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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Consideration of reports submitted by States parties under article 19 of the Convention

Fourth to sixth periodic reports of States parties due in 2008

France* **

[30 June 2008]

* For the third report by France, see document CAT/C/34/Add.19; for its consideration by the Committee, see documents CAT/C/SR.681 and 684.

** The annexes to the present report submitted by the Government of France may be consulted in the secretariat files.

Contents

Introduction

1. France has the honour to submit to the United Nations Committee against Torture ("the Committee") its periodic report under article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In accordance with the Committee's request in its conclusions and recommendations of 3 April 2006 (CAT/C/FRA/CO/3, para. 27), the present document combines the fourth, fifth and sixth periodic reports.

2. This report was prepared in conjunction with civil society, through the agency of the National Consultative Commission for Human Rights. The Commission, consisting inter alia of non-governmental organizations, human rights associations and trade union organizations, had the opportunity to examine the Government's draft report and produced a written note. The present report takes account to the extent possible of the Commission's recommendations.

3. The Government wishes to underline that the present report has been drawn up in a spirit of open, frank and constructive dialogue with the Committee. It is aware that the report hereby submitted reflects the state of legislation and data available at the time of drafting, and it intends to use the occasion of the oral presentation of the report to update the data and provide the Committee with such information as it may require.

4. In the interest of greater clarity, the Government models its responses to the different points raised on the structure of the Committee's conclusions and recommendations.

5. Pursuant to the Committee's observation in paragraph 4 (c), the Government annexes to this report the document entitled "*Treating torture victims: a guide for practitioners*", drawn up jointly by the Ministry of Health and the Association for the Victims of Repression in Exile (AVRE).

I. Reply to the Committee's recommendations in paragraph 5 of the Committee's concluding observations

6. French criminal legislation includes a specific offence relating to "torture and acts of barbarity" under article 222-1 of the Criminal Code. This offence is punishable by 15 years' criminal imprisonment.

7. While the notion of torture is not defined in this text, the definition is supplied by case law. This provides that torture or acts of barbarity require the demonstration of a material element, involving the commission of an act or a number of acts of exceptional seriousness that amount to more than mere violence and cause the victim acute pain or suffering, and a moral element involving the desire to deny the victim human dignity (Lyon, Indictment Division, 19 January 1996).

8. This definition of torture is consistent with that contained in article 1 of the Convention and that of the European Court of Human Rights. The criminalization of torture applies equally to individuals and State officials, the term torture intrinsically designating a type of act and not its perpetrator. Consistent with the Committee's recommendation, article 222-3-7 of the Criminal Code stipulates that acts of torture committed by persons vested with public authority in or in connection with the performance of their functions are clearly differentiated, the penalty being moreover increased in relation to article 222-1 of the Criminal Code (punishable by 20 years' imprisonment). In addition to law enforcement officials, this category includes other persons exercising public service prerogatives, such

as ministerial officials, judges and civil servants in general. A distinction is made between acts of violence committed with or without aggravating circumstances, in the sense that they are covered by different articles of the Criminal Code, the penalties in the latter case being lighter.

9. The French Government points out that, consistent with the aims of the Convention, the definition of torture in French law does not allow any public servant who commits acts of torture to escape criminal proceedings under the Criminal Code.

10. In response to the Committee's request that torture be made an imprescriptible offence, the Government points out that this is not a requirement under the Convention. Moreover, acts of torture are imprescriptible when they come under the heading of crimes against humanity.

II. Reply to the Committee's recommendations in paragraph 6 of its concluding observations

11. While it understands the purpose and scope of this recommendation, the Government nonetheless draws the Committee's attention to the following factors that could pose difficulties with regard to its implementation.

12. The Government underlines that the French authorities do not receive "asylum applications based on article 3 of the Convention" but rather applications from persons seeking protection against a whole range of risks that can only be categorized once their individual situations have been examined.

13. To pose such a distinction a priori would run counter to the general trend in European law, which is towards a common European asylum system. In the form of a unified procedure, this tends to offer anyone claiming that his life, security or liberty would be at risk if he were to return to his country of origin the guarantee that his application for asylum will be examined in all its aspects and that the administration — or, as appropriate, the competent court — will decide on the most suitable form of protection in light of the relevant legal provisions.

