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COMMITTEE ON ECONOMIC,  
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#### CONSIDERATION OF REPORTS

France: Replies to the list of issues (E/C.12/Q/FRA/1)

Replies to the list of issues to be taken up in connection with the consideration of the second periodic report of France concerning the rights referred to in articles 1-15 of the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.27)

## I. GENERAL INFORMATION

### A. General legal framework within which human rights are protected

1. *Please indicate whether, in addition to any action taken by the State party or at the initiative of the National Advisory Commission on Human Rights itself, an individual can submit a complaint to the Commission directly.*

Under article 1 of Decree No. 84-72 of 30 January 1984, amended by Decrees No. 93-182 of 9 February 1993, No. 96-791 of 11 September 1996 and No. 99-377 of 10 May 1999, the National Advisory Commission on Human Rights (CNCDH) is an advisory body that conforms to the “Paris principles” concerning the status of national bodies for the defence and promotion of human rights. These principles provide for several types of structure, including bodies with quasi-judisdictional powers (Anglo-Saxon type), advisory commissions (French type) and Ombudsmen (Scandinavian type).

It is not a function of CNCDH to receive individual complaints, for the following reasons.

Very many actions are brought in French law, whether before a judicial judge or an administrative judge. In the case of individual complaints against the State or other public legal entities (local communities, public establishments), these usually fall within the competence of an administrative judge (administrative courts, administrative appeal courts, Council of State).

Dual jurisdiction – judicial and administrative – is a feature of French law that may be seen as strengthening the effective safeguarding of the rights of those brought before the courts.

In addition, after exhausting the channels of domestic recourse, everyone may appeal to the European Court of Human Rights.

As these jurisdictional checks exist, they must be given the material and human resources needed for the proper administration of public justice – especially observing the rule of “reasonable time limits”, which is carefully monitored by the Strasbourg Court – rather than establishing new categories of litigation.

CNCDH, on the other hand, informs individuals who apply to it of the possibility of submitting their complaint to the National Ombudsman, who has the legal status of an independent authority under the amended Act of 3 January 1973. He receives complaints from individuals regarding actions which they regard as unsatisfactory on the part of State administrations, public territorial communities, public establishments or any other body dedicated to public service.

The very fact that the National Ombudsman is an ex-officio member of CNCDH establishes an institutional link between the two authorities. CNCDH has the staff needed to process the many complaints submitted to it. In 2000 its headquarters processed 5,278 appeals, and delegates of the National Ombudsman, who are present in all departments, dealt with 48,248.

This division of functions enables CNCDH to remain a light organization unencumbered by any bureaucracy for the management of individual cases and made up of volunteers together tackling the basic problems in all spheres involving human rights.

The division of functions between judicial bodies, on the one hand, and between the National Ombudsman and CNCDH, on the other, is deeply rooted in the French State. Among the many constitutional or administrative reforms proposed in the public debate in recent years, no one – in CNCDH or outside it – has come forward claiming competence in individual complaints. Quite the contrary: in some specific areas, CNCDH has itself suggested the establishment of new specialized authorities to receive complaints or examine individual cases (concerning non-discrimination or, more recently, the right to asylum).

CNCDH also co-operates closely with the Children's Advocate, the National Ethics and Security Committee and departmental commissions on access to citizenship.

2. *The Committee would like to have information on decisions taken by the National Ombudsman and by the ombudsmen of the various departments since the preparation of this report.*

Most of the complaints addressed to the National Ombudsman relate to the social sector, since every citizen is directly affected by wide-ranging and changing social legislation that covers all "social risks". The Ombudsman therefore examines all complaints relating to the system of social protection in the broad sense, which concerns all branches of social security (sickness, family, old age), unemployment insurance and employment policies, as well as social assistance and national welfare (guaranteed minimum wage, various kinds of assistance to the old or handicapped, etc.).

The distribution of cases among these various subjects has remained more or less the same over the years. Most complaints concern the old-age sector, followed, in decreasing order, by health insurance, unemployment insurance and family benefits.

In many cases users complain of a lack of legibility in notices of decisions sent to them by social organizations, especially in the sphere of personal housing assistance.

There are complaints concerning insured persons who are dismissed after a long period of salaried service or who, after setting up their own business, are penalized with regard to social protection when that business ceases operation.

The Ombudsman also continues to receive complaints from adopted and non-adopted persons who, after bringing a case before the Commission on Access to Administrative Documents, have not been given access to their origins. It also hears from persons seeking birth parents whose identities they know, and by mothers who have given birth in secret but are unable to reveal this secret because there is no trace of the documents relating to the child. This situation has led the National Ombudsman to propose that the Government should reform the present system of documents relating to children given up for adoption.

The services of the Ombudsman's Office, which were originally concentrated in Paris, have been brought progressively closer to citizens through the establishment of delegates, who constitute the institution's neighbourhood echelon. There are currently 225 delegates covering the entire country, but their number will increase in coming months. The Ombudsman's new delegates, working in neighbourhood structures and accessible directly by citizens, receive many complaints regarding social, economic and cultural rights. One-third of these relate to the social sphere. Three-quarters of them concern disputes involving family allowance funds, social security funds and associations for employment in trade and industry (AASEDIC). The rest relate to problems involving pension funds, the Council for Occupational Guidance and Re-adaptation (COTOREP), the Union for the Collection of Social Security and Family Allowance Payments (URSAFF), departmental and communal social services, the National Employment Office (ANPE), public low-income housing associations and the difficulties of excessive debt.

**B. Information and publicity concerning the rights set forth in the International Covenant on Economic, Social and Cultural Rights and in other international instruments**

3. *Please indicate whether NGOs have been consulted during the drafting of this report.*

The second report of France was prepared in consultation with the National Advisory Commission on Human Rights and its member NGOs. ATD Fourth World movement, in particular, participated actively in drafting the section relating to anti-exclusion measures.

**II. ISSUES RELATING TO THE GENERAL PROVISIONS OF THE COVENANT**

**(arts. 1-5)**

**Article 1 - Self-determination**

4. *Please indicate the concrete measures taken to apply the proposed reforms for the autonomy of French Polynesia, in particular with respect to guaranteeing the right concerning employment and real property.*

Consideration of the draft reform statute for French Polynesia, which established a territorial employment preference and a right to priority allocation of land in favour of Polynesians, has been adjourned. The draft was to have been considered jointly with the draft reform of the magistrature, which was abandoned for political reasons, in January 2000. No date has yet been set for fresh consideration of the draft reform statute for French Polynesia.

5. *Please indicate the position of the State party with regard to the bill on the autonomy of Corsica.*

The French Government considers it necessary to state at the outset that the draft reform of the statute of Corsica in no way relates to the right of peoples to self-determination within the meaning of article 1 of the Covenant, as the Committee appears to suggest.

On the contrary, this draft is intended to strengthen the ties linking Corsica to the Republic, by applying specific solutions to the economic, social and cultural problems affecting the island and by proposing to that end to give its institutions prescriptive power comparable to that of other large Mediterranean islands.

It provides for a transfer of authority to the Corsican Assembly in a number of areas of economic and social activity, including the sectors of education, communication, sport, physical planning, transport, economic development, tourism, vocational training and the environment.

It is envisaged, for example, that Parliament will be able, under its control, to grant territorial collectivities the power to adapt certain legislative or regulatory provisions to particular Corsican circumstances.

The draft is also intended to encourage the generalization of teaching in the Corsican language on the island.

In addition, it sets out a new tax status specific to Corsica.

Lastly, it provides a framework that is favourable for the island's development, initiating an exceptional 15-year investment programme, especially in the sphere of infrastructure and communal services, in the form of a territorial convention.

## Article 2 - Non-discrimination

6. Please provide information on the situation of aliens who are not citizens of the European Union and of refugees and asylum-seekers with regard to their enjoyment of the rights recognized by the Covenant, and indicate whether there are any restrictions imposed by the State party that affect them.

### Situation of asylum-seekers

Asylum seekers are exempt from presenting the documents required under common law for aliens to enter French territory.

If an asylum-seeker has been refused entry into French territory under article 5, paragraphs 5 and 6, of order no. 45-2658 of 2 November 1945 on the conditions of aliens' entry into and stay in France, he must be able, under paragraph 7 of that article, to notify the person whom he has stated that he was to visit or to arrange for such notification. In addition, he may not be turned away before a full 24 hours have elapsed.

An appeal may be lodged against a decision to refuse entry to France on the grounds of action *ultra vires* with the Paris administrative court, which is competent *ratione loci* in all cases because the asylum-seeker is not resident in France.

While held in a waiting area, asylum-seekers have a right, under common law, to appeal to an administrative court against the decision to hold them. In addition, if the administration requests the judge to authorize the extension of holding in a waiting area beyond the initial period of four days, the asylum-seeker may then exercise his rights, under article 35 *quater* of the order of 2 November 1945 referred to above, and the judge may order the holding measure applied to him to be lifted. An asylum-seeker may appeal against a decision of the presiding judge of a court of major jurisdiction or the judge delegated by him.

Pending a decision on his status, an asylum-seeker has the right of abode. To this end, he is given a provisional residence permit to present to the Office for the Protection of Refugees and Stateless Persons (OFPRA). When OFPRA considers the case, he is given a new residence permit until OFPRA has taken a decision or the Refugees' Appeal Commission has given its verdict on an appeal.

Asylum-seekers have access to the labour market in the common law conditions applicable to the employment of aliens in implementation of article R-341-4 of the Labour Code.

Accommodation for asylum-seekers is arranged by reception centres which guarantee their right to housing.

Asylum-seekers may obtain financial benefits: a waiting allowance and an integration allowance.

Recipients of the integration allowance may be registered for social security. They may also receive the medical care referred to in article 186 of the Family and Social Assistance Code.

An asylum-seeker whose application is dismissed by OFPRA may lodge a court appeal for deferral with the Refugees' Appeal Commission.

Asylum-seekers whose applications are dismissed may request the reconsideration of their request by OFPRA in certain circumstances.

Asylum-seekers may avail themselves of the financial assistance programme intended to facilitate their departure; this programme has a financial segment.

### Situation of refugees

Although eligibility for refugee status is assessed on a personal basis, an alien may be granted this status on grounds of family unity (CE Ass., 2 December 1994, Mme Agyepong). This right is recognized *ipso facto* in the case of refugees' spouses, but more restrictively in the case of concubines and minor children, because the jurisprudence of the Council of State requires the former to have had a sufficiently stable and lasting relationship with the refugee, on the date of his request to be granted refugee status, to form a family with him (CE 21 May 1997, Gomez Botero), and considers that the latter may not be granted refugee status if, after applying for refugee status after the refugee himself had obtained it, they were not compelled to leave their country in the meantime (CE 21 May 1997, M. Sirzum).

