion orders had also been resolved in the most liberal manner for immigrant workers.

315. Members of the Committee expressed their satisfaction for the report which was considered an outstanding example of the dialogue between States parties and the Committee and reflected the French Government's political will to fulfill its obligations under the Convention. It was nevertheless observed that it would be useful if future periodic reports contained detailed information on overseas citizens, persons from Algeria, Morocco and Tunisia, and questions relating to passports issued to French citizens living in former dependent territories.

316. In connection with article 2, paragraph 1 (e), members wished to know what agencies in addition to the "Movement against Racism and for Peace among Peoples" (MRAP), which was subsidized by the "Fonds d'aide sociale" (FAS), were working to combat racial discrimination in France; whether all received financial assistance from FAS; whether the reduction made in the subsidy to MRAP in 1980 had been part of a general reduction in assistance to all such organizations or whether it had affected MRAP alone; why the reduction had been made and whether there was any relationship between it and the attack on MRAP facilities. With reference to article 2, paragraph 2, a member asked under what conditions ethnic minorities in France such as the Basques, Bretons and Alsatians lived, whether children belonging to ethnic minorities were educated primarily in the French language, and whether or in what way trends towards administrative decentralization in France would affect the position of ethnic and linguistic groups living in the country.

317. With regard to article 3 of the Convention, some members of the Committee wished to know what contribution the Government of France was making to the various United Nations funds channeling aid to the victims of apartheid and refugees from South Africa, what specific action France had taken to bring pressure to bear on South Africa with a view to weakening the pernicious system of apartheid, what measures France was taking in an endeavor to bring about a change in the thinking of the white minority leaders in South Africa and what was the response of the French Government to the resolution concerning economic sanctions against South Africa, adopted by the joint committee of the European Parliament and the countries that had ratified the Lomé Convention, at a meeting in Harare, Zimbabwe, in February 1982. It was asked also whether the French Government was actively associated with the humanitarian programme for the victims of apartheid announced by the European Economic Community.

318. In connection with article 4 of the Convention, it was observed that the judicial and administrative measures relating to the dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination and acts of violence which were referred to in the report did not fully implement paragraph (b) of that article, and it was felt that the lenient sentences and penalties handed down to persons found guilty of incitement to racial discrimination, hatred or violence could not be fully effective to stop the activities of persons who had set up racist organizations or were editors of racist publications. Information was requested, in particular, on the number of cases brought to light as a result of the circular dated 20 August 1981 regarding action to be taken in cases where articles containing racist, anti-Semitic or Nazi propaganda are being circulated. It was also asked whether the abolition, by Act No. 81-909 of 9 October 1981, of the prior authorization requirement for the establishment and activities of foreign associations in France might lead to the creation of racist organizations. With reference to article 4, paragraph (c), of the Convention, it was asked if any measures had been taken against persons holding public office and against government officials for promoting or inciting racial discrimination and whether any action had actually been taken against any immigration official, member of the police or other person holding public office, particularly at the local level.

319. As regards article 5 of the Convention, in particular its paragraph (d) (i), further information was requested on the penalty of being escorted back to the frontier under the expulsion procedure set forth in Act No. 81-973 of 29 October 1981 and what subjective criteria were applied in that respect. Members of the Committee drew attention, in particular, to the problems still encountered by migrant workers in France and further clarification was requested on Act No. 81-736 of 4 August 1981, announcing an amnesty for certain offences against immigration laws. Questions were also raised with regard to the number or percentage of immigrant workers who had benefitted from the implementation of circular No. 81-50 of 10 July 1981 dealing with the right to family reunion, the number of families which had been repatriated because they had not met the basic requirements and how their repatriation had been effected. Furthermore, clarification was requested on the information contained in the report according to which the employment situation could no longer be invoked as a reason for refusing permits to the spouses of foreign nationals whose papers were in order, or to young immigrants. It was also suggested that the French Government should provide a recapitulation of the information contained in its previous reports regarding French policy on the integration of migrant workers into the educational, cultural, social and political system of the country, and information was requested about France's stand on current efforts within the United

Nations to draft an International Convention on the Protection of the Rights of All Migrant Workers and Their Families. Commenting on the important administrative measures taken by France in conformity with article 5, paragraph (e) (v), of the Convention, some members of the Committee wished to receive information on the outcome of the establishment in the country of the priority education zones and on the basic recommendation made with a view to improving school attendance at the secondary level.

320. With reference to article 7 of the Convention, it was asked whether members of the police force and immigration officials were expected to attend courses to make them aware of the problem of racism and whether the procedures for provision of State assistance to private education included any requirement aimed at preventing the dissemination of ideas based on racial superiority or ideas likely to promote or incite racial discrimination.

321. In reply to questions raised by members of the Committee, the representative of France explained that, according to the French Constitution, overseas territories were an integral part of the Republic and national laws applied as they did in metropolitan France, account being taken of specific circumstances. With regard to the issue of passports to the children of parents from territories which had gained their independence, he explained that while a passport could not be issued to a person who was not a French national, certain visas could be granted which took account of individual circumstances.

322. With reference to article 2 of the Convention, the representative explained that minorities could not be said to exist within the French Republic since the French Constitution stated that all French citizens were equal before the law without distinction; however cultural identities of French citizens were respected and education in regional languages was provided in public schools and universities.

323. As regards article 3 of the Convention, he recalled that his Government totally condemned the policy of apartheid and provided humanitarian assistance to its victims, that French assistance to the United Nations Trust Fund for South Africa had increased by more than 50 per cent between 1981 and 1983 and that the French rugby team had been stopped from participating in a tour in South Africa.