14. The distinction urged would moreover seem relatively artificial and difficult to apply insofar as torture within the meaning of the Convention is understood as being committed by public officials, whereas the risks covered by the French authorities include torture committed by non-State agents.

15. Conversely, the protection that may be granted by the French Office for the Protection of Refugees and Stateless Persons (OFPRA) or the National Court on the Right of Asylum (CNDA) does not cover cases where an exclusion clause has been applied (articles 1F of the Geneva Convention and articles L.712–713 of the Code on the Entry and Residence of Aliens and the Right of Asylum (CESEDA)): it is in this case for the administration or the administrative judge responsible for questions of residence and deportation to determine whether the alleged risk constitutes or otherwise an obstacle to deportation under article 3 of the Convention. Indeed, in accordance with article L.513.2 of the CESEDA, deportation cannot take place to a country where the life or liberty of a person is threatened or where the person is exposed to inhuman or degrading treatment. This rule is moreover applicable whether or not the alien subject to the deportation measure has or has not previously requested asylum. It should also be noted that the administration and the judge are required to exercise their jurisdiction in this matter and cannot rely on the OFPRA asessment.

16. At the frontier, OFPRA is consulted before the Minister takes a decision to refuse a foreigner permission to enter France as an asylum-seeker. OFPRA examines the case at this

stage in order to ensure that the asylum request is not manifestly unfounded. To that end, it conducts a formal interview, in a language understood by the applicant. Where necessary, the administration provides an interpreter, at the State's expense, for foreigners held in the waiting zone who do not understand French.

17. In French territory, in accordance with legal provisions prescribing hearings for asylum-seekers except in a limited number of specified cases, OFPRA convenes virtually all first-time applicants and a high proportion of those who are refused residence and treated under the priority procedure on the presumption that their application is without merit in view of the circumstances in which it was made.

18. The Government wishes to point out that the statistics produced in response to paragraph 24 of the Committee's concluding observations underline the fact that subsidiary protection, which is "marginal", has in no way encroached upon the scope of application of the Geneva Convention. It is also worth underlining that, since the co-existence of these two forms of protection, the scope of subsidiary protection has been significantly extended, in particular through the inclusion of non-State persecution and a more liberal interpretation of the statutory grounds in terms of membership of a particular social group, the growing range of issues (sexual orientation, excision, forced marriages, etc.) and the countries to which the grounds for inclusion may be applied.

19. The Government also informs the Committee that a draft decree, in the process of being finalized, transposing directive 2005/85/CE of 1 December 2005, is aimed at improving the information provided to asylum-seekers during the different procedures and in a language they understand.

III. Reply to the Committee's recommendations in paragraph 7 of the concluding observations

20. The law of 20 November 2007 provides for a suspensive legal appeal as a right against decisions to refuse entry following an application for asylum lodged at the frontier. This provision is contained in articles L.213.2, L.213.9, L.221.3 of the CESEDA and article L.777.1 of the Administrative Code of Justice.

21. This provision, transposing into French law the jurisprudence of the European Court of Human Rights (judgement *Gebremedhin v. France* of 26 April 2007), is in keeping with the Committee's recommendation.

22. The main lines of this provision are described in the paragraphs below.

23. The alien refused entry as an asylum-seeker has 48 hours following notification of the corresponding decision in which to lodge an application for its annulment to the administrative court. The latter, which is presided over by a single judge, must rule on the application within 72 hours of its submission.

24. To present his defence, the alien can request the help of an interpreter and is assisted by a counsel who, where appropriate, may be appointed by the court.

25. The decision to refuse entry to an asylum-seeker cannot be put into effect before the expiry of a 48-hour time limit and, in the case of an appeal to the court, until the president or delegated judge has ruled on the application.

26. The 48-hour and 72-hour time limits, modelled on the rules applicable to orders for escort to the border on the grounds of unlawful residence, are intended to ensure a proper balance between respect for the right of appeal (this not being subject to any special formalities) and the constraints relating to the maximum period in which an applicant can be held in a waiting zone, i.e. 20 days as a general rule (art. L.222.2).