Refugees are entitled to residence. A resident's card must therefore be given to them as of right unless there are any risks of threats to public order or if the residence of the persons concerned is irregular and is also renewable as of right.

Refugees enjoy the right to a normal family life (CE Ass., 8 December 1978, GISTI). This right applies only to their spouses and children.

Refugees enjoy fully the right to movement in French territory. They may therefore not be assigned to restricted residence, unless they are the subject of an expulsion order. This right also implies the right to leave French territory.

Refugees are guaranteed freedom of opinion and freedom of conscience, and they may not be deported for having taken part in political activities.

Refugees enjoy the right to work. So far as the right to exercise the professional activity of their choice is concerned, they are covered by the most-favoured-nation clause under the Geneva Convention.

Refugees are treated in the same way as nationals with respect to social assistance and social security. In addition, they have specific rights as a result of their status. For example, they may be housed in provisional accommodation centres managed by France Terre d'Asile and financed by the Ministry of Employment and Welfare.

Refugees are also treated in the same way as nationals with respect to taxation.

The extradition of a refugee as a result of a political request is prohibited under a fundamental principle recognized by the laws of the Republic and constituting a norm of constitutional validity (CE Ass., 3 July 1996, Koné).

In general, a refugee may not be sent, for whatever reason (expulsion, extradition) to a country in which his life may be endangered. In addition, the Council of State has expressed the view that, in accordance with a general legal principle, refugees may not be extradited to their country of origin (CE Ass., 1 April 1988, M. Bereciartua-Echarri).

### **Article 3 - Equal rights of men and women**

7. *Please provide information on the policy concerning the equal enjoyment by men and women of economic, social and cultural rights.*

The Government's proactive policy for the promotion of women's rights and equal rights of men and women in the social, economic and cultural life of the country is proceeding in accordance with the main areas of priority action set out in March 2000 by the Interministerial Committee on Women's Rights.

The method adopted for implementing this policy of equal rights is based on a dual approach, both overall and specific. The overall approach, based on interministerial partnership, involves taking account of the needs of men and of women in the preparation of public policy. It is complemented by a specific approach, namely the development and implementation of measures in favour of women aimed at creating *de facto* equal rights of men and women.

Six areas of priority action have been chosen by the Government to promote and strengthen, *de jure et de facto*, equal rights of men and women at the national level.

#### Parity in the political sphere, but also in the civil service and in community and trade-union life

In June 2000, France passed legislation in favour of parity in political life. This law lays down simple machinery, centred on a balance between compulsory measures and financial provisions, without affecting the present electoral structure. These new provisions were applied for the first time during the municipal elections of March 2001. The proportion of women town councillors almost doubled: women represent 47.5% of



councillors in communes of more than 3,500 inhabitants, against the earlier figure of 25%.

### Equality of professional rights

The year 2001 has seen major advances in the drafting and adoption of legislative and administrative provisions and the development of institutional partnerships. For example, the Act on equal professional rights of men and women, adopted and promulgated on 9 May 2001, strengthens the provisions of the Act of 13 July 1983 by developing social dialogue on equal professional rights in sectors and enterprises.

### The contribution of women to economic activity

The creation of women's activities promotes the development of equal professional rights and economic growth. To increase this potential, steps have been taken, with the State Secretariat for Small and Medium-sized Enterprises, Trade, Crafts and Consumption, to improve access to bank credit and financing possibilities, develop facilities and support for creative women and improve knowledge of their needs.

### Access to rights and the campaign against violence

In the sphere of health and reproductive rights, a number of measures have been passed to strengthen women's rights and improve existing arrangements. A Government plan of action aimed at developing an active policy for contraception and prevention of unwanted pregnancies has been prepared. It consists of information campaigns on contraception adapted to various groups, continuous consultation with health associations and professionals through the work of the Higher Council on Sexual Information, Birth Control and Family Education (CSIS) and a revision of the 1975 Act on voluntary termination of pregnancy which brought it closer to existing legislation in other European Union member States, including the extension of the legal deadline for performing a termination from 10 to 12 weeks of pregnancy and broadening the offence of impeding a voluntary interruption of pregnancy to cover moral and psychological pressure.

With respect to the anti-violence campaign, a national scientific survey was carried out for the first time in France to make an inventory of the phenomenon of violence against women. Data were gathered from 6,970 women aged between 20 and 59.

The survey provided a picture of the frequency of verbal, physical, sexual or psychological violence against women in various environments: at work, in the home, in public places. The study reveals that adult women are subjected to most sexual, physical and psychological violence in their married lives: in the twelve months preceding the survey, one woman in 10 had been subjected to violence by her husband or ex-husband.

There is a regular partnership between institutions and associations in this field. State support for national reception, consultation, guidance and support associations for

women who have been victims of violence takes the form of financial assistance, backed by the Ministry of Employment and Welfare through triennial agreements.

The national meetings on violence, held on 25 July 2001 and attended by more than 500 participants, highlighted the importance of this partnership.

Lastly, prostitution and the campaign against trafficking in women have been given priority attention, leading to the establishment of several parliamentary commissions which have proposed changes in the national policy for prevention and the re-integration of victims.

#### Improving the management of the work-life balance

Although 80% of women between 25 and 50 now work, they face difficulties every day in reconciling their family life and their working life, because they continue in most cases to carry out parental and domestic functions while at the same time carrying on a career, a social life and a life of involvement. Women's participation in decision-making and social activities is primarily directly linked to loosening the constraints weighing on them and the quality of local policies in both their spatial and temporal dimensions. To facilitate the management of the professional, family and social time of everyone, and especially of women, France, like Italy and Germany, has initiated a process of reshaping the urban work-life balance.

#### Providing opportunities for women in culture

The image of women in advertising has been the central priority in the sphere of cultural action. Under the auspices of the department of women's rights and equality, a group of experts consisting of several institutions and representatives of civil society sent a report to the Secretary of State for Women's Rights and Vocational Training, recommending a number of changes to the legislation currently in force on the Press and professional practices in communication, as well as greater public discussion. Interministerial consultations on the legislative proposals are to be held.

### **III. ISSUES RELATING TO SPECIFIC PROVISIONS OF THE COVENANT**

#### **(arts. 6-15)**

#### **Article 6 - Right to work**

8. *Please provide information on the measures undertaken by the State party to address high levels of unemployment among the least skilled, a high level of long-term unemployment, difficulties in integrating young people in the labour market, and increase*

*in forms of precarious employment such as temporary employment and involuntary part-time employment.*

At the special session of the European Council held in Luxembourg in November 1997, member States of the European Union took a new and ambitious step, entering an essential stage in promoting employment and combating unemployment in Europe. The “guidelines” form the basis of this coordinated employment strategy. They set out shared objectives and joint commitments, as reflected in the annual preparation of the National Employment Action Plan (PNAE). Convergence is also achieved through “multilateral monitoring” and assessment procedures and through the exchange of good practice.

Each year member States of the European Union draw up a National Employment Action Plan based on the “guidelines” and covering four main areas:

- improving capacity for integration into the labour market;
- developing entrepreneurial spirit;
- encouraging the ability of enterprises and their workers to adapt;
- strengthening policies of equal opportunities for men and women.

Since the first PNAE in 1998, France has developed a global strategy built around three closely co-ordinated themes: stronger and more lasting growth; greater employment growth; growth for the benefit of all. This strategy has borne fruit. France has experienced strong growth resulting from macroeconomic and structural growth policies and a proactive employment policy. It has continued its efforts to enhance its growth potential, which has remained at a level above 3%. The rise in the number of jobs has been sustained, with more than 1.6 million new jobs having been created between June 1997 and June 2001. There has been a further reduction of structural imbalances, with unemployment falling by more than 1 million over the same period.

France is holding to the course set for the employment policies pursued over the past three years, which have proved effective. It intends to intensify and supplement its main areas of action in accordance with a targeted and more qualitative approach, in order to meet the new situation on the labour market, with respect both to lower unemployment and the new challenges relating to greater job creation, social inclusion, more individual job guidance and job satisfaction. It is necessary to:

- create the conditions for strong growth in job creation for all;
- strengthen and refine the active policy of putting people back into jobs, so as to prevent exclusion and polarization of the labour market;
- improve the quality of jobs and work relations.

## Results of the 2000 National Employment Action Plan

The steady rate of economic growth continued in 2000 (+3.3%). Exceptional results were achieved in the sphere of employment in the year 2000: more than 580,000 new jobs were created, the number of unemployed fell by 420,000, and there were sharp falls in unemployment among young people and in long-term unemployment.

The targets set in the major programmes under way were met or exceeded: in the new services for employment of young people, 30,000 posts were created and 75,000 young people hired, for 267,000 jobs created since 1997; in the process of negotiated reduction of working hours, more than half of those working full-time in companies with more than 10 employees worked less than 36 hours a week at the end of 2000, and more than 54,300 agreements were signed by companies enabling more than 347,000 jobs to be created or kept; in the “New Departures” programme, 1,132,000 persons were covered in 2000; 51,000 young people entered the “Access Route to Employment” (TRACE) programme in 2000; in the work-linked training programme, 445,000 new contracts were concluded in 2000.

Other measures have brought significant results. The following are some examples.

- work and job creation: the reduced VAT rate for house repairs led to the net creation of 30,000 jobs in this sector; there has been a recovery in the number of new enterprises (an increase of 4.2% in 2000); job creation in the services sector amounted to 4.2% in 2000;

- integration into employment and anti-discrimination measures: there has been an improvement in the impact of incentives to return to work for recipients of minimum social benefits (20% of recipients of the Specific Welfare Allowance (ASS) went on to profit-sharing schemes in 2000); 7,000 calls were made to the toll-free number set up in 2000 to report job-related discrimination; 16,500 young people were involved in the sponsorship system;

- action taken in the educational system: more than 1.7 million pupils were enrolled in priority education zones and three-quarters of the students in the New Opportunities Programme have again enrolled in a regular training course;

- improved access to new information and communication technologies: the National Employment Agency’s multimedia website has been expanded (125,000 job offers updated daily; monthly average of 90,000 visitors in 2000); 100% of lower secondary schools and lycées and 65% of all schools were connected to the internet in 2000; an ambitious training programme (which will eventually cover 1.2 million job-seekers) was started for persons seeking employment in new information and communication technologies;

- equality of occupational rights: the target of 55% of women in the system for access to employment was reached.