324. Referring to article 4 of the Convention, the representative pointed out that a penalty which appeared to be light might in fact be quite heavy in the eyes of the convicted criminal, and that publicity attached to convictions was often a more effective deterrent than ostensibly heavier punishments such as imprisonment. He also recalled that the Act on private combat groups and militias of 10 January 1936, as amended in 1972 provided for severe punishment for organizers of pro-Nazi associations and forbade the establishment of private militias for purposes of inciting racial discrimination.

325. In connection with article 5 of the Convention, he stated that the legislation on the escorting of aliens back to the frontier did not imply any discrimination against foreigners, and pointed out that the legislation was relatively too recent to judge its effect. Besides, the responsibility for expulsion had been transferred from the legislative to the judicial branch and judges were required to take personal factors into consideration when deciding individual cases. He also stated that his Government was actively participating in the Working Group on the elaboration of the International

Convention on the Protection of the Rights of All Migrant Workers and Their Families.

326. The representative finally stated that his Government would endeavor to include answers to other questions raised by Committee members in its next periodic report, which would be prepared according to the guidelines adopted by the Committee.

## **CERD A/40/18 (1985)**

464. The seventh periodic report of France (CERD/C/117.Add.2) was considered by the Committee at its 732<sup>nd</sup> and 733<sup>rd</sup> meetings, on 8 and 9 August 1985 (CERD/C/SR.732 and SR.733).

465. In introducing the report, the representative of France pointed out that, as of 31 December 1982, 4.5 million foreigners lived in France; 1.5 million from the Maghreb (north Africa) and 1.25 million from the Iberian peninsula. Such a high number of foreigners could lead to displays of racism, which had occurred in rare cases, but his Government took vigorous measures to counter that threat and supported all actions and campaigns against racism. His Government had also intensified its struggle against apartheid and its trade with South Africa had fallen sharply. It had recently decided to impose economic sanctions against South Africa and, on 26 July 1985, the Security Council had adopted a resolution sponsored by France in that connection. Furthermore, France had dispatched aid to the families of political prisoners in South Africa and medical assistance to Soweto; it had financed a hospital and increased study grants for black South African students. The representative also stated that there was no difference of treatment based on the family situation, origin, political or religious opinions between French citizens among themselves or between French citizens and immigrant workers and their families and that special organizations had been set up to help schoolchildren in difficulty, most of whom were children of immigrant workers. However, equal treatment of French and foreign workers did not mean that his Government was pursuing a policy of assimilation. On the contrary, its policy was one of protection of the various cultural identities and the promotion of intercultural exchanges.

466. The Committee expressed satisfaction with the frank and informative report which reflected the sincerity with which the Government of France faced its responsibilities under the Convention and its desire to continue its fruitful dialogue with the Committee. The Committee commended the French Government in particular, for the stand it had taken, at both the national and the international level, against the policy of apartheid in South Africa, and for the concrete measures it had adopted to implement article 3 of the Convention.

467. The Committee also commended the French Government for having made the declaration provided for in article 14, paragraph 1, of the Convention and for its continued vigilance in the field of racial discrimination. Members wished to receive further information regarding the social causes behind certain racist attitudes and anti-Semitic feelings which continued to be manifested by some people in France. They also wished to receive information on the number of people of North African and Iberian extraction residing in France, on the demographic composition of the French Overseas Departments and Territories and on the legislative, judicial and administrative measures required under article 15 of the Convention. In that respect, it was asked which Overseas Departments and Territories were being prepared for independence. Furthermore, it was noted that neither the judicial authorities nor the administrative authorities had yet expressed an opinion on the direct application in domestic law of the various articles of the Convention, and it was asked whether that was also true of other conventions and human rights instruments and whether the primacy of international law over national law provided for by article 55 of the French Constitution was genuinely effective.

468. Referring to article 2, paragraph 2, of the Convention, members of the Committee wished to receive clarification on recent events in the French Overseas Territories as well as further information on the various initiatives which had been taken to protect and promote the human rights and the economic, financial and cultural interests of the population in the Overseas Departments, and the French citizens from Overseas Departments living in the metropolitan territory. Questions were asked, in particular, about the standard of living of the inhabitants of Overseas Departments and Territories, their educational facilities and achievements, their standards of health and medical care and how they compared with metropolitan France. Regarding New Caledonia and French Polynesia, it was asked what precautions the French authorities had taken, and were taking, to protect the populations of those territories from the risks of nuclear fall-out and contamination. Information was also requested on economic and cultural policies and autonomy measures concerning various regions of France where important ethnic groups existed. It was asked, in particular, what steps were being taken to promote understanding, tolerance and friendship among different ethnic groups and among French people themselves.

469. With regard to article 3 of the Convention, members asked whether the French Government could indicate the exact volume of its foreign trade with South Africa and whether the prohibition on direct investment by French companies also applied to a French subsidiary company that engaged in, or was likely to engage in, investment in South Africa. Members of the Committee also wished to receive more information on French initiatives to condemn and isolate the racist régime of South Africa which had been taken within the European Community and the United Nations. They asked, in particular, what the French Government's policy was towards bantustans in South Africa and with regard to an internationally acceptable settlement of the independence of Namibia on the basis of Security Council resolution 435 (1978).

470. With reference to article 4 of the Convention, members of the Committee noted that the French Government was concerned at the emergence of certain xenophobic trends, especially vis-à-vis immigrant workers, as a result of the economic crisis affecting France and they wished to know what countermeasures the Government has taken, in particular against extreme right-wing movements, and whether it could instigate legal proceedings in that respect. They also asked whether there had been any cases and court decisions against employers who had recruited illicit foreign workers, in application of the law banning such practices.