27. If the decision to refuse entry to an asylum-seeker is annulled by the judge, the alien is immediately authorized to enter the territory in order to undertake the procedures with OFPRA so as to apply for asylum.

28. The ruling of the President of the Administrative Court or his delegate is subject to a non-suspensive appeal to the President of the Court of Appeal or a judge appointed by him.

29. This provision in practice constitutes an effective remedy. This is shown by the fact that between the time when the law came into force and 30 April 2008, 402 appeals were lodged in application of this provision, and 30 decisions to refuse entry were annulled by the judge.

30. Aliens subject to non-admission procedures at the border or any other deportation measure can also lodge an appeal with the relevant international authorities.

31. They can for example submit a complaint to the European Court of Human Rights on the grounds of article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms and request the Court to apply article 39 of its rules of procedure, under which it can call on States to suspend non-admission or deportation procedures.

32. The European Court of Human Rights made use of this provision in 45 cases in 2007 and in 27 cases between January and April 2008. In all these cases, the French authorities responded positively to these requests.

33. Access to the Committee under article 22 of the Convention is also available to any alien faced by non-admission or deportation through the intermediary of his lawyer or associations providing assistance to foreigners held in waiting zones and detention centres. There are no reported cases of impediments to exercise of the right of appeal.

IV. Reply to the Committee's recommendations in paragraph 8 of the concluding observations

34. Pursuant to article L.213.2 of the CESEDA, deriving from the law of 26 November 2003, a decision to refuse entry can be enforced immediately, except where the alien refuses to be repatriated before the expiry of one clear day. The law thus guarantees the right to one clear day when the alien so demands.

35. The Government considers that the difference between this provision and the automatic entitlement to one clear day unless the alien renounces it (measure in force prior to the law of 20 November 2003) should not be exaggerated. The only difference lies in the organization of the procedural rules governing the way in which the alien's wish is ascertained.

36. In accordance with the provisions of article L.213.2, the administrative authority must inform the alien in writing in a language he understands that he has the right to refuse to be repatriated before the expiry of one clear day and the alien is required to indicate whether he wishes to take advantage of this additional time. Experience shows that at Roissy Charles de Gaulle Airport (where 80 per cent of entry refusals take place) over 60 per cent of aliens prefer to be expatriated immediately.

37. It should be noted that one clear day is automatically granted where minors are present.

V. Reply to the Committee's recommendations in paragraph 9 of its concluding observations

38. Concerning *internal asylum*, the law requires that account be taken of the personal situation of the applicant, as well as the overall conditions prevailing in the relevant part of the territory of origin.

39. The notion of internal exile is circumscribed in its application by article L.713.3 of the CESEDA. Firstly, OFPRA is not obliged to refuse asylum on those grounds, but is simply empowered to do so. Secondly, asylum can only be refused on this basis under two conditions: if in the relevant part of the country the person "has no reason to fear persecution or a serious threat" and if "it is reasonable to consider that the person can remain in that part of the country".

40. In its decision of 4 December 2003, the Constitutional Council stipulated "that OFPRA shall be responsible under the authority of the Refugee Appeals Commission (National Court for the Right to Asylum) for refusing on (these) grounds only after ensuring that the interested party can have access to a substantial part of his/her country of origin, can settle there and can lead a normal existence".

41. Concerning *safe countries of origin*, this notion is aimed solely at expediting the processing of certain files. It in no way constitutes an obstacle to access to procedures for the examination of asylum requests, just as it has no substantive impact on the criteria of eligibility to one of the forms of protection that may be granted. It simply amounts to a presumption that, having regard to the origins of the asylum-seeker, his/her application is probably not justified. The consequences of this presumption are not procedural: the law authorizes (by way of an exception to the principle) a refusal, while the application is under consideration, to grant residence or pay social benefits (in which case the appeal is not suspensive with regard to the implementation of a deportation measure). In this context, OFPRA is called upon to apply the fast-track, or so-called "priority" procedure. Individual examination of the substantive request remains the rule, and it is to be noted in this regard that the legislator has not made the fact that an applicant's country of origin is a safe one a reason for dispensing with the principle that a hearing shall take place before a decision is taken.