## The 2001 National Employment Plan

The 2001 PNAE, which has been sent to the European Commission as part of the coordinated employment strategy, contains France's achievements and commitments in the implementation of the employment guidelines adopted by the Nice meeting of the European Council. These guidelines have four main pillars, including pillar 1 (improving capacity for integration into the labour market) and pillar 4 (encouraging the ability of enterprises and their workers to adapt), which are discussed below.

### *Pillar 1: Improving capacity for integration into the labour market*

Guideline 1: preventing long-term unemployment by offering a new departure for young people and the adult jobless.

#### *- The new departure*

In accordance with the commitment undertaken in the 2000 PNAE, the expansion of the Personalized New Departure Service (SPNDE) continued in 2000, with 1,132,000 persons (56% of whom were women) covered, against an initial target of 1,100,000.

The programme has achieved tangible results, both in lowering long-term unemployment and in the numbers no longer unemployed after four months in the programme.

The State has included in the progress contracts of the National Employment Agency (ANPE) and the Association for Adult Vocational Training (AFPA) the principle of strengthening the resources of these two agencies for implementing the SPNDE in the framework of the expansion which was to take place up to 2000.

Since the programme began, the Agency's staff has been increased by 1,500 permanent posts. In 2001, a further 433 posts have been established.

#### *- The personalized action project (PAP)*

The new unemployment insurance agreement adopted in November 2000 and approved by the Government will enable progress to be made in the implementation of a global strategy for return to employment based on a personalized response to the needs of job-seekers. From 1 July 2001, the PAP, which was set up as part of the action plan for a return to employment (PARE), has covered all job-seekers and has been given increased resources by ANPE. In 2002, 570 posts will be created in ANPE at a cost of 11.33 million francs, with a further 2.69 million francs allocated to support their establishment, and the budget for job-seekers' allowances will be increased by 65.71 million francs.

This will constitute the new "personalized action plan for a new departure" (PAP-ND), improved through two principles: acting sooner and with greater resources.

Up to July 2001, the SPNDE continued as before: it will proceed with the growth conditions originally set out (target of 1,500,000 persons in 2001, 700,000 of them for the first semester). From 1 July, SPNDE activities will be continued until the new PAP-ND arrangements are in place for all.

Assistance to job-seekers continues right up to their actual return to employment. Thus, the programme constitutes a continuous combination of preventive and remedial action in the sphere of long-term employment. At the end of 2002, this individualized support will apply both to the persons originally covered by the SPNDE and to all newly registered persons (4,900,000 annually).

This generalization of personalized treatment of job-seekers means that coordination of the participants must be enhanced. Advantage will be taken of the complementarity between ANPE and AFPA in order to offer job-seekers an integrated service within the PAP-ND. In 2001, for instance, 170,000 persons are expected to apply to AFPA, on the advice of ANPE, for personalized support for a training project. Of these, 58,000 should gain access to qualifying courses in AFPA. Similarly, other partners of APNE, for example the young persons' assistance network, the Cap Emploi network for handicapped job-seekers and the social workers supporting those receiving minimum social benefits, will be mobilized.

The social partners managing the unemployment insurance system (UNEDIC) have provided substantial sums to supplement State funding. A total of 2.29 billion euros (15 billion francs) is being spent over three years to finance the PAP, covering personalized monitoring, balance sheets and training, in addition to the assistance planned for geographical mobility, funding of adult employment and training contracts and encouragement to hire the long-term unemployed.

*- The "Access Route to Employment" (TRACE) programme*

In all, 51,000 young people benefited from this programme in 2000 (and 100,000 since its inception), 47% of them women.

It targets young people in most difficulty, offering them an opportunity to receive intensive personalized assistance over a period of up to 18 months (integration schemes drawn up on the basis of their situation, together with a single referee). The TRACE programme is carried out mainly by local missions and 24-hour reception, information and guidance centres (PAIOs), which have been given additional human resources to implement the programme, funded by the State together with territorial collectivities (departmental councils, regional councils, communes).

Forty-seven per cent of beneficiaries of the programme are women; 95% of the young people have a level of training at least equal to a vocational training certificate (CAP); 30% live in urban areas and 54% have dropped out of the school system for more than three years. A little over 20,000 young people left the programme in 2000, of whom 43% were employed, 35% of them in a steady job.

Within the overall programme to combat exclusion, the TRACE programme has been given additional resources: allocations for young people covered by the programme and youth reception centres will increase by 56% in 2002 to 98.22 million euros. This corresponds to 98,000 new entrants in 2002 and will lead to the presence of 120,000 young people in TRACE at the end of 2002. At the same time, an employment access grant has been established to secure the financial situation of young people involved in TRACE. Subject to a maximum amount of 300 euros per month and limited to 900 euros per semester and 1,800 euros for the entire programme, it will provide 76.22 million euros in 2002.

Guideline 2: promoting the development of job-seekers' training.

Efforts to promote the development of job-seekers' training continued in 2000. During that year, 20% of registered unemployed persons started training courses or work-linked training contracts, against 17.3% the previous year.

There was a sharp increase of 8.5% over the previous year in the number of persons starting a work-linked training contract, with 445,200 new contracts signed in 2000: more than 134,300 employment and training contracts (+13.3%), a little more than 238,000 apprenticeship contracts (+4.1%), 65,000 conversion contracts (+15.5%) and 7,900 guidance contracts were taken up. The number of adult employment and training contracts more than doubled to almost 6,600 in 2000.

Allocations for work-linked training and apprenticeships will rise to 2,069 billion euros in 2002.

Guidelines 4 and 5: developing lifelong skills, education and training.

*- Preparing young people to enter the market and giving them the necessary ability to receive training throughout their lives*

The modernization of vocational training continued in 2000 in five areas: improvement of the system for assessing procedures for awarding certificates and occupational diplomas; generalization of multi-disciplinary occupational projects (PPCPs) for all students, strengthening ties with the business world through partnership agreements with occupational sectors and large companies, progressive establishment of "trade schools" with a range of courses and training relating to a trade or associated trades.

The purpose of a plan to reinvigorate the teaching of science and technology in schools, to which 3.2 million euros has been allocated, is to develop a culture of science.

*- Promoting conditions facilitating adult access to education and lifelong training and improving available services*

The French PNAE 2000 set a target in this field of increasing the rate of access to training of the active population as a whole by 1-2 points each year. The first results of the supplementary survey to the “Employment” survey of March 2000 show that 9 million persons at all occupational levels, or 28% of those under 65 years of age coming out of the school system, participated in at least one training course between January 1999 and February 2000. In the previous survey carried out in 1993, the figure was only 19%. Thus, the improvement over seven years averaged more than 1% per year.

The end of 2000 was devoted to finalizing the segment relating to vocational training in the social modernization bill currently being debated in Parliament.

The year 2001 is a year of consolidation of the steps taken in 2000, including development of certification of skills acquired. About 100 skills certification centres will be established to cover some 30 trades (resources mobilized: 1.14 million euros). AFPA will conduct the occupational skills certification examinations, carrying out 37,000 tests (resources mobilized: 12 million euros). This year will also see an intensification of the negotiations that have been going on between the social partners since December 2000.

Guideline 7: combating discrimination and promoting integration through employment and building ways for those threatened by exclusion to become part of the labour market.

A second programme to combat exclusion was submitted in spring 2001. Following the assessment of the results of the first programme of 1998 and taking into account the tangible improvements in the labour market over the past three years, it is aimed at enhancing still further the strength and quality of public action for those who have not benefited from the economic recovery.

The employment segment of this programme extends the possibilities of receiving allowances (Minimum Integration Allowance – RMI, Specific Welfare Allowance - ASS, single-parent benefit - API) and wages concurrently, in order to encourage a return to work. Placing persons in great difficulty in work has been helped by the establishment of the PAP-ND. For young people in great difficulties, the TRACE programme has been improved. Employment assistance measures for those in the greatest difficulties will be better targeted (employment-welfare contracts and consolidated employment contracts), and the system of assistance for access to retail jobs will be simplified so as to enhance actual take-up of a steady job.

Emphasis has also been placed on State aid to the employment agency and temporary work agency sector, whose capacity has almost doubled in three years (from 7,000 posts in 1998 to 12,700 in 2000).

*Pillar 3: encouraging the ability of enterprises and their workers to adapt*

Guidelines 13 and 14: Modernizing the organization of work through seeking a balance between flexibility and security, and better job quality.



The negotiated implementation of the reduction in working hours provided a strong impetus to social partners in seeking employment associations that combine flexibility for companies with improved working conditions and a less precarious situation for wage-earners.

Companies have made widespread use of the new arrangements for organizing working time which the law provides them with. Annualization of working time is becoming more frequent and there has been a broad expansion of flexible working hours, both of these being accompanied by guarantees for employees as contained in the agreements (notice periods, rest days taken in accordance with the company's needs and employees' choice).

The following initiatives will take shape in 2001 in the sphere of labour contracts:

- The social modernization bill, now being debated in Parliament and due for final adoption before the end of the year, is intended to end the use of temporary workers or workers on fixed-term contracts as a permanent method of staff management;

- With respect to the prevention of economic dismissals, the bill stipulates, in line with the draft directive on informing and consulting staff representatives, that the head of the company must inform and consult delegates and develop social dialogue as early as possible in company plans.

- Article 20 of the Act of 3 January 2001 on consolidation of precarious jobs and on modernization of recruitment and working hours in the civil service authorizes public officials not working in full-time posts and whose working hours are less than half the legal hours for full-time work to carry on private paid activity, by derogation from the general prohibition of public officials doing other work (article 25 of the Act of 13 July 1983).

9. *Please indicate what steps are being undertaken to reduce unemployment among women.*

See reply to question 7.

10. *Please provide information on the progress in implementing the youth employment scheme since 1997, as referred to in paragraphs 142-148 of the report.*

See reply to question 8.

11. *Please provide information on the present situation of women employed in the armed forces.*

### Legal information

The Act of 13 July 1972 on the general status of military personnel does not contain any sex-related restriction on the access of women to a military career. Up to 1998, the decrees on the individual status of certain bodies of officers, non-commissioned officers and marine officers did, however, regulate access to those bodies either through quotas or by leaving the proportion of men and women able to enter them to be stipulated in annual recruitment orders. Those decrees were amended by decree no. 98-86 of 16 February 1998, which abolished the principle of any limitations on the access of women to military careers.

Only two categories of employment are not open to women: posting to a submarine and access to units of the mobile police force as non-commissioned officers.

There are currently 33,600 women serving in the French army as officers, non-commissioned officers and other ranks – the most in any Western army after the United States army. Some of these women soldiers are high-ranking officers in positions of command, in the same conditions as their male colleagues.