471. Referring to article 5 in conjunction with article 1 of the Convention, members of the Committee wished to receive additional information on the position of foreign workers in France and on how their status with regard to employment was affected by the economic crisis of the country. They asked, in particular, how de facto equality between French and foreign workers was secured, whether France granted preferential treatment to workers from other member States of the European Community, who granted work permits and on what conditions, whether national origin and age were among the factors taken into account when granting or refusing work permits, on what grounds certain restrictions of rights and freedoms referred to by the French Labor Code would be justified, what authority made the relevant decision and how the labor regulations protected those seeking work. Members of the Committee also wished to know what the policy of the French Government was regarding North African citizens working in France, particularly the Algerians whose residence permits had expired, what its position was on the repatriation policy, what arrangements had been made to secure the full integration of foreign workers into society and what

the position of their children was, whether second and third generation immigrants acquired French citizenship, how the children of immigrant workers could accede to higher education, what the level of unemployment was among young people of immigrant descent born in France and what policies had been adopted regarding them. It was noted that the newly-established National Council for Regional Languages included representatives of immigrant groups and it was asked whether those immigrants were French citizens or aliens, whether there was a change in the French policy towards regional languages which had hitherto encouraged linguistic assimilation, what the aims of the National Council for Regional Languages were and what the French Government was doing to improve the educational situation of children from linguistic minorities in France. Information was also requested on French policy with regard to political asylum, the status of refugees and their rehabilitation and on the countries of origin of refugees residing in France.

472. In connection with article 6 of the Convention, reference was made to a judgement contained in annex II to the report and it was asked whether the reason for the court's order awarding damages to an anti-racist association was that that association had instituted the proceedings, or whether that order had been made independently; how many cases had been instituted by such associations and whether provision had been made for any remedies other than recourse to the courts when acts of racial discrimination occurred in employment.

473. With reference to article 7 of the Convention, it was asked whether the French authorities had taken measures to combat racial discrimination through the mass media and whether the children of immigrants were taught about their national culture in addition to French culture and civilization.

474. Replying to questions and comments made by members of the Committee, the representative of France stated that the economic crisis was probably a constituent element of certain racist attitudes in his country. He also referred to the problem of immediate implementation of international instruments in domestic law and explained that the Convention raised a slight problem because it had been drafted in a way that raised doubts as to whether it was self-executing or not. Nevertheless, the fact that French courts had never been called upon to decide whether the Convention was self-executing or not showed that it was totally in conformity with French legislation.

475. With regard to article 2, paragraph 2, of the Convention, the representative provided population figures concerning French Overseas Departments and Territories. He said that the status of their inhabitants was that of full French Citizens enjoying equality before the law in regard to both their rights and duties. The only exception to the rule of identical status concerned the Amerindian population of French Guiana and had been introduced to protect that population. He would ensure that the relevant information was transmitted to the Committee. In some cases, the inhabitants of certain Overseas Territories had the possibility of observing customary rules governing civil life. Further information on the progress of New Caledonia towards independence would be given in the next report.

476. Concerning article 3 of the Convention, the representative recalled the statement made by the French Minister for Foreign Affairs at UNESCO on 25 April 1983, in which he had stressed France's fundamental commitment to ending the illegal occupation of Namibia and bringing that country to independence on a democratic basis.

477. With reference to article 4 of the Convention, the representative stated that, when an offence was committed, the necessary action was taken even when certain groups indulged in masked propaganda and that court decisions had been handed down to punish employers using workers without work permits.

478. In connection with article 5 of the Convention, the representative stated that in his country the current unemployment figure was 2.5 million, approximately 8 per cent of the active population, but the percentage was slightly higher among the immigrant population. Migrant workers received unemployment benefit in the same way as other workers and special efforts were made to assist them. Repatriation grants were available to migrant workers who wished to return home. Approximately 35,000 persons left France annually of their own free will. If the necessary conditions for renewal were not met, residence permits could be annulled, but the family situation and humanitarian reasons were taken into account when considering a case. Migrant workers from the Maghreb had a higher percentage of clandestine immigration. A person who had resided in France for 15 years was entitled to a residence permit. There was virtually total equality in the situation of foreign workers and the laws governing contracts contained no special provisions concerning one country or another. If any difference existed, it derived rather from the nature of the documents issued by the French authorities, and was essentially a difference in terminology. The representative also referred to some provisions of the Code of French Nationality and stated that there were approximately 50,000 naturalizations annually in France. In addition, he stated that France strictly applied the Geneva Convention relating to the Status of Refugees, who were given assistance that could last up to two years. It had recently been decided to give more attention to regional languages.

479. In connection with article 6 of the Convention, the representative explained that according to French law victims of discrimination, whether individuals or associations, could bring an action before a criminal court and demand damages. He also stated that the Labor Inspectorate was an important factor in applying labor legislation. French and alien workers alike could write to the Inspectorate, which had the power to compel the employer to take the necessary steps and could take legal action if the employer failed to do so.

480. With reference to article 7 of the Convention, the representative stated that French newspapers played a capital role in the struggle against racism. Furthermore, national languages of immigrant children were taught in secondary schools. There were two exceptions on which measures were currently being taken, namely the teaching of the languages spoken by Yugoslav and Turkish residents.

481. The representative stated that further information concerning, in particular, New Caledonia would be provided in his Government's next periodic report.

## **CERD A/44/18 (1989)**

45. The eighth periodic report of France (CERD/C/148/Add.3) was considered by the Committee at its 832<sup>nd</sup> and 833<sup>rd</sup> meetings, on 8 August 1989 (CERD/C/SR.832 and 833).