42. In response to the Committee's request that legal provision should be made to prohibit expulsions to countries where there are substantial grounds for believing that a risk of torture exists, the Government wishes to draw attention to the following factors.

43. In French law, international conventions take precedence over domestic law and are applicable without there being a need to incorporate them in domestic law. Thus, in matters on which the law is silent, compliance with the International Convention is obligatory for the administrative authority and for the judge in his oversight function.

44. In some specific instances, French law embodies the principles laid down by the International Conventions. This is the case in particular with article L.513.2 of the Code governing the Entry and Stay of Aliens and the Right to Asylum (CESEDA), which states that "no alien may be sent to a country if he/she proves that his/her life or freedom would be in danger there or that he/she would be at risk there of treatment contrary to article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950".

45. This latter formulation is in conformity with article 3 of the Convention and should correspond to the wishes of the Committee.

VI. Reply to the Committee's recommendations in paragraph 11 of its concluding observations

46. The circular of 17 June 2003 on the expulsion of illegal aliens underlines the need for specialized recruitment and appropriate training. It sets out the manner in which expulsions should be organized and provides guidelines and technical advice on how these tasks are to be carried out. Emphasizing that the use of force should be confined to what is strictly necessary, it states that the only procedures authorized are the professional techniques described in the relevant instructions in keeping with medical prescription, which excludes the use of adhesives and any form of gagging, compression of the thorax, bending of the trunk and binding of the limbs.

47. This instruction is strictly applied by the police services at the border and special attention is paid to the conduct of police officers responsible for supervising and deporting persons held in waiting zones. The personnel concerned receive specialized training and appropriate supervision so as to ensure that the reception and monitoring of the detainees is in accordance with ethical standards and respect for individual dignity. Moreover, if any allegations of verbal or physical violence are reported to the authorities, a thorough inquiry is held immediately and any breaches identified are met with disciplinary measures, without prejudice to criminal sanctions.

48. With regard to access to medical care, doctors and nurses are present seven days a week from 8 a.m. to 8 p.m. Outside these hours, if treatment is necessary for an alien in a waiting zone, recourse is had to the SAMU or other emergency service. The duty officers with the Border Police Directorate (DPAF) are very alert to this situation.

49. Moreover, under an agreement with the Ministry of the Interior, two associations are present in the waiting zone 24 hours a day, namely the Red Cross, which provides humanitarian assistance, and the National Association for Assistance to Foreigners on the Borders (ANAFE), comprising a number of groups offering legal assistance to foreigners. These associations serve among other things to convey to the administration requests by detainees for health care.

50. The introduction of a systematic medical examination prior to forcible removals by aircraft or following a failed removal attempt poses complex problems of organization. However, access to treatment is freely authorized prior to expulsion or on the return of the person to the waiting zone when the measure has been unsuccessful.

51. Finally, a doctor is systematically informed by the DPAF when force has had to be used, e.g. when a detainee has refused to board the aircraft.

VII. Reply to the Committee's recommendation in paragraph 12 of its concluding observations

52. The Government refers to its observations transmitted to the Committee in communication No. 300/2006 *Tebourski v. France*. It furthermore undertakes, under article 3 of the Convention, to ensure that no person is deported to a country where there are substantial grounds for believing that he would be in danger of being subjected to torture.

VIII. Reply to the Committee's recommendation in paragraph 13 of its concluding observations

53. Articles 689-1 and 689-2 of the Code of Criminal Procedure provides for the possibility of bringing to trial in France any person present on French territory, of whatever nationality, who is guilty of acts of torture committed abroad. This quasi-universal jurisdiction is an application of the Convention. Thus, ruling on an appeal against a referral to an Assize Court by a Rwandan national accused of acts of torture in Rwanda, the Court of Cassation ruled the French courts to be competent insofar as the criminal acts were classifiable under article 1 of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (Criminal Chamber, 6 January 1998, published in the *Bulletin Criminel*, 1998, No. 2).