### Statistical data

On 1 August 2001, 33,600 women were serving in the various armed forces: 2,279 officers, 19,175 non-commissioned officers, 8,988 in the ranks and 3,177 volunteers.

The proportion of women in the armed services has increased steadily since 1995, from 7.5% in that year to 10% in August 2001.

The proportion of women recruited is increasing with the professionalization of the armed forces. They account 14.1% of military recruitments in 1999 and 15.6% in 2000. An annual recruitment flow of 15-20% of women is expected by 2015.

The proportion of successful female candidates in competitive recruitment examinations as a whole was 16% in 2000, against 14.8% in 1999.

For external officers' examinations alone, the recruitment ratio for women was 25.7% in 2000, against 22.9% in 1999.

### **Article 7 - Right to just and favourable conditions of work**

12. *Please provide information on the institutional composition of the bodies responsible for overseeing compliance with the occupational health and safety regulations, namely the Higher Council on Occupational Risk Prevention and the committees on health, safety and working conditions, referred to in paragraphs 217-218 of the report.*

The Higher Council on Occupational Risk Prevention is a national advisory committee. It participates in the preparation of the national occupational risk prevention policy.

Its composition, consisting of more than 100 persons, reflects its dual purpose of coordination and discussion. In accordance with articles R. 231-16 ff. of the Labour Code, the council is made up of representatives of national employees' and employers' organizations, representatives of the many ministries concerned and specialized national bodies, and of qualified individuals. The presence of these persons – scientific practitioners and specialists – enables the Council to nurture the expertise of the public authorities and develop the anticipatory skills that are essential in occupational risk prevention, and then to organize social coordination on these foundations.

This multiple composition may also be found in the various bodies of the Higher Council. These are specialized committees whose role is to carry out technical preparations for the discussion of planned regulations or action; one standing committee, an intermediate body, then draws up the Council's opinion on these plans for submission to the Minister of Labour.

For its part, the committee on health, safety and working conditions, whose task is chiefly to ensure compliance with legislative and statutory requirements regarding work health and safety at the enterprise concerned (article L. 236-2 of the Labour Code), is a specialized representative body at the enterprise level (there are 26,000 such committees).

Under article L. 236-5, it consists of the head of the establishment (or his representative) and the staff delegation appointed by a college made up of elected members of the enterprise or establishment committee and staff delegates. It also has advisory members (in-house doctor, security officer, technically qualified persons, trade union representative). In addition, the labour inspector and officers of the prevention departments of social security bodies may also be present at meetings.

*13. Please describe the procedures of judicial control by industrial tribunals and criminal courts to examine the enforcement of health and safety regulations (paragraph 229 of the report).*

In industrial tribunals, which are competent to rule in actions for liability brought against an employer by an employee who has been the victim of poor health and safety conditions at work, the verification procedure is that of common law as it appears in the new Code of Civil Procedure:

- it begins with an individual action brought by an employee against his employer, with justified interest in acting and respecting the time periods for recourse proceedings; this action takes the form of a written or verbal request to the tribunal;

- it is heard by a body based on a dual principle of oral discussion and respect for the adversary system;

- it ends with a verdict and its implementation, by which the judge settles the dispute in accordance with the legal rules applicable to it, including collective agreements;

- an appeal against the decision may be lodged with the appeal court and, if necessary, an application made for judicial review by the social chamber of the Court of Cassation.

The criminal judge, whose role is essential for the law protecting individual integrity to be effective, hears cases relating both to specific violations of the regulations on health and safety at work and to those of criminal law in general (involuntary infringement of the life or integrity of another person). The procedure is as follows:

- the Prosecution Service initiates the prosecution, usually after following a report by a labour inspector; the action may, however, be brought on the complaint of the victim or a trade union;

- violations are tried by correctional courts.

## **Article 8 - Trade union rights**

14. *Please provide more detailed information on how civil servants exercise their trade union rights, including the right to strike.*

### Trade union rights of public officials

#### *General principles*

Paragraph 6 of the Preamble to the Constitution of 27 October 1946, which was retained in the Preamble to the Constitution of 4 October 1958, provides that “*all men may defend their rights and interests through trade union action and belong to the trade union of their choice*”. It applies equally to employees falling within the provisions of the Labour Code and to officials in the three branches of the civil service.

Consequently, trade union rights have been expressly recognized since the Liberation and, in the case of civil servants, strengthened by the set of statutes made up of Acts no. 83-634 of 13 July 1983, no. 84-16 of 11 January 1994, no. 84-53 of 26 January 1984 and no. 86-33 of 9 January 1986.

Article 8 of the Act of 13 July 1983 on the rights and obligations of civil servants, for instance, stipulates:

*“Civil servants are guaranteed trade union rights. Those who wish may freely establish trade unions, join them and carry out functions in them. Such unions may appear in court. They may bring actions in the competent jurisdictions against acts of general application relating to the status of personnel and against individual decisions infringing the collective interests of civil servants.*

*Civil servants’ trade unions are authorized to conduct negotiations with the Government at the national level prior to the determination of salary movements and to discuss matters relating to working conditions and the organization of work with management authorities at various levels.”*

The very general recognition of trade union rights for “all men” in paragraph 6 of the Preamble to the Constitution of 27 October 1946 means that the establishment of civil servants’ trade unions complies with the rules of common law in the matter set out in Book 4, section 1, chapter 1, of the Labour Code.

Three branches of the civil service exist in France: the State civil service (officials working in central administrations and decentralized State departments), the territorial civil service (officials working in communes, departments and regions) and the hospital civil service (officials working in the health field). The trade union rights relating to these three categories will be discussed below.

*Specific ways in which trade union rights are exercised*

The administration guarantees the greatest freedom of action to trade unions carrying on their activities for the benefit of their officials. Material and staff assistance is also granted to these trade unions in order to facilitate their work.

The conditions under which public officials exercise their trade union rights are currently set out, for officials of the State in decree no. 82-447 of 28 May 1982, for officials of territorial collectivities in decree no. 85-397 of 3 April 1985 and for hospital officials in decree no. 86-660 of 19 March 1986.

These decrees grant trade unions various facilities: provision of administrative premises and room for equipment (in particular, access to State administration message boards and intranets); the possibility of holding regular or information meetings in administrative buildings outside working hours; the right of every official who so desires to attend a one-hour information meeting organized by the union of his choice during working hours; installation of notice boards for posting trade union publications; the possibility of distributing trade union publications and collecting trade union subscriptions inside administrative buildings. In addition, trade union representatives may be released fully or partially from service to devote themselves to their union activities. They may also be given special leaves of absence when required to take part in institutional union activities (congresses and meetings of trade union governing bodies). At its request, civil servants may be seconded to a trade union (State civil service) or made available to one (territorial and hospital civil services).

In addition, in implementation of article 34-7 of Act No. 84-16 of 11 January 1984, article 57-7 of Act No. 84-53 of 26 January 1984 and article 41-7 of Act No. 86-33 of 9 January 1986, civil servants have the right to 12 days of paid leave for union training each year on work training organized by centres and institutes approved by the authorities.

Lastly, The State pays subsidies to the trade unions, in particular when they organize training activities (chiefly as part of union training leave).

#### *Protection of trade unionists*

A civil servant's membership of a trade union may not cause him to suffer any discriminatory treatment. Article 5 of the Preamble to the Constitution, which states that "*No person may suffer prejudice in his work or employment by virtue of his [...] beliefs*" is taken further in article 6 of the Act of 13 July 1983, which provides that "*No distinction may be made between civil servants because of their [...] trade union beliefs*", article 7 of the same Act, which stipulates "*the career of civil servants who are sitting members, in a capacity other than that of representatives of a public collectivity, of an institution recognized in law or an advisory body to the public authorities shall not be affected by the positions held by them there*" and article 18 of the Act of 13 July 1983 on the rights and obligations of civil servants, which states that "*No mention may be made in a civil servant's file or in any administrative document of that person's [...] trade union beliefs or activities*".

Public officials are not under any obligation to join a trade union. In particular, the recruitment of civil servants by competitive examinations, traditionally comprising anonymous written tests and oral examinations, prohibits any account being taken of candidates' trade union membership, which is not disclosed to members of the examining panel. If knowledge of such membership nevertheless influences the result of the examination, the recruitment operation runs the risk of being cancelled by the administrative judge on grounds of violation of equal rights as between candidates.

Article 59 of Act No. 84-16 of 11 January 1984 on statutory provisions relating to the civil service provides that "*promotion of civil servants on full release from service for the purpose of discharging trade union functions shall take place on the basis of the average promotion of officials in the group to which they belong*".

Article 19 of decree no. 82-447 of 28 May 1982, which clarifies the provisions referred to in the preceding paragraph, states that "*the promotion rights of a civil servant on full release from service for the purpose of discharging trade union functions shall be assessed, for the period during which the person concerned was in that situation, by reference to those of a member of the same group whose situation on the date that the person was released from service was equivalent to his and who has been granted average promotion since that date*".

Lastly, the last paragraph of article 28 of decree no. 85-986 of 16 September 1985 concerning the specific regime governing certain positions in the State civil service provides that “*the promotion rights of civil servants seconded to discharge a trade union function shall be identical to those of civil servants on full release from service for the purpose of discharging trade union functions*”.

Additionally, the jurisprudence relaxes the obligation of discretion imposed on all civil servants when it concerns trade union officials.

These provisions therefore make it possible to ensure that the career of civil servants carrying out trade union responsibilities is managed in a perfectly fair way that respects their freedom and is appropriate to their functions.

The same level of protection is afforded to officials of the territorial and hospital civil services who are on full release from service activities or made available to a trade union, in particular by article 29 of decree no. 86-660 of 19 March 1986 concerning the exercise of trade union rights in the establishments mentioned in article 2 of Act No. 86-33 of 9 January 1986 containing statutory provisions relating to the hospital civil service.

### Collective bargaining

#### *Consultation bodies*

Consultation between the State, territorial collectivities or establishments employing public hospital officials, on the one hand, and their staff, on the other, takes place in institutions established under Acts No. 83-634 of 13 July 1983, 84-16 of 11 January 1984, 84-53 of 26 January 1984 and 86-33 of 9 January 1986.

State civil servants have been involved since 1946 in the management of their careers and their service through staff representatives who are members of the Higher State Civil Service Council (CSFPE, under article 13 of Act No. 84-16 of 11 January 1984), joint administrative commissions (CAPs, mentioned in article 14 of that Act), joint technical committees (CTPs, article 15) and hygiene and safety committees (CHSs, article 16) set up under CTPs.