46. The report was introduced by the representative of the State party who emphasized the great importance that his country attached to the elimination of racial discrimination. Referring to new developments that had occurred since the submission of the report, he stated that an interministerial unit to combat racism had been established to work alongside the Advisory Committee on Human Rights. Furthermore, legislative provisions had been adopted, such as the Act concerning freedom of the press that prohibited attempts to justify crimes against humanity, the Act concerning publications for young people that had given the Minister of the Interior powers to prohibit the sale to minors of publications likely to incite racial hatred or discrimination, and a recent Act concerning the entry and residence conditions for aliens in France. Judicial decisions whose number varied little from one year to another reflected the will to interpret the law in such a way as to make racist acts widely punishable. Efforts to promote the integration of immigrants into the mainstream of society had been pursued, in particular, by negotiation of contracts between the State and regional authorities to facilitate the establishment of foreign communities in urban areas. With regard to developments in New Caledonia, he stated that, in August 1988, in consultation with the main political movements in New Caledonia, the Government had decided to implement a policy intended to redress the imbalances affecting the Melanesian community and, after a period of 10 years, to organize a referendum on self-determination. Among the various measures taken to the benefit of the Melanesian community were the readjustment of State investments to the benefit of the less developed provinces and the creation of the Consultative Customary Council and the Agency for the Development of Kanak Culture. Lastly, he stated that France participated in the struggle against apartheid and believed in the need for dialogue between all components of South African society; that France's aid to the black communities of South Africa had amounted to nearly 17 million francs in 1988; that assistance to the States members of the Southern African Development Co-ordination Conference (SADCC) had amounted to 4 billion francs since 1980; and that pressure was being brought to bear on the South African leadership through the restrictive measures adopted by the European communities.

47. Members of the Committee congratulated the French Government on its report, which had been prepared in accordance with the Committee's guidelines (CERD/C/70/Rev.1). They noted with satisfaction that the report sincerely admitted the existence of racial problems and described the efforts being made to deal with them and that the Government had endeavored to provide answers to a number of questions that had been asked during the consideration of its previous report. They also welcomed the fact that French legislation was continuously being improved and that measures were being taken to mobilize public opinion in the struggle to overcome racial prejudice.

48. Members wished to receive statistical information on the ethnic composition of the population in French Overseas Departments and Territories and they wondered why, since 1973, the population in some of those Departments or Territories had decreased (Guadeloupe and Martinique) or increased to a lesser degree (Réunion), while in others it had shown a large increase (French Guyana, new Caledonia). They also wished to know which of those Departments and Territories

were prepared for independence, what steps had been taken to protect and promote the human rights of their population, how their standard of living, health and medical care, as well as of educational facilities compared with that of metropolitan France, what the special status of the Amerindian population in French Guyana was, and whether following the disturbances in New Caledonia in 1987 the right to equal treatment before the tribunals had genuinely been applied to those favouring independence and to the defenders of the present status. In addition, further information was sought concerning the results of the “Living Together” campaign and on the statement made by the French Government according to which there was no recognition of national minorities in France.

49. With reference to the implementation of article 3 of the Convention, it was wondered why the French Government, which was seeking to combat racism, maintained commercial relations with South Africa.

50. With regard to article 4 of the Convention, members of the Committee wished to know whether acts of xenophobia, as committed by the National front, were punishable under any provisions of Act No. 72-546 of 1 July 1972, whether the circular of the Minister of Justice of 8 February 1984 covered such activities, and whether any procedures of that kind had been instituted by a public prosecutor or private plaintiffs. In addition, it was observed that the controversial book by Salman Rushdie, “The Satanic Verses”, had been published in France with the authorization of the French Ministry of Culture. In this connection, concern was expressed that this authorization might be interpreted as implying governmental support for the contents of the book. It was also inquired whether there was a law on blasphemy in France and, if so, whether it applied to all sections of the French population. One member also wished to receive information on alleged acts of unlawful use of force by police officers against Algerians.

51. With reference to article 5 of the Convention, members of the Committee wished to receive information on the results already achieved by the National Council for Regional Languages. With regard to the large number of refugees and stateless persons mentioned in the report, they wished to receive statistical information on the breakdown of that figure by country of origin and they inquired whether the 1951 Convention relating to the Status of Refugees also applied to Basques, and what was the interpretation given by the French authorities to the refugee status. Clarification was requested of the statement in paragraph 7 of the report that holders of a “resident’s card” could engage in any professional activity. Further information was also sought concerning the number of aliens working without a permit and the extent to which classes were being taught to the migrant children in their respective languages and cultures of origin. Lastly, it was asked whether provisions of the Act of 1 July 1901, according to which any association that aimed at violating the integrity of the national territory and the republican form of government, were null and void, also applied to associations that sought to achieve independence by legal means, and whether there had ever been any organizations that promoted intolerance based on national origin.

52. With regard to article 6 of the Convention, members of the Committee wished to know whether the Mediator had already had occasion to take action in cases of racial discrimination. Observing that it was sometimes very difficult to state how effective the protection and remedies provided for under article 6 were, it was suggested that inquiries into their effectiveness might be carried out in connection with anti-racist organizations.

53. Replying to the various questions asked concerning the Overseas Departments and Territories, the representative of the State party said that the French Constitution provided for unrestricted exercise of the right to self-determination. In those Departments and Territories, pro-independence opinions were freely expressed and pro-independence parties and movements existed, although the idea of independence did not enjoy full majority backing. Freedom of expression was also fully guaranteed in those Departments and Territories, provided it was exercised in a lawful manner, which excluded any acts of terrorism. The situation in New Caledonia was quite different, inasmuch as the group there that were calling for independence and those in favour of maintaining the territory within the institutions of the Republic were of comparable size. It was in order to take this situation into account that the French Government had made provision for a vote on self-determination to take place within 10 years. Referring to the acts of violence that had been committed in 1988, the representative pointed out that, under the referendum law of 9 November 1988, amnesty had been granted to the persons convicted following those events. Furthermore, the organization of the island's courts had subsequently been modified so as to avoid an excessive concentration in Nouméa of the administration of justice.