54. Victims of torture can themselves initiate proceedings before the senior investigating judge. This is a well-established right in France, which is open to anyone claiming to be the victim of a crime or other serious offence. Suing for damages gives access to a number of rights, including the right to be party to the investigation and, consequently, to be regularly informed of the progress of the proceedings, to have access to the case files, to call for measures, as well as to seek remedies against certain decisions of the examining magistrate. Initiating proceedings in this way also enables the person concerned to defend his or her interests in criminal cases and to seek redress for the harm incurred.

55. It is worth pointing out that the ceiling for entitlement to legal aid — covering the cost of a lawyer — is not applicable in the case of major or minor victims of one of the most serious crimes or for the beneficiaries of a victim of such crimes, which include torture.

IX. Reply to the Committee's recommendation in paragraph 14 of its concluding observations

56. The Government points out firstly that domestic legal provisions are sufficient to ensure the presence of the accused as a general rule and in the case of torture in particular, and secondly that any measure taken is consistent with respect for fundamental rights and freedoms, including the presumption of innocence, regardless of the charge involved. Respect for the presumption of innocence is a universal principle that is valid whatever the crime with which the person is charged. It is the independent function of the judge to rule on the two security measures available in French law: provisional detention, which must remain exceptional, and judicial review. The right of victims to effective remedy does not imply automatic imprisonment or a security measure that arbitrarily infringes the suspect's individual liberty.

57. In the case of Ely Ould Dah, the victims' rights were respected since the accused was sentenced on 1 July 2005, on the basis of quasi-universal jurisdiction, to 10 years' imprisonment by the Gard Assize Court. The individual concerned, who evaded justice by absconding, is subject to an international arrest warrant that is still valid.

X. Reply to the Committee's recommendations in paragraph 16 of its concluding observations

58. Any person deprived of freedom of movement as a result of being held in custody is immediately informed of:

(a) The nature of the offence that is the subject of the investigation;

(b) The provisions concerning the duration of the custody;

(c) The rights relating to custody, including the assistance of legal counsel.

59. The lawyer intervening at this stage is informed by a police officer, prior to meeting with his client, of the nature of the offence under investigation, and the date on which it occurred. Following a confidential 30-minute interview, the lawyer is entitled to submit written observations, which are attached to the case file. Persons in police custody can either appoint a lawyer of their choosing or ask for an officially appointed lawyer. When officially appointed, the lawyer is paid by the State out of legal aid funds. These provisions apply to all types of custody.

60. **Regarding access by a lawyer to a person held in custody**, the Government notes that a distinction should be made between two cases:

(a) *The system of common law*, provided for in article 63-4 of the Code of Criminal Procedure and corresponding to almost all cases. A person held in custody has the right to meet with a lawyer from the start of his detention and from the 24th hour after any extension. This possibility is open from the very start of custody. The Court of Cassation monitors strict observance of this right. It regularly underlines in its jurisprudence that judicial police officers must make every effort to contact a lawyer when so requested by the person in custody.

(b) *The system applicable in cases of organized crime and delinquency (terrorism, drug trafficking, aggravated procuring, etc.) or when the offences committed have caused serious injury to persons or even damaged national interests*. In such cases, provision is made for access by a lawyer within 48 hours (abduction, procuring, aggravated theft, extortion, criminal association), and even 72 hours (in the case of drug trafficking and terrorism). It should be noted that custody cannot exceed four days (48 hours followed, exceptionally, by an extension of 24 hours, then a second period of 24 hours).

61. Since the Act of 23 January 2006 (No. 2006-64) on counter-terrorism, which contains various provisions on border security and controls, custody in cases involving terrorism can be of six days' duration (24-hour extension renewable once in addition to the existing 96 hours), but in two exceptional cases only:

(a) If there is a serious risk of imminent terrorist action in France or abroad;

(b) If the requirements of international cooperation make it essential.

62. In these cases, interviews with legal counsel take place at the 72nd, 96th and 120th hours.

63. The Government wishes to underline that up to 7 May 2008 the six-day custody provision had been used only once, against the same person, in response to the requirements of international cooperation. This shows that judges use the provision particularly sparingly.