These four participatory institutions have an advisory role, decision-making powers being vested in the administration. However, a failure on the part of the administration to seek the views of these institutions on matters for which it is compulsory to consult them constitutes a procedural irregularity entailing nullification by an administrative court, at the request of the officials concerned, of decisions taken without consultation.

CSPFE, which is governed by the provisions of decree no. 82-450 of 28 May 1982, is composed of 40 members, with the Prime Minister as its President. Half the members represent the administration, the other half being appointed on the proposal of State civil servants' trade unions, depending on the number of officials they represent.

The Council advises on all general matters concerning State officials or the State civil service brought before it by the Prime Minister or by written request of one-third of current members. It must be consulted on all draft laws or decrees of concern to State civil servants and officials as a whole and on the grading of each group of civil servants, a procedure that is decisive in determining civil servants' salaries and the progress of their careers. Its advisory competence also extends to certain statutory and disciplinary matters, general work hygiene and safety policy and the general policy for vocational training in the civil service.

Under the provisions of decree no. 82-451 of 28 May 1982, a national CAP must be set up in each department for each group of civil servants. Each CAP is made up of equal numbers of administration and staff representatives, the latter being elected by all the civil servants in the group. It examines individual staff matters (for instance, grade promotion, secondment, leave of absence, assessment, disciplinary sanctions).

Decree no. 82-452 of 28 May 1982 provides that a CTP must be set up in each ministry, in the offices of each personnel director of the central administration, each director general or director of an administration with central or decentralized departments, and each director general or director of a non-industrial and non-commercial public State establishment. The establishment of CTPs in decentralized departments is also mandatory when the department concerned has a staff of more than 50.

Each CTP is made up of equal numbers of administration and staff representatives, the latter being appointed by the trade unions, depending on the number of officials they represent in the group covered by the CTP. The competence of CTPs relates to the working conditions of public officials. They must be consulted on general problems concerning the organization and operation of departments, general recruitment problems, programmes for the modernization of working methods and techniques, the main strategies for accomplishing the administration's work, the preparation and amendment of statutory rules, and issues relating to work hygiene and safety and vocational training.

Decree no 82-453 of 28 May 1982 provides that central CHSs should be set up under ministerial or central CTPs. CHSs must also be established under each departmental or regional CTP.

Unlike the other advisory bodies described above, CHSs do not have equal representation, as there are more staff representatives than representatives of the administration. Central CHSs are made up of seven staff representatives and five administration representatives, while the corresponding figures for local or special CHSs are between five and nine and between three and five respectively. The procedure for appointing staff representatives in CHSs is the same as that for CTPs. Lastly, it should be noted that the administration doctor is an ex-officio member of CHSs with advisory powers.



The chief role of CHSs is to contribute to the protection of officials' health and safety at work. They are called upon to examine, in particular, matters relating to working methods and techniques and the choice of working equipment wherever it is likely to have a direct impact on officials' health, compliance of projects for buildings planning, construction and maintenance with the rules of work hygiene, safety and well-being, measures adopted to facilitate the adaptation of workplaces for the handicapped, adjustment of workplaces to promote the access of women to all jobs and measures required for pregnant women. They also analyse the occupational risks of officials.

There has been a recent change in the regulations relating to participatory bodies in the State civil service (CAPs, CTPs and CHSs) which has enabled enhanced development of their local branches.

Decree no. 97-693 of 31 May 1997 provided for the possibility of establishing local CAPs with their own competence, even in cases where decision-making power remains at the level of the central administration. Local CAPs are set up to promote the development of social dialogue at the decentralized level. They carry out preparatory work for the national CAPs or take their place, even – although this is more rarely the case – on matters involving an assessment of the relative merits of officials.

In addition, decree no. 95-680 of 9 May 1995 systematized the establishment of CHSs under each departmental or regional CTP.

Lastly, by the interministerial circular of 20 November 2000 on the development of local interministerial consultation, prefects were encouraged to set up in their offices a local interministerial coordination committee (CLIC), presided over by them and competent for all decentralized State department wholly or partially under their authority. The composition and operation of these committees are based on those of joint technical committees, with equal participation of heads of decentralized departments as representatives of the administration and members of representative trade unions in the decentralized departments concerned.

The main purpose of CLICs is, firstly, to facilitate inter-departmental consultation on the decentralized implementation of joint policies and, secondly, to strengthen consultation with trade unions on matters of local interministerial interest.

Participatory institutions similar to those in the State civil service have been set up in the territorial and hospital civil services.

*Procedures for the election of staff representatives to consultation bodies*

In the system of consultation between the administration and its officials that has been developed since 1946, trade unions are the natural channels for representing the personnel of the State, territorial collectivity and hospital public services.

In the conditions described above, and so far as State civil servants are concerned, a staff union must be representative to be able to put forward candidates for the establishment of participatory bodies (the Higher State Civil Service Council, joint administrative commissions, joint technical committees and hygiene and safety committees).

Whether or not a trade union is representative is assessed by the administration at the time of the election, at the level of the consultation body for which the union is standing for membership, in accordance with the legislative rules described below.

To this end, article 94 of Act No. 96-1093 of 16 December 1996, on employment in the civil service and various statutory measures, amended the rules for determining the representativity of trade unions. Trade unions regularly affiliated to a trade union association with a seat in one of the three higher civil service councils or which has obtained at least 10% of votes in all three civil services, including at least 2% in each one, are presumed to be representative.

In addition, any trade union which is not so presumed may establish its representativity in the body holding the election on the basis, for example, of the number of its members, its activity or its participation in earlier elections, in accordance with the rules set out in article L. 133-2 of the Labour Code, as refined by case law.

To avoid any risk of error in assessing representativity, possible conflicts can be settled before elections through an emergency procedure in the administrative tribunal. The administrative judge may, for example, set aside a decision by the administration to refuse a candidacy if he considers that the assessment of representativity which it carried out was incorrect.

These provisions therefore enable all trade unions to stand for membership from the first round of voting wherever they are active and, in particular, when they have already put forward candidates and obtained significant results, even if none of its members were elected. However, a second round of voting takes place when a representative trade union has not put forward any candidates in the first round or when half the electors have abstained in the first ballot. The second round is open to all civil servants' trade unions, without any representativity condition.

#### *Subjects of administration/staff consultation outside participatory bodies*

Since there are no formal procedures for union consultation outside institutionalized bodies, there is no representativity condition for participation of trade unions in such negotiations. It goes without saying, however, that the unions which meet with the public authorities are those called upon to take part in consultations because of their audience at the level at which the negotiations take place.

Under article 8 of the Act of 13 July 1983 on the rights and obligations of civil servants, "civil servants' trade unions are authorized to conduct negotiations with the

Government at the national level prior to the determination of salary movements and to discuss matters relating to working conditions and the organization of work with management authorities at various levels”.

This consultation takes the form primarily of wage negotiations, the first of which took place in 1970 and the main purpose of which is to determine future salary movements. Other subjects may, however, be raised, such as issues relating to working hours or the improvement of working conditions. Wage negotiations are completely informal and there is no rule of law determining how they should proceed, so they are held according to practices that have evolved over the years. They take place between the Government, represented by the Minister for the Civil Service acting in close association with the minister responsible for the budget, and representative civil servants’ trade unions, represented by delegates freely chosen by them.

Although wage negotiations are the best-known aspect of consultation to take place outside participatory bodies, consultation is by no means limited to this subject alone, since the administration may consult trade unions on all important matters intended to improve the operation of the civil service. For example, the minister responsible for the civil service has initiated or concluded negotiations with trade unions on in-service training and on hygiene and safety.

Consultation outside participatory institutions may develop quite separately from those institutions, as is the case, for example, with wage negotiations. It may, however, also be associated with their work. Quite often, for instance, the administration consults trade unions informally on its projects before submitting them to the competent authority.

### Right to strike

In the State civil service, the right to strike is governed by appropriate and balanced regulations based on three constitutional principles.

The right to strike is recognized by the Preamble to the Constitution of 1946, which states in paragraph 7 that it “shall be exercised within the framework of the laws governing it”.

This principle is associated with that of continuity in public service and the principle of protection of the health and safety of persons and goods, both of which, like the right to strike, are constitutional principles (decisions of the Constitutional Council no. 79-105 of 25 July 1979 and no. 80-117 of 22 July 1980, inter alia).

The current regulations derive mainly from Act No. 63-777 of 31 July 1963, codified in articles L. 521-2 to 6 of the Labour Code and also applicable to officials of territorial collectivities and hospital personnel. They provide that the right to strike is subject to advance notice which must be issued by one of the trade unions that is most representative at the level at which the work stoppage has been called. This advance notice must be received by the superior authority five full days before commencement of

the strike and must set out the place, nature and starting time of the strike and the expected duration, which may be unlimited. It also states the reasons for resorting to strike action. The advance notice requirement serves two purposes: to allow the parties to the conflict to negotiate in order to prevent an actual work stoppage and to give the superior authority an opportunity to organize a skeleton service. It is an attempt to reconcile the right to strike, which is essentially individual, and the need for continuity of public services.

A striking civil servant retains his rights to promotion during the work stoppage. By contrast, if the conditions described above are not complied with, the disciplinary sanctions set out in the statutes of the personnel concerned may be applied.

Limited restrictions may be placed on the right to strike, through legislation (air traffic controllers and staff of public radio and television channels) and through regulation.

Lastly, some professions do not have the right to strike under legislative provisions: these are republican security companies, other police personnel, the transmissions staff of the Ministry of the Interior, officials of decentralized departments of the penitentiary system, magistrates of the judicial branch and military personnel.

The Council of State permits statutory limitations on the right to strike, in view of the obligation of the administrative authority to ensure the continuity of public services.

Limitations placed on the right to strike by regulation may not be either general or absolute. They must permit the operation of services essential to Government activities and ensure that the physical security of persons and the conservation of installations and equipment are safeguarded. In this juridical framework, the services of two major categories of official may be required if there is a concerted work stoppage: staff in positions of authority who, because of their important responsibilities and their place in the hierarchy, have to take part in Government activities, and officials, regardless of their level, whose presence at work is necessary to ensure the continuity of public services within the limits set out above.

## **Article 9 - Right to social security, including social insurance**

15. *Please indicate the criteria according to which persons living with HIV/AIDS can obtain 100% health coverage, in the context of Decree No. 93/676, referred to in paragraph 299 (b) of the report.*

The criteria determining, firstly, serious early immunodeficiency requiring long-term treatment and, secondly, infection by the human immunodeficiency virus, both of which attract 100% health coverage, are set by the High Medical Committee for Social Security. Its recommendations are annexed to this submission.