54. Replying to other questions, the representative noted that France had entered a reservation in respect of article 27 of the International Covenant on Civil and Political Rights in which it had declared that France was a country where there were no minorities. The Republic was one and indivisible and, while there might be some forms of regionalism, there was no nationalism other than French nationalism. The "Living Together" campaign, to which reference had been made, had now ended. It had led, *inter alia*, to the appointment of local mediators to settle the most pressing conflicts.

55. Turning to article 3 of the Convention, the representative said that the ban on new investment in South Africa was still in force, that the importation of South African iron and steel had been terminated and that coal contracts had not been renewed.

56. Referring to the points raised concerning article 4 of the Convention, the representative said that the National Front was a political party operating under the law but that the statements by its leaders and the press articles supporting its opinions could give rise to prosecution if they involved slander, racial insults or incitement to racial hatred. With respect to Salman Rushdie's book, he said that no permission was necessary to publish a book in France and that, consequently, there had been no approval of the contents of the book by the Government or by any of its members. Although there was no law against blasphemy in France, insults, slander and incitement to racial hatred were prohibited. In that connection, Muslim associations had lodged complaints against the author and the publisher of the book and it was for the courts to rule on the matter. He pointed out that the French police and French justice treated foreign nationals and French nationals in exactly the same way. Furthermore, the courts were automatically seized of any case where an act of violence was committed against a foreign national and where self-defence could not be invoked. In such cases police officers responsible for such acts were subject to disciplinary measures.

57. With respect to article 5 of the Convention, the representative said that France was making a major effort to guarantee the protection of regional languages and that in the case of some baccalaureate examinations the use of such languages was authorized. On the question of refugees, he said that the régime that had succeeded that of Franco in Spain offered the necessary guarantees

in respect of prosecution of offenders and it could therefore no longer be held that a Basque who had taken refuge in France met the criteria for political refugee status. Moreover, in accordance with article 1 of the 1951 Convention relating to the Status of Refugees, persons who had committed serious offences outside the host country were excluded from the Scope of the Convention. That had been the reason for the expulsion of certain Basque terrorists to Spain. More generally, there had been 181,679 political refugees in France in January 1989, a large proportion of them being Cambodians, Laotians and Vietnamese. Referring to the question of employment of clandestine workers, the representative said that fines of up to 30,000 francs per offence could be imposed and guilty employers could be brought to court. Aliens holding a residence permit for 10 years could enter any profession except the civil service and professions subject to special regulations. However, any alien who obtained the necessary French qualification could work in the relevant profession.

58. The mother tongues of the children of immigrants could be taught in French schools outside normal school hours. Agreements on that subject had been concluded with Algeria, Morocco, Portugal, Tunisia and Yugoslavia. Arabic, Portuguese and Spanish could be studied by children over 12 as part of the regular school programme. Replying to questions concerning illegal associations, the representative said that the only associations that were banned were those impairing the integrity of the nation by acts of violence. That provision had been enforced against an association responsible for terrorist acts in Corsica. An organization of the extreme right proclaiming Nazi ideologies had also been dissolved under legislation concerning combat groups and private militias.

59. With reference to article 6 of the Convention, the representative said that the Mediator of the Republic dealt more specifically with disputes between private individuals and the administration. The National Commission for Immigrant Populations met several times a year under the chairmanship of the Minister for Social Affairs for the purpose of exposing any abuses committed by the administration.

## **CERD A/49/18 (1994)**

116. The ninth, tenth and eleventh periodic reports of France, submitted in one document (CERD/C/225/Add.2), were considered by the Committee at its 1014th and 1015th meetings, on 1 March 1994 (see CERD/C/SR.1014-1015).

117. The report was introduced by the representative of the State party, who pointed out that there were 3.6 million foreigners residing in France, comprising 6.3 per cent of the total population, including the overseas territories and departments. Integrating the foreign population was one of the main priorities of the Government and a number of initiatives had been undertaken to address the problems experienced by the foreigners, particularly families, concerning employment, housing and education. To that end, a guide entitled Vivre en France (Living in France) had been produced and translated into Arabic and Turkish for distribution to newly-arrived families.

118. Of particular note to the Committee was the new Penal Code, which had just entered into force on 1 March 1994 and which contained a number of provisions aimed at preventing and punishing racist or discriminatory acts, including crimes against humanity. Two new infractions had been created, namely, taking advantage of those in a vulnerable and dependent situation to exploit their work, and subjecting someone to working or housing conditions incompatible with human dignity. These and other changes had been the focus of a recently published guide to the new anti-racist laws, which would be widely distributed.

119. Other steps had been taken to combat racism, notably the creation of anti-racism units at the departmental level. Those units, which were composed of representatives of the State, legal and other professional organizations and locally elected officials, focused particularly on education, housing and police/administration of justice matters, and made recommendations for action by the administration. The arrangement also provided for a dialogue between anti-racism organizations and government services, which permitted problems to be resolved more rapidly.

120. Members of the Committee expressed their satisfaction at the report submitted by the Government of France and thanked the representative of the State party for the updated and detailed information contained in his introduction.

121. Members of the Committee expressed concern over the preponderant number of young people among those convicted of racist acts, and the large number of young people in France who supported ultranationalist politicians who advocated racial and ethnic intolerance. With regard to overseas territories, they requested statistical information concerning the composition of the population of New Caledonia and the social and economic conditions in which Kanaks lived. They wanted to know what measures had been taken to protect and develop the indigenous language and culture in overseas territories and whether it was true that a large proportion of the land in the Polynesian islands now belonged to hotels or tourist businesses. They asked what steps the Government had taken to preserve the identity of indigenous people in French Polynesia.