64. It should be emphasized that the system upholds procedural guarantees for the persons subject to such measures so as to ensure their right to a fair trial. Those concerned have the right to be assisted by counsel and benefit from permanent judicial supervision of the investigation and of the coercive measures applied by the specialized bodies; they may also appeal against any decisions by the judicial authority, including a request for annulment of acts performed while under custody, and against convictions handed down by the court of first or second instance, irrespective of the seriousness of the charges against them.

65. It is important to note that, as in any other area, the greater the infringement of liberty, the greater the degree of prior and effective judicial supervision.

66. Whatever the case, access to legal counsel is only delayed for the purposes of the inquiry having regard to the seriousness of the offences in question.

67. The Government underlines that these exceptional custodial regimes have been upheld by the Constitutional Council, which recalled that such exceptions to ordinary law must be essential to establishing the truth and must be proportional to the seriousness of the circumstances and the complexity of the offences committed. It should also be made clear that these — necessarily exceptional — custodial measures are subject to specific checks by the judicial authority, which is the guarantor of individual liberty.

68. For its part, the European Court of Human Rights considers that the right of access to legal counsel while under custody is not absolute. The Court considers that this right can be subject to restrictions when these are justified by "valid reasons" and when "having regard to the procedure as a whole, they do not deprive the accused of a fair trial". The Court verifies whether, having regard to State procedure and the particular circumstances, deprivation of the right of access to legal counsel has constituted irreparable harm to the complainant's rights of defence (See *John Murray v. United Kingdom*, 8 February 1996 and *Magee v. United Kingdom*, 6 June 2000; *Mamac and others v. Turkey*, 20 April 2004; *Yurttas v. Turkey*, 27 May 2004).

69. **On the audiovisual recording of adults under police custody**, the Act of 5 March 2007 (No. 2007-291) designed to redress the balance of criminal procedure, deriving from the work of the parliamentary commission following the so-called "d'Outreau" affair, has reinforced the adversarial nature of criminal procedure. Thus, in criminal matters, an audiovisual recording is made compulsory in the case of:

(a) The interrogation of persons under custody in police or gendarmerie premises (new article 64-1 of the Code of Criminal Procedure);

(b) The interrogation of persons under examination in the office of the investigating judge (new article 116-1 of the Code of Criminal Procedure).

70. These provisions will come into effect on 1 June 2008. The recordings in question will make the procedures more secure, while constituting a safeguard both for potential defendants and for investigators with reference to the risk of torture or cruel, inhuman or degrading treatment. A decree published in the *Official Journal* of 22 May 2008 lays down the technical specifications for the recording devices.

71. Exceptions are however possible when the person is placed under custody or judicial examination for a crime specified in article 706-73 of the Code of Criminal Procedure or provided for under Titles I and II of Book I of the Criminal Code. However, even in these cases, the State prosecutor (in the case of custody) and the investigating judge may order a recording to be made.

72. **On the measures taken to reduce the duration and use of pretrial detention**, the Act of 5 March 2007 **(**No. 2007-291) designed to redress the balance of the above-mentioned criminal procedure has modified the Code of Criminal Procedure with regard to the provisions governing pretrial detention so as to ensure that this custodial measure is used only in exceptional cases.

73. The adversarial procedure prior to possible placement in pretrial detention takes place in public, except where the State prosecutor or a party concerned objects to a public hearing, or where the information in question relates to crimes and offences coming within the scope of organized delinquency.

74. At the same time, the offence of disturbing public order is abolished as grounds for placement in or ordering the extension of pretrial detention, except in criminal matters. In the latter case, the criminal offence must involve an exceptional and persistent disturbance

of public order having regard to the seriousness of the offence, the circumstances of its commission or the degree of injury caused. This disturbance cannot for example be merely the result of its media impact.