## **Article 10 - Protection of the family, mothers and children**

*16. Please provide more detailed information on the so-called “educational measures” necessary for children and the family, which are ordered by youth courts in cases when “the health, safety and character” of a child are at risk (paragraphs 416-420 of the report).*

Clear principles are laid down in articles 375 to 375-8 of the Civil Code, which provide for judicial action in favour of minors in danger: the judge must give priority to keeping the minor in his family and endeavour to obtain the agreement of the family to the measure he proposes.

The procedure begins with an investigation stage during which the judge may order various measures (social inquiry, an investigative and educational guidance measure, expert assessment) to obtain a better picture of the minor and his family environment. He may then decide on emergency protection measures (provisional taking into care).

Two kinds of action are then possible:

- educational action in an open environment: this consists of providing assistance and advice to the family to enable it to overcome the educational and moral difficulties facing it. It is essential for the minor and his family, and usually enables the minor to remain in his current environment. The children’s judge may also impose obligations such as a requirement to attend a health or educational establishment or to exercise an occupational activity.

- withdrawal of the minor from his current environment.

If it becomes necessary to withdraw the minor from his current environment, the children’s judge may assign him to

- the parent who did not have custody of him;
- another member of the family or a trustworthy third party;
- an ordinary or specialized health or educational service or establishment;
- a departmental service providing social assistance to children.

In this context, the children’s judge may entrust the educational action in an open environment or the order to take the minor into care to the public sector of Legal Protection for Youth, or to the department for social assistance to children of the regional council, or to the appropriate associative sector.

The State finances measures taken by the public sector of Legal Protection for Youth and all investigative measures; regional councils finance all other civil measures entrusted to the associative sector, the department for social assistance to children or to a trustworthy third party.

17. *Please provide information on the extent of domestic violence against women, and on the measures taken by the State party to address the problem.*

See reply to question 7.

### **Article 11 - Right to an adequate standard of living**

18. *Please indicate what measures are being taken to improve the living standards of poor households, and in particular large and single-parent families (paragraphs 460-461 of the report).*

There are no specific measures to improve the living standards of poor families, because the measures adopted by the French Government to reduce poverty concern all poor persons whatever their social status (single, living together or married). Reference should be made to the answers to questions 19 and 20, which describe respectively the general principles of entitlement to RMI (income support) and the measures taken under the new national programme to prevent and combat poverty and social exclusion.

Large families receive both the benefit provided to all poor people and the allowances for poor families, irrespective of asset criteria.

Single-parent families can receive the single-parent allowance, which guarantees a minimum of resources to a parent who is bringing up a child or children alone. The allowance may be paid for twelve consecutive months or until the youngest child reaches the age of three. Because it is funded by the State budget, the single-parent allowance, like all family allowances, is linked to the consumer price index (excluding tobacco).

19. *Please provide more detailed information on the requirements for entitlement to RMI (income support), referred to in paragraph 464 of the report.*

#### The principle

Subject to certain conditions, any individual, alone or as one of a couple, with or without a dependent child, who “*is unable to work because of his age, his physical or mental condition, or the economic and employment situation*” has the right to income support (RMI). The RMI thus provides two rights: the right to an allowance that constitutes a safety net temporarily helping to meet essential needs, and the right of access to the labour market allowing a speedy return to work.

Applications may be submitted to communal social action centres (CCAS), departmental services or an approved association. The allowance is paid monthly and is determined quarterly.

### General eligibility conditions

#### *Residence in France*

Only those resident in France may claim the RMI.

#### *Age*

The RMI is available to persons over 25 years of age, without any upper age limit. An exception is made for those under 25 with a dependent child.

#### *Resources*

The RMI allowance is differential and subsidiary:

- The amount of the allowance is calculated on the basis of resources (except for certain resources on a restricted list) received during the quarter preceding the month of the claim, no account being taken of outgoings. The allowance is equal to the difference between the sum guaranteed by the RMI and the claimant's resources. It varies depending on the family composition and number of dependent children (see table below).

- The claimant must exercise his rights to social, legal, statutory and contractual benefits.

#### *Commitment to integration*

The claimant must undertake, by means of the preparation and validation of an integration contract, to participate in actions or activities determined together with him that are necessary for his social and professional integration.

### Specific eligibility conditions

#### *Foreign nationals*

The RMI is available to foreign nationals if they hold a specific residence permit (resident's card or permit allowing them to exercise a professional activity renewed for three consecutive years).

*Self-employed persons*

In addition to the general eligibility conditions, self-employed non-agricultural workers must meet three additional requirements (lump-sum taxation, turnover ceiling and no employees). Self-employed agricultural workers must also have lump-sum taxation and a level of cadastral income.

Amount of income guaranteed, by household (allowance paid to the nearest franc)				
AFTER lump-sum housing allowance:				
Metropolitan France				
	Single		Couple	
	francs	euros	francs	euros
No children	2 295.48	349.95	3 286.71	501.06
One child	3 286.71	501.06	3 920.58	597.68
Two children	3 920.58	597.68	4 703.13	716.97
Three children	4 963.98	756.74	5 746.53	876.03
Four children	6 007.38	915.80	6 789.93	1 035.09
Five children	7 050.78	1 074.86	7 833.33	1 194.15
Per additional child	1 043.4	159.06	1 043.4	159.06
Overseas departments (DOM)				
	Single		Couple	
	francs	euros	francs	euros
No children	1 997.07	304.46	2 859.43	435.92
One child	2 859.43	435.92	3 410.89	519.99
Two children	3 410.89	519.99	4 091.70	623.78
Three children	4 318.64	658.37	4 999.45	762.16
Four children	5 226.39	796.75	5 907.20	900.54
Five children	6 134.14	935.13	6 814.95	1 038.92
Per additional child	907.75	138.38	907.75	138.38
WITHOUT lump-sum housing allowance				
Metropolitan France				
	Single		Couple	
	francs	euros	francs	euros
No children	2 608.50	397.66	3 912.75	596.49
One child	3 912.75	596.49	4 695.30	715.78
Two children	4 695.30	715.78	5 477.85	835.07



Three children	5 738.70	874.84	6 521.25	994.13
Four children	6 782.10	1 033.90	7 564.65	1 153.19
Five children	7 825.50	1 192.96	8 608.05	1 312.25
Per additional child	1 043.40	159.06	1 043.40	159.06
	Overseas departments (DOM)			
	Single		Couple	
	francs	euros	francs	euros
No children	2 269.39	345.97	3 404.08	518.95
One child	3 404.08	518.95	4 084.89	622.74
Two children	4 084.89	622.74	4 765.70	726.53
Three children	4 992.64	761.12	5 673.45	864.91
Four children	5 900.39	899.50	6 581.20	1 003.29
Five children	6 808.14	1 037.88	7 488.95	1 141.67
Per additional child	907.75	138.38	907.75	138.38

20. *Please indicate what measures have been taken with a view to reducing poverty and extreme poverty, following the reports of France's Economic and Social Council and the National Advisory Commission on Human Rights (paragraphs 462-463 of the report).*

The new national programme to prevent and combat poverty and social exclusion, introduced on 18 July 2001, focuses on the following two major areas for the next two years:

A return to employment for those who are furthest from it, especially recipients of the minimum social benefits, the very long-term unemployed and young people in difficulty.

The chief measures adopted are:

- a 100% increase in the number of young people covered under the TRACE programme from 60,000 to 120,000, and the establishment of an employment access grant of about 300 euros per month;

- enhanced individual support provided by ANPE for those furthest from employment, including support after resumption of work, under the "individual action programme for a new departure"; assistance for mobility may also be provided if necessary; a "individual action plan" will be proposed next year for 600,000 recipients of RMI (income support), and 250,000 persons receiving the specific welfare allowance (ASS);

- revaluation of remuneration for the unemployed undergoing training;

- development of integration by economic activity funded by an additional allocation of 19.21 million euros;

- encouraging job-seekers to set up a business, in particular through an assistance budget of 6,098 million euros.

#### Exercise by the most disadvantaged of their basic rights

The main measures are:

- establishment of 100 “welfare houses” in 2002 and 2003, where persons in difficulty can find all the information needed to exercise their rights in one place;

- improvement of procedures for paying benefits, including income support and the single-parent benefit;

- creation of a food minimum, unattachable in a bank account, equivalent to the value of the RMI;

- making 500 places available annually in housing and social reintegration centres (CHRS);

- strengthening of Healthcare Access Programmes (PRAPS), costing 11.5 million euros, and opening 100 new Healthcare Access Centres (PASS), particularly in rural areas and urban-policy districts;

- establishment of an action programme to tackle insalubrious conditions and lead poisoning, priority being given to the 11 departments most affected (26 million euros);

- an enhanced literacy campaign, through the creation of the National Agency to Combat Illiteracy and the appointment of regional delegates as correspondents.

In addition, an information campaign will spread awareness of individual rights.

*21. Please provide information on the extent of homelessness. Please also provide information on measures being taken with regard to temporary or makeshift dwellings (paragraph 512 of the report).*

#### Homelessness

There is still little awareness of homelessness in France. The National Statistical Information Council (CNIS), which reports to the Ministry of Economy and Finance and is responsible for guiding the statistical work of administrations and public bodies, recommended that studies should be carried out from 1994 to improve knowledge of housing exclusion and homelessness.

In March 1995, the National Institute of Demographic Studies (INED) carried out a survey of homeless people in Paris. Based on study methods used in the United States, the survey covered a sample of persons visiting meal distribution centres in the capital, emergency hostels and long-term hostels. By studying the frequency with which these services were used, the authors of the survey were able to estimate the number of homeless in Paris and ascertain their characteristics. According to the survey, there were about 8,000 homeless adults using hostels or food distribution centres on an average day in February-March 1995, of which 7,500 persons had no domicile, as defined by INED, i.e. persons who are homeless, of no fixed abode and living in the street or in public places and sleeping in hostels for the homeless, a makeshift shelter or a place not intended for accommodation (stations, parks, building hallways, gardens, parking lots, stairwells). Users of these services are mainly single middle-aged men (17% women and very few old people). Most of them are of modest social origins, 40% are of foreign extraction, and their life has been marked by difficulty (difficult childhood, absence of family, broken home, bereavement). Their daily life is very precarious (ill-health, inadequate food, uncertain means). Homeless people are not, however, a separate part of the population, since the characteristics of the homeless are very much like those of the rest of the poor population.

During the winter of 200/2001, the National Institute of Statistics and Economic Studies (INSEE) carried out a national survey of homelessness, using the method applied by INED for the Paris survey. Its results will be available at the end of 2001.