122. In connection with article 1 of the Convention, the members of the Committee enquired about protection against discrimination in practice. They sought further information on changes in the

nationality laws and, in particular, whether those changes were in conformity with the Convention. They wanted to know if practical results had been achieved regarding the implementation of Act No. 89-548 concerning the improvement of the conditions governing the residence of foreigners in France. In relation to the provisions of the new Penal Code concerning crimes against humanity, members of the Committee asked who the offenders might be, and what the main penalties imposed were.

123. In connection with article 2 of the Convention, members of the Committee asked whether, under the newly adopted legislation, it was possible for measures to be taken favouring certain vulnerable racial groups, as provided for under article 2, paragraph 2, of the Convention. They also wanted to know whether it was possible for children of foreign origin to learn their mother tongue and to keep their cultural identity or whether the policy was to integrate them into society as French citizens. They expressed concern lest the law on the computer storage of personal data restrict research into the incidence of ethnic inequalities. Members of the Committee asked for further information on the right of persons living in the overseas departments and territories to own property and to have access to education and health services. Concerning article 3, attention was drawn to social trends towards residential and educational segregation.

124. In connection with article 4 of the Convention, members of the Committee wanted to know whether the number of convictions on a principal charge of racism had continued to increase in 1992 and 1993 and whether organizations found guilty of supporting racist acts or publishing racist propaganda had been declared illegal and disbanded in conformity with the Convention. They also wished to know what steps had been taken to prevent the occurrence of racist acts and violence such as those occurring in other countries in Europe. In that connection, they requested further information on the activities of the Unit to Combat Racism and Anti-Semitism, noting the number of manifestations of racism and xenophobia. They wanted to know what action had been taken to enforce the provision of the Act of 31 December 1987 prohibiting the offering, giving or selling to minors of publications of a racist or xenophobic nature. The members of the Committee wished to have information on the number of persons of Vietnamese or Cambodian origin and whether those persons had been the object of racist propaganda or attacks in France.

125. In connection with article 5 of the Convention, the Committee wanted to know what steps had been taken to ensure that preventive identity checks were not being carried out in a discriminatory manner by the police. Members asked what limitations were imposed in the use of regional languages and dialects, such as those found in Brittany and Alsace, and whether certain information relating to the family, such as birth and death notices, could be published in newspapers only in French.

126. With reference to article 6 of the Convention, members of the Committee wished to know the practical impact of the decision to extend the list of associations authorized to institute legal proceedings in cases of incitement to racial discrimination, hatred, violence, defamation or insult.

127. In connection with article 7 of the Convention, members of the Committee wished to know what steps had been taken to ensure adequate training of the police in matters concerning racial discrimination, in the light of the Committee's general recommendation XIII (42), and whether the frontier police and immigration officials did not discriminate against non-European foreigners

seeking to enter the country.

128. Replying to questions and comments by members of the Committee, the representative of the State party said, concerning the new French Nationality Code, that the voluntary choice of nationality was conducive to integration; thus, young persons born in France of non-French parents and residing in France were able to exercise such a choice at any time between the ages of 16 and 21. The concept of *jus soli* was not called into question under the new law as French nationality was granted automatically at birth to the offspring of French parents, to those born in France of non-French parents also born in France, and to those born in France of parents born abroad when the parents did not transmit their own nationality. Beyond the age of 21, young people who had not opted for French nationality could acquire it through the regular process of naturalization. With regard to marriage, the new Code provided for a period of two years rather than the previously required six months before the non-French spouse could acquire French nationality. Each year, some 100,000 foreigners acquired French nationality. In relation to the question about Cambodian and Vietnamese persons, he said that the numbers of persons of Cambodian, Vietnamese, Lao and Chinese origin residing in France in 1990 had been 38,231, 29,855, 23,703 and 12,672 respectively; the figures for French-born nationals of those countries resident in France in the same year had been 9,138, 3,888, 8,100 and 1,065.

129. In answer to the questions on immigration, the representative of the State party said that the French authorities' objective was to control the influx of foreigners and to combat clandestine entry into the country, France being wholly committed to the principle of free movement of persons and goods. The legislation providing for the measures taken to control the lawfulness of movement across the country's borders and to persuade non-citizens found guilty of entering France illegally to return had been submitted to the scrutiny of the Constitutional Council, which monitored its conformity with the relevant international instruments to which France is party. He emphasized the recent amendments to the legislation on identity checks, administrative detention, conditions in international transit zones in airports and seaports, family reunification, medical assistance and the granting of asylum, which had significantly strengthened the protection of foreigners. As to the questions and criticism concerning conditions of administrative detention, he said that current shortcomings had been officially acknowledged and were being remedied. He added that steps were also being taken to ensure that persons so detained could fully exercise their rights.

130. Referring to political asylum, he pointed out that the preamble to the Constitution of the French Republic singled out a particular set of circumstances which made the granting of asylum mandatory in the case of claimants arriving directly on French soil from their own countries or from countries which were not members of the European Union; France was party to the Convention relating to the Status of Refugees and had signed the Dublin Convention and the Schengen Agreement.

131. On the question of mixed marriages, foreign spouses of French citizens who met the conditions of entry into France were allowed to enter the country, but had to wait one year before their provisional permit was converted into a residence permit, which also served as a work permit. They could have worker status before receiving a residence permit if they provided evidence of employment in the form of a contract. Recent legislation sought to reduce concentration of particular groups in urban areas.

132. Access to the French health service was conditional on regularity of status. The medical assistance available to all persons in accordance with the provisions of the relevant European conventions was available to illegal immigrants.