75. The law provides a mechanism to ensure that persons are not held in pretrial detention for longer than is strictly necessary to establish the truth. The provision in question is to be found in article 221-3 of the Code of Criminal Procedure, which provides for a specific hearing of the investigating chamber during which the procedure as a whole is examined. The president of the investigating chamber of the appeal court can henceforth decide, ex officio or at the request of the public prosecutor's office or of the person on remand, to refer the matter to the relevant court, if the person concerned has been in pretrial detention for three months, for it to "examine the procedure as a whole". This examination can be renewed every six months and will take place in public, except in special cases. The ruling of the investigating chamber must be made public at the latest three months after the referral by the president, failing which the detainees are to be released from detention. Six months after the ruling has become final, if a provisional detention is still in progress, and except where notice of the end of the preliminary investigation has been delivered, the president of the investigating chamber may refer the matter back to the court again.

76. It should be noted that pretrial detention is subject to strict time limits and conditions. It is only possible exceptionally, when dictated by the requirements of the investigation or as a security measure, when a judicial supervision order proves inadequate and only in cases where:

(a) The charge involves a criminal sentence;

(b) The charge involves a correctional sentence of three or more years;

(c) A breach of probation is involved.

77. The grounds for placement in pretrial detention are restrictively listed in the provisions of the Code of Criminal Procedure, and the criterion relating to public order has been eliminated in criminal cases.

78. Placement in and renewal of pretrial detention is decided by the liberty and custody judge (who cannot be removed from office and is distinct from the investigating judge), following an adversarial procedure that is heard in public. The prosecutor makes his submissions, then the person on remand and his counsel are invited to speak. The prosecution can object to the proceedings taking place in public in matters involving crime and organized delinquency or when a public hearing might be prejudicial to public order, the orderly conduct of the hearing, human dignity or the interests of a third party.

79. The accused may request more time to prepare his defence. In this case, the liberty and custody judge can order the person concerned to be placed in detention for a maximum of four days. If the accused is under 21 years of age and the sentence entailed is less than five years, a social report is compulsory. In other cases it is optional.

80. In the case of the pretrial detention of minors, there are special conditions relating to the minor's age and the sentence entailed. Pretrial detention is never possible for minors under the age of 13 years.

81. Minors aged 13 to 16 can be detained on remand:

(a) If they risk a criminal sentence;

(b) If they are deliberately in breach of a probation order, involving compulsory placement in a closed educational facility.

82. Minors over 16 can be detained on remand:

(a) If they risk a criminal sentence;

(b) If they risk a correctional sentence of three or more years;

(c) If they are in deliberate breach of a judicial supervision order.

83. *With regard to criminal offences*: (a) In the case of minors under 16, the length of detention on remand is one year. It can be extended for periods of six months for a total duration not greater than two years; and (b) In the case of minors aged 13 to 16, the length of detention on remand is six months. It can only be extended once, in exceptional circumstances, for a period not exceeding six months.

84. *With regard to ordinary offences*: In the case of minors under 16 years of age, when the sentence for which the offence is liable is not greater than seven years imprisonment, the length of detention on remand is one month, renewable once for a duration not greater than one month.

85. The minor must be assisted by legal counsel. Any procedure before the liberty and custody judge must be preceded by an assessment on the part of the court's educational service.

86. The alternatives to detention on remand are described below.

87. The only alternative to imprisonment in the context of a judicial investigation, under article 137 of the Code of Criminal Procedure, is placement under judicial supervision.

88. This can be ordered by the investigating judge, or by the liberty and custody judge if the offence is punishable by ordinary imprisonment or by a more severe sentence. This supervision imposes on the person concerned, in keeping with the decision of the investigating judge or the liberty and custody judge, one or more of the obligations chosen by the judge from the list contained in article 138 of the Code of Criminal Procedure, designed to restrict the freedom of movement of the accused, to prevent him coming into contact with the victim or to contribute to his reintegration in society. One of these obligations, involving restriction to place of residence, can be met, with the agreement of the person concerned in the presence of his lawyer, through the system of placement under electronic surveillance in accordance with the procedure specified in article 723-8 of the Code of Criminal Procedure.

89. A new alternative to detention on remand is provided by the prison bill currently being drafted within the Ministry of Justice, instituting house arrest with electronic surveillance.

90. **The situation of minors** is explained in the paragraphs below.

91. Concerning the placement of minors under judicial supervision, the provisions of ordinary law apply.

92. In the case of minors aged from 13 to 16, in criminal matters the placement of minors aged from 13 to 16 under judicial supervision is governed by ordinary law and is always possible.