#### Situations of housing exclusion

Various national surveys (1996 INSEE national survey on housing, 1999 general population census) provide data on housing difficulties and housing situations other than normal rented or owner-occupied housing.

In 1999, 4.2% of main residences had no basic sanitation (no shower, toilet or both). A total of 1.9 million persons live in these premises and 1.025 million live in very overcrowded conditions, while 120,000 persons belong to both categories. A total of 2.8 million people can therefore be regarded as badly housed under one or other of these criteria (or both).

The last population census, in 1999, showed that 141,000 people were living in mobile homes, mainly for professional reasons (fairground workers, circus artistes, etc.).

The Ministry of Social Affairs has counted about 35,000 persons living in collective structures for persons in great difficulty.

A total of 550,000 persons live in hotels or furnished rooms or are subtenants of their accommodation.

One hundred thousand people are being put up by third parties (family, friends) in the absence of any other housing solution.

### Measures taken by the State Housing Department

The State Housing Department has developed the following solutions to meet these needs for the housing and accommodation of the disadvantaged and those excluded from housing.

Over the past 10 years 170,000 emergency and integration housing units for the disadvantaged, with State-assisted funding for construction or refurbishment, have been made available in the public low-cost housing (HLM) stock (100,000 units) and the private housing stock subject to an agreement with the State (70,000 units). For some of these units, the occupants do not have the status of ordinary tenants and may be in a provisional situation (sub-letting, temporary housing benefit).

In addition, the Department has since 1996 expanded the network of social residences, which are residential units combining private social housing and joint communal services (the equivalent of a hostel), with the aim of caring for people in social or economic difficulty without categorizing them (young people, immigrants, etc.). These residences, which are therefore meant to be general reception units, currently have 20,000 places or rooms.

Temporary housing assistance (ALT), established in 1991, is paid monthly to associations or bodies which provide rooms (hotel, hostel) and accommodation which they own or rent to disadvantaged persons who do not receive a personal housing allowance because of the short duration of their stay. The feature of this assistance is its short-term nature (in 60% of cases, less than one month). The budget for this assistance, under which 12,000 rooms or premises (mostly occupied by a single person) are made available, is about 300 million francs per year.

22. *Please indicate what specific measures are being taken as part of the plan instituted by Act No. 90-449 of 31 May 1990 to provide housing for the most disadvantaged groups of society (paragraph 534 of the report).*

The departmental action plan for housing the most disadvantaged was set up by the Act of 31 May 1990. It is mandatory in every department and must be implemented under the authority of the prefect of the department and the president of the territorial collectivity (department). The plan must analyse housing needs and provide for specific measures and arrangements to provide appropriate solutions to situations of housing exclusion affecting disadvantaged persons and families in precarious circumstances. Following the new provisions of the framework law on combating exclusion, the contents and operational modalities of the plan have now been set by the decree of 22 October 1999. The departmental plan must cover at least three years, must contain a detailed analysis of local housing needs and must establish ways of creating housing supply for

the disadvantaged (HLM and private). An essential feature of the departmental plan is the housing welfare fund (FSL).

### Housing welfare funds

These consist of departmental funds financed by the State (500 million francs annually in 2000 and 2001), by departments (with the same contribution) and by voluntary partners. They helped 256,000 households in 1999. Their assistance budgets in 1999 (in the form of loans and subsidies) amounted to 1.3 billion francs. They are able to act to assist all groups in difficult housing circumstances (tenants, subtenants, hostel residents).

The main areas of assistance are housing access expenses (guarantee deposit, rental insurance, first month's rent, etc.) and expenses related to continuing to live in rented accommodation (rent arrears). They may provide a guarantee or surety for payment of rent and rental charges, and also finance the social care of households in difficulty, as well as acting to assist co-owners finding it difficult to pay collective co-ownership charges.

23. *Please indicate what specific measures are being taken pursuant to Act No. 94-624 of 21 July 1994, which makes it mandatory for each department to draw up an emergency shelter plan.*

Article 21 of Act No. 94-624 of 21 July 1994 provided for the preparation of an emergency shelter plan in each department no later than 31 December 1994. That article laid down a very precise minimum capacity target for every inhabited area, depending on the number of inhabitants. The plans were drawn up within the specified time-limit and it soon became clear that the minimum targets set had already been attained in most departments.

Since that time, the practice of drawing up such plans has been consolidated, but they have been integrated into a broader framework than emergency care within "Departmental plans for housing the disadvantaged" and "Departmental arrangements for reception, shelter and integration". These successive plans have led to a marked strengthening of efficiency in the system of emergency care, the number of places increasing from 15,000 in 1995 to 23,000 in 2001.

24. *Please provide more detailed information on the legislation to encourage private owners to rent to people with limited resources, as referred to in paragraph 521 of the report.*

### Private landlord status

Private landlord status, which has existed since 1 January 1999, is a balanced and lasting system of support for rental investment consisting of a set of advantages, particularly tax credits, in return for a commitment to rent and to respect ceilings for the rent and the tenant's resources.

For new dwellings, the tax advantage takes the form of a repayment allowance equal to 8% of the purchase price for the first five years and 2.5% for the next four, seven or ten years. In all, the landlord can recoup 65% of the purchase price over 15 years.

For old dwellings, the lump-sum allowance on property income is 14% to 25% over a minimum period of six months.

In both cases, the accommodation must be used as the tenant's main residence and the amounts of the rent and the tenant's resources must be less than ceilings varying, for rental agreements signed in 2001 and depending on the geographical location of the accommodation, from 47 to 77 francs per square metre in new dwellings and from 32 to 67 francs per square metre in old dwellings.

Lastly, private landlord status contains features designed to protect the landlord: direct payment of social housing and family allowances to the owner, and a guarantee against unpaid rent and rental charges, irrespective of the tenant, for a maximum of nine months over a three-year rental.

#### Exemption from income-tax of rentals to the disadvantaged

The Act of 31 May 1990 to implement the right to housing contained a measure that is still in force today providing for the exemption from income tax, for renewable periods of three years, of rental income subject to a ceiling, applicable to owners renting accommodation meeting minimal standards of comfort and fitness for habitation to persons receiving income support, students receiving grants or associations renting accommodation to the disadvantaged. For 2001, the annual rent ceiling per square metre of habitable area, excluding charges, is 346 francs in the Ile-de-France and 287 francs in other regions. An improvement in this system of tax-exemption is provided for in the Finance Bill for 2002, to make it more attractive to landlords by eliminating the effects of social status, since the possible tenants will be assessed on the basis of their means and not their affiliation to any category.

25. *Please indicate the effects of framework law No. 98-657 of 29 July 1998 addressing the problem of social exclusion (paragraph 522 of the report).*

The framework law on combating social exclusion of 29 July 1998 (published in the Official Journal of 31 July 1998), which was drawn up by the Ministry of Employment and Welfare and contains measures in all areas of action by the public authorities intended to combat all forms of exclusion, contains a number of measures in the field of housing.

Apart from those relating more especially to implementation of the right to housing and departmental action plans for housing the disadvantaged, the tasks and operation of which have been strengthened, the main measures include reform of the system for allocating social rental housing.

The law includes the following points:

- Signature by the prefect and the social housing bodies in his department of a three-year agreement setting out an annual commitment on the part of each body for the allocation of housing to the disadvantaged persons and families covered by the departmental plan. The signature of these collective agreements for 2000 and 2001 is now under way.

- Establishment by the prefect of the department of settlement areas comprising communes experiencing difficulties in allocating social housing. The purpose of the areas is to promote a better social mix and to care for the disadvantaged. Communes in the settlement areas must convene an inter-communal housing conference, attended by mayors, social landlords and associations concerned with housing, for the purpose of ensuring the implementation of the departmental agreement, and particularly of allocating the assistance targets among social housing bodies. As of 1 July 2000, settlement areas and inter-communal conferences had been created in 40 departments.

- Waiting times that are clearly abnormal in relation to local conditions for the allocation of a low-cost (HLM) housing unit have been identified. For longer times, a meditation commission considers the case.

- All applications for HLM housing are registered under a single number, enabling them to be regarded as pending until approved and ensuring that the rights of the applicant are safeguarded if there is an abnormally long wait.

These provisions are being put into effect gradually.

### Combating lead poisoning in children

The law provides for measures to combat lead-poisoning in children, which is caused by young children inhaling particles of lead-containing paint. These include emergency measures aimed at compelling the owner of a building to carry out stopgap measures when a case of lead poisoning has been reported by the medical authorities or if there is a risk of lead exposure in the building. There are also prophylactic measures, whereby the prefect identifies the areas at risk of lead exposure. In these areas, an owner selling a dwelling built before 1948 must attach to the promise or contract of sale a statement of the risk of lead exposure.

In 2000, 75 million francs were allocated to combating lead poisoning (for work and diagnosis).

### Prevention of tenant evictions

In this sphere the law against exclusion has been completely directed at preventive measures, to be taken at the beginning of litigation to prevent it running its full course. In particular, a pre-litigation system for tenants in the public housing stock provides for a period of three months between the time when the body paying housing assistance commences proceedings and the summons, with a second period of two months between the summons and the hearing for all tenants in public and private housing. This system has borne fruit, since between 1998 and 1999 the number of legal evictions fell by 14.3%. In addition, the law provides for the signature, in each department, of a charter for the prevention of tenant evictions setting out the commitment of local partners to make the prevention system established in the department effective.

### Miscellaneous tax measures

The law contains a number of tax measures to increase the supply of rented housing for persons excluded from housing and disadvantaged persons. These include:

- The tax on empty dwellings (TLV)

The tax on dwellings that have been empty since 1 January 1999 applies to dwellings that have been empty for more than two years, in the eight large French agglomerations of more than 200,000 inhabitants (of a total of 29) in which there are strong pressures on the private rental market (especially Paris, Lyon and Bordeaux). It is intended to encourage owners to return these dwellings to the rental market. It does not apply to the social rental stock or to dwellings unsuccessfully put up for sale or rental.

The tax has been collected since 1999. It amounts to 10% of the rental value of the dwelling for the first year of taxation and increases progressively thereafter. In 2000 it was imposed on 104,000 taxpayers for 146,000 dwellings.

- Modernization of the procedure for requisitioning vacant dwellings

The requisition procedure had already been used in 1995 and 1996 and had made 1,000 dwellings available in the Ile-de-France region. The new procedure applies to dwellings that have been vacant for more than 18 months and belong to a juridical person. This measure nevertheless remains an exceptional one: it is implemented by the prefect of the department for a period of between six and twelve months and requires a moral person owning the requisitioned dwellings to carry out refurbishment work and rent them out to disadvantaged persons. In June 2001 the State Housing Department announced a second plan for the requisitioning of 1,000 dwellings in 2001 and 2002.