133. In reply to the questions on the training of police officers, he said that even if the candidates passed the entry examinations, they must have clean records; police officers were liable to harsh penalties for service-related or personal misconduct and they had to carry a copy of the code of ethics.

134. Replying to a question concerning the authorization of political parties representing a specific religion or ethnic group, the representative of the State party said that as political parties constituted associations they were entitled to have objectives of an ethnic or religious nature. There were no such political parties in France.

135. As to the questions concerning penalties for racist offences, the representative said that for the offence of uttering racist insults, 9 sentences of imprisonment and 18 suspended sentences had been imposed in 1991, and 8 prison sentences and 13 suspended sentences in 1992; for the offence of incitement to racial hatred, 3 prison sentences and 7 suspended sentences had been imposed in 1991 and 2 prison sentences and 3 suspended sentences in 1992. In December 1992, the Court of Paris had sentenced two persons to six months' imprisonment for publishing a pamphlet advocating an "Aryan State" along Nazi lines. Deprivation of civil liberties could be imposed for a maximum period of five years, and included a ban upon jury duty, upon holding a position in the public service and upon standing for election; such a penalty was often imposed in cases involving racist offences.

136. In reply to the question concerning the disbanding of racist groups, he said that any party or association advocating racial hatred or violence was liable to be disbanded; until now the procedure had been administrative, via presidential decree, but article 131 (39) of the new Penal Code made such an offence on the part of a legal person punishable by law.

137. There had been changes in the law governing identity checks: police officers were entitled to ask to check identity papers only in cases involving a threat to public order or danger to persons or property. Any identity check on a foreigner merely on the basis of his physical appearance would be considered invalid by the courts.

138. With regard to the more detailed information requested on crimes against humanity, the representative of the State party said that French law distinguished between crimes committed during the Second World War and crimes punishable as from 1 March 1994 under the new Penal Code, provided that they were committed by French citizens or against French citizens.

139. On the questions raised about the overseas territories and departments, the representative said that the overseas territories were not governed by laws applicable in metropolitan France and its overseas departments. The principles of the Constitution applied in the same manner in all the French territories. In the case of New Caledonia, the French Government, the territory itself and the provinces had their separate areas of jurisdiction. As far as land ownership was concerned, a system of property redistribution had been in operation in New Caledonia since 1988 and some 70,000 hectares had been redistributed over four years. In French Polynesia, land ownership was in the

hands of the Polynesians.

### Concluding observations

140. At its 1040th meeting, on 18 March 1994, the Committee adopted the following concluding observations.

#### (a) Introduction

141. The opportunity to continue the dialogue with the Government of France is welcomed, and the presence, during the consideration of the report, of a delegation composed of officials from various departments concerned with the protection of human rights is appreciated. Although the report lacked information on a number of issues, the information provided by the delegation in introducing the report and the comprehensive replies furnished to questions raised by the Committee members clarified several points not elaborated in the report. Unfortunately, many questions were not answered.

#### (b) Positive aspects

142. It is noted with satisfaction that measures have recently been adopted by the French authorities to prevent and intensify the fight against racial discrimination and xenophobia. In that connection, such measures as the establishment of departmental units to coordinate action to combat racism, the role accorded to non-governmental organizations in combating racism as provided for by law, the establishment of the new offence regarding crimes against humanity under Act No. 90-615 of 30 July 1990, and the entry into force, on 1 March 1994, of the new Penal Code provision establishing the criminal responsibility of legal persons for the offence of discrimination are welcomed. Appreciation is also expressed for the recent publication of the 1992 report of the National Consultative Commission on Human Rights entitled "The struggle against racism and xenophobia". Those measures, as well as others listed in the report, indicate the seriousness with which the Government of France is addressing its obligations under the Convention.

#### (c) Principal subjects of concern

143. Serious concern is expressed at the manifestations of racism and xenophobia, which appear to be on the increase in France as well as in many countries in Europe and on other continents. A particular concern is the high proportion of young people who, according to official statistics, are involved in actions of racial violence. It appears that an active extremist minority propagating nationalist and racist ideologies is receiving increasing support, especially in those sectors of society most affected by unemployment.

144. Insufficient information was provided in the report about the new laws of immigration and asylum. Concern is expressed that the implementation of these laws could have racially discriminatory consequences, particularly in connection with the imposition of limitations on the right of appeal against expulsion orders and the preventive detention of foreigners at points of entry for excessively long periods. Concern is also expressed that these laws may generate or reinforce a xenophobic atmosphere in French society.

145. Concern is expressed over procedures concerning identity controls which confer on the police, for preventive reasons, broad discretion in checking the identity of foreigners in public, a measure which could encourage discrimination in practice. Concern is also expressed that the law enforcement services should reflect the ethnic diversity of the population and that adequate training with respect to racial discrimination should be organized.

146. More information is requested regarding the application of the Matignon Accords, taking into account the interests of the indigenous people of New Caledonia. Concern is expressed about possible serious limitations to economic, social and cultural development. More detailed information is also requested on the population of French Polynesia.

147. In view of the statement to the Committee in 1989 that the Government intended to ascertain the views of victims of racial discrimination and to reflect them in the next report, concern is expressed about the absence of this information from the present report.

148. Concern is expressed lest the law on computer technology, files and freedoms impair the Government's readiness to ascertain whether victims of racial discrimination lack effective protection and remedies.

149. Concern is expressed about social trends which result in segregation in areas of residence and in the school system.

150. Concern was expressed in 1983 about the adequacy of sentences imposed for racially motivated crimes; a new concern is added about whether the sentences for racially motivated homicide are consistent, regardless of the ethnic background of the victims.

(d) Suggestions and recommendations

151. The Committee recommends that France strengthen its laws to prohibit actions that are discriminatory in effect, on grounds of race, ethnic or national origin, in accordance with its general recommendation XIV (42), and in order to provide compensation to victims of such discrimination.

152. The Committee recommends that when France reviews its rules restricting certain occupations to French nationals, it ensures that none is discriminatory in effect.

153. The Committee recommends that the Government take further preventive measures to counter racist violence and to implement fully article 4 of the Convention, which obliges States parties to declare illegal and prohibit organizations which promote and incite racial discrimination.

154. The Committee recommends that, in accordance with general recommendation XIII (42), the training of law enforcement officials in human rights standards be strengthened and that their recruitment be broadened to include more members of differing ethnic backgrounds.

155. The Committee recommends that France introduce legislation to provide effective protection of the exercise, without discrimination, of the rights to work and to housing, in both the public and private sectors, and to provide compensation to victims of discrimination.

156. With respect to article 5 (e) (vi), the Committee requests the State party to report on whether languages other than French (including Breton, Basque and German) may be used in official settings and in mass media publications.

157. The Committee requests further information on judicial decisions relating to racial discrimination, penalties applied and payment of compensation.

158. The Committee, noting that the twelfth periodic report of France will be due on 27 August 1994, invites the Government to submit a brief report updating the eleventh periodic report and providing answers to the questions that were not answered at the forty-fourth session. It will expect the thirteenth report to be comprehensive and to be submitted by 27 August 1996.

159. The Committee draws the attention of the State party to the amendment to article 8, paragraph 6, of the Convention, which was approved by the fifteenth meeting of States parties and by the General Assembly in its resolution 47/111 of 16 December 1992, and encourages the State party to expedite its action to accept formally that amendment.

89. The Committee considered the twelfth, thirteenth and fourteenth periodic reports of France, submitted as one document (CERD/C/337/Add.5), at its 1373rd and 1374th meetings (CERD/C/SR.1373 and 1374), held on 6 and 7 March 2000. At its 1396th meeting (CERD/C/SR.1396), held on 23 March 2000, it adopted the following concluding observations.

### 1. Introduction

90. The Committee welcomes the reports submitted by the State party and the additional oral and written information provided by a delegation which included representatives of many government departments. At the same time it regrets the late submission of the present reports.

91. The Committee considers that the twelfth, thirteenth and fourteenth reports do not adequately address the Committee's concluding observations on the previous reports (A/49/18, paras. 140-159), although the delegation addressed some of them orally.

### 2. Positive aspects

92. The Committee notes with satisfaction, among new measures against racial discrimination, the law of 29 July 1998 detailing action against exclusion, the reorganization and extension of departmental anti-racism bureaux, the establishment of departmental commissions on access to citizenship, the work of the Study Group on Discrimination, the creation of departmental committees for coordinating policies against exclusion and of departmental councils on access to justice, and provisions for mediation. The Committee commends the part played by the National Consultative Commission on Human Rights in action against racial discrimination.

93. The Committee also notes that the Government has acted systematically in the suppression of speech and publications likely to incite racial hatred.

### 3. Concerns and recommendations

94. Since the Committee considers that the prohibition of attempts to justify crimes against humanity, and of their denial, should not be limited to those committed during the Second World War, it welcomes the assurance provided by the delegation and requests that the State party report thereon in its next periodic report.

95. While taking note of the State party's view of the importance of individual privacy when collecting information on the composition of the population, the Committee expresses concern about the paucity of information for monitoring implementation of the Convention.

96. While noting that French penal legislation satisfies most of the requirements of article 4, the Committee reiterates its recommendation that France ensure the effective prohibition of actions which are discriminatory in effect on the basis of race or ethnic or national origin, in accordance with its General Recommendation XIV (42).

97. The Committee expresses concern about possible discrimination in effect in the implementation of laws providing for the removal of foreigners from French territory, including

persons in possession of valid visas, and the delegation of responsibilities which should be exercised by State officials.

98. In the light of article 3 of the Convention and its General Recommendation XIX (47), the Committee recommends that the State party monitor all tendencies which may give rise to racial or ethnic segregation and counter the negative consequences of such tendencies.

99. The Committee recommends that the State party include in the sixteenth periodic report, due on 27 August 2002, statistics on racially motivated offences, their investigation, and the punishment of the perpetrators.

100. The Committee reiterates its recommendation that France ensure the effective protection of the exercise, without discrimination, of the rights to work and to housing, in both the public and private sectors, and to provide compensation to victims of racial discrimination.

101. The Committee reiterates its recommendation that when France reviews its laws restricting certain occupations to French nationals it ensures that none is discriminatory in effect.

102. In accordance with article 5 (f) of the Convention, it is recommended that the State party reinforce existing measures to ensure that access to places or services intended for use by the general public is not denied to any person on grounds of national or ethnic origin.

103. With regard to article 6 of the Convention, the Committee recommends that the State party reinforce the effectiveness of the remedies available to victims of racial discrimination.

104. The Committee expresses concern over reports that negative images of the Roma minority prevail in the mass media and in the public generally. It recommends that the State party give full effect to the provisions of article 7 of the Convention by adopting effective measures, particularly in the fields of education, training and human rights information, to combat such prejudices.

105. The Committee expresses concern that remedies available under article 14 of the Convention may not be sufficiently well known.

106. The Committee recommends that the State party's reports should be made readily available to the public from the time they are submitted and that the Committee's observations on those reports be similarly publicized.

107. It recommends that the State party's fifteenth periodic report, due on 27 August 2000, be an updating report responding to issues raised in the consideration of the present reports and to questions outstanding from the reports considered in 1994.