### Assistance for mediation in rental housing

The law against exclusion established a specific form of assistance to associations, communal and inter-communal social action centres and non-profit-making organizations managing dwellings rented out to disadvantaged persons for private owners or renting dwellings from private or public owners and subsequently sub-letting them to disadvantaged persons and families. This assistance is intended to provide them with additional resources against their costs management. In 2001 it amounts to 3,250 francs per year and per dwelling in the Ile-de-France region and 2,945 francs in other regions. These associations and organizations sign a three-year agreement with the prefect of the department. About 500 bodies received this assistance in 2000 for the management of 24,000 dwellings.

### **Article 12 - Right to health**

26. *Please provide more detailed information on the measures being taken to reduce inequalities confronting the health sector, as referred to in paragraph 593 (d) of the report.*

The Government has acted to reduce social inequalities in health by adopting two ambitious laws in this field:

- the Act against Exclusion of 29 July 1998, laying down various measures, the main ones being the establishment of regional programmes giving persons in a precarious position access to prevention and care (article 71) and emphasizing the social mission of hospitals, in particular by setting up healthcare access centres;

- the Act of 27 July 1999 creating universal health coverage, which extends health insurance to everyone living in the national territory and provides 100% coverage to persons with very low incomes; more than 5 million people, including a large number of children, have benefited from this system since January 2000.

Other steps are also being taken to reduce regional inequalities in health.

The next triennial report of the High Committee on Public Health will attach importance to the issue of these inequalities.

### **Articles 13 and 14 - Right to education**

27. *Please provide information on the effects of the measures taken to reduce the rate of student drop-out or failure at the university level, in light of the objectives referred to in paragraph 637 of the report. Please also provide information on the results of the policies implemented by the universities (paragraph 638 of the report).*

The action taken by universities in terms of teaching innovations do not extend to all general university diplomas (DEUGs), are not applied in all branches of education and therefore concern only a limited number of students. They are often not given general application over the two years of study. Caution is therefore required with regard to the possible extension of this action and, in any event, to their impact on the education and success of students.

Some universities report that only 25-30% of students who need them attend support or remedial courses or other tutoring. However, universities having a system of student assistance are making strenuous efforts to expand this system.

The following major areas may be identified in the action taken by universities.

### The link between secondary and higher education

Universities have found that one of the causes of students failing in their first year is the gap between the knowledge acquired in secondary education and that required in then first year of a DEUG. This has led universities to strengthen and rethink the information given in secondary schools not only to pupils but also to teachers and the educational team in secondary education.

In addition to so-called traditional measures such as open days, course presentations during a forum or training days and public information fairs, mention may be made of several new measures to create a stronger link between secondary and higher education:

- Student and pupil exchanges;
- Course presentations by tutors in lycées;
- Preliminary individual interview in February and March with all future *baccalauréat* holders applying for enrolment in DEUGs;
- Initiation of discussion on lycée programmes and science DEUGs, and development of teaching tools that can be used directly by teachers in secondary and higher education;
- Establishment at the level of the university or academy of a mission to coordinate secondary and higher education.

### Teaching support

Tutoring remains the main form of support for students in the first semester or first year. When it becomes essential for students with serious weaknesses, tutoring is regarded as being effective. Students who have attended tutoring sessions have lower absenteeism at examinations and better pass rates.

Tutoring may take the following forms: initial tutoring, continuous tutoring, tutors by discipline.

To supplement this, however, universities have increasingly developed the idea of upgrading, chiefly in the most difficult subjects - mathematics, computer science, physics and chemistry. This may go under different names: extra tuition, supplementary training, upgrading, support by discipline, integration assistance, general accelerated training.

### Educational innovations

The educational “innovations” that have been made are mainly adjustments to allow better support through teaching in small groups and integrated organized work courses (TD). Teachers, too, stress the usefulness of such arrangements, because they facilitate discussion and individual attention for students.

In most universities, TD and practical work (TP) groups tend to be small and stress is also laid on team work. A single teacher is often in charge of TD/TP groups. The idea of a disciplinary educational team is also being encountered more often.

The adjustments also consist of allowing more room for experimentation and working in workshops or multimedia centres.

Another factor is unity of methodology, which is based on learning about university work and is used to restore students’ motivation with respect to their training projects.

A methodological module, sometimes arranged for each discipline, makes it easier to learn the vocabulary, idea and practices specific to each subject. It also allows for discussion of the concept of a training pathway and the student’s vocational plan.

The results can be outlined as follows.

The innovations made are both educational and structural, and they appear to have brought a new dynamic to existing teams and helped to enhance the idea of an educational team working on a common project.

In addition, examination absenteeism rates are falling and the pass rate appears to be higher than reported for DEUGs for which these innovations have not been made.

Many universities have reached the same conclusions, by different routes. The ties between students and teachers must be made closer. The quality of the relationship that is established between student and teacher depends on greater educational supervision, as motivation is one of the mainsprings of success.

It can therefore be seen that the students who show the least motivation for their university studies are those who were among the weakest at their lycée. This finding is leading universities to devote greater efforts to giving their students a new motivation so as to find them different paths or routes to success.

#### Dropouts and failures: appearances and reality

The term “failure”, which is commonly used, should be applied with great caution. Several studies tend to show that, while the importance of the phenomenon of non-re-enrolment for diplomas cannot be denied, it is nevertheless not systematically a synonym for failure (among these studies, see “Failure in the first year of DEUGs: appearances and reality”, Pierre GRAVOT, Rennes 1, *Education et formation no.54*, December 1998; and “Students enrolled in a DEUG after their *baccalauréat*, continued study and reorientation the following year”, DPD note no. 99.20).

Most students who do not re-enrol are actually not motivated by their first enrolment, which was a preliminary one, since they had originally wished to enrol for a different course but had been unable to do so.

The student does not see the first year of his diploma studies in a negative light, but as a year for reflection and decision. It is increasingly and unexpectedly being used as a preparatory class for another course of study, either to change direction or to pursue the course that had initially been chosen but had not proved possible, such as short studies for an Advanced Technician’s Certificate (BTS) or a University Diploma in Technology (DUT), or as a foundation course for studies in other branches (either a long-term course such as medicine or preparation for a competitive examination: paramedical college, administrative examination, etc.).

A study carried out by the programming and development department of the Ministry of National Education, Research and Technology shows that nationally only 7% of new university entrants drop out after the first year, while 70% of those who do not re-enrol for a DEUG take up other courses of study.

#### **Article 15 - Right to take part in cultural life and to benefit from scientific progress**

28. *Although the State party, in its third periodic report to the Human Rights Committee (CCPR/C/76/Add.7, para. 94), has declared that “France is a country in which there are no [ethnic, religious or linguistic] minorities”, it is obvious that France is characterized by great ethnic and cultural richness. While the Committee recognizes the efforts made by the State party to protect its regional languages and cultures, it would like to have information on the measures taken by the State party to protect the languages and cultures of existing minority groups.*

France, a land of migration, does indeed have great cultural richness. However, it does not have any minorities since the French republican model is based on the indivisibility of the nation and the equality of all citizens before the law, concepts which stem from 200 years of legal tradition. It is useful in this context to quote the words of article 1 of the Declaration of the Rights of Man and of the Citizen of 26 August 1789, which served as a reference point throughout the nineteenth century for many peoples struggling to gain their freedom and was the first source of inspiration for the Universal Declaration of Human Rights:

*“Men are born and remain free and equal in rights. Social distinctions may be founded only upon the general good.”*

Article 1 of the French Constitution takes up this idea, stating:

*“France shall be an indivisible, secular, democratic and social Republic. It shall ensure the equality of all citizens before the law, without distinction of origin, race or religion. It shall respect all beliefs. (...)”.*

The French republican fabric therefore rests on a social covenant that transcends all differences, to which every individual may subscribe, whatever his biological characteristics or personal beliefs.

It follows from this idea that the legal concept of a “minority” is alien to French law, although this does not mean a denial of the specific features of identity. But those are a private matter of personal choice, governed by freedom of thought and conscience, and not objective criteria.

These specific features, which may be cultural or linguistic, are acknowledged and protected by means of various legislative or statutory measures.

The French Government has for several years been engaged in implementing policies to promote greater use of regional and minority languages, especially in education. In schools, for instance, foreign pupils and pupils of foreign origin can receive support enabling them to combine two cultures. They can also choose their mother tongue as a living foreign language if it is one of the 12 foreign languages that can be studied in France.

If their mother tongue cannot be studied as a living foreign language, foreign pupils and pupils of foreign parents are given an opportunity to attend courses on their national language and culture, in accordance with bilateral agreements with their countries of origin.

In addition, the statutory laws of the overseas territories and New Caledonia include measures to guarantee the cultural identity of the people living there:

- Article 215 of Organic Law No. 99-209 of 19 March 1999 stipulates that, in order to contribute to the cultural development of New Caledonia, it shall conclude a special agreement with France; the text also provides that the Kanak languages are recognized as a teaching and cultural language;

- Article 115 of Organic Law no. 96-312 of 12 April 1996, on the status of French Polynesia, provides that the Tahitian language and the other Polynesian languages may be used together with French, which is the official language; Tahitian shall be taught in nursery and primary schools and secondary educational establishments; in some nursery and primary schools and in secondary educational establishments, Tahitian may be replaced by one of the Polynesian languages;

- In the territories of the Wallis and Futuna Islands, the agreement covering the primary teaching concession of 10 February 2000 states that teaching in elementary and nursery schools may include courses or activities provided or organized in Wallisian or Futunian; this provision already existed in the previous agreement of 1995;

- Article 21 of Act No. 84-747 of 2 August 1984 on regional competence in Guadeloupe, Guyana, Martinique and Réunion provides that the regional council shall determine the supplementary educational and cultural activities relating to knowledge of regional languages and cultures that may be organized in educational establishments under the authority of the region concerned;

- Overseas Framework Law No. 200-1207, published on 14 December 2000, states in article 34 that regional languages used in overseas departments are part of the linguistic heritage of the nation. As such, they shall be promoted through enhanced policies to facilitate their use. In addition, it states that the so-called Deixonne Law of 11 January 1951 on the teaching of local languages and dialects is applicable to regional languages used in overseas departments.

These few examples illustrate the intensity of the French authorities' efforts to affirm France's cultural, and especially linguistic, richness.

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