93. With regard to ordinary offences, placement under judicial supervision of minors aged from 13 to 16 is only possible:

(a) If the penalty for the presumed offence is five or more years and if the minor has already been subject to one or more educational measures or has received an educational sanction or punishment;

(b) If the penalty for the presumed offence is seven or more years' imprisonment.

94. An order for judicial supervision in the form of a substantiated decision is taken, as appropriate, by the children's judge, the investigating judge or the liberty and custody judge.

95. All the ordinary law obligations laid down in article 138 of the Code of Criminal Procedure, as well as the specific obligations under article 10-2 of the order of 2 February 1945 (such as completing a civic training course or attending a school or professional training course up to the age of majority), can be ordered in the context of judicial supervision, in particular the obligation to comply with placement in a closed educational centre (CEF). The CEF are mainly intended for multiple offenders and provide for the compulsory attendance and close educational supervision of the minors concerned. The programme setting up these CEF, reflecting the intentions of the legislator in the Act of 9 September 2002 (organization and planning of the justice system), is in the process of implementation.

96. The number of CEFs currently stands at 32, and it is planned to increase that number to 47 by 2009. The educational supervision for minors in CEFs is provided by multidisciplinary, strict and highly motivated teams. Minors are subject to constant surveillance and monitoring, both inside the centre and outside when permitted, and receive particularly close educational and learning support adapted to their personality.

97. If judicial supervision imposed on a minor involves the prior obligation to respect the conditions attaching to placement in a closed educational centre, non-observance of these conditions can lead to pretrial imprisonment.

98. If judicial supervision initially prescribes other obligations that are not respected by the minor, the judge can modify the judicial supervision order so as to provide for the minor's placement in a CEF.

99. Apart from under judicial supervision, placement in a CEF can also be ordered in the context of a suspended prison sentence with probation, conditional release and, since the law of 5 March 2007 on the prevention of delinquency, outside placement. This legal alternative can be ordered *ab initio* (prior to any incarceration) and can follow placement in a CEF under judicial supervision after sentencing where the legal conditions are met.

100. The number of committal orders (adults and minors) issued during preliminary proceedings is decreasing regularly. It fell from 28,240 in 1993 to 19,003 in 2007, i.e. by 32.7 per cent in 15 years. This reduction is explained in part by a drop in the number of cases submitted for investigation.

101. Since the introduction of liberty and custody judges, the proportion of committal orders issued following adversarial proceedings has been appreciably reduced. This reduction is however less marked in the case of *ab initio* adversarial debates as distinct from deferred adversarial debates.

102. Following an *ab initio* adversarial debate, 88.5 per cent of defendants were placed in pretrial detention in 2007 (compared with 91.3 per cent in 1998; 88.6 per cent in 1999; 89.6 per cent in 2006). After a deferred adversarial debate, 64.2 per cent of defendants were placed in pretrial detention (69.9 per cent in 1998; 75.7 per cent in 1999; and 58.3 per cent in 2006).

103. The average duration of pretrial detention following preliminary investigation has increased steadily. It stood at 5.3 months in 1990, at 6.5 months in 2000 and at 8.7 months in 2005. For the first time since 2001, this figure fell in 2006 (7.3 months) only to rise again in 2007 (8.1 months). The increasing length of preliminary investigations and the complexity of the case to be dealt with are such as to increase the average length of pretrial detention. A preliminary examination lasted on average 25.1 months in 2007 in the case of a trial before an assize court for adults (compared with 20.9 months in 2001), 23.8 months

in the case of referral to an ordinary court (compared with 20.9 months in 2001, and 18.2 months in the case of referral to juvenile courts (compared with 16.4 months in 2001).

104. Recourse to alternatives to pretrial detention, in particular to judicial supervision, has become more common. The rate of placement under judicial supervision (persons placed under judicial supervision/persons placed under investigation) rose from 25.6 per cent in 1993 to 61.4 per cent in 2007. This alternative was adopted either *ab initio* (20,925 persons placed under judicial supervision out of 46,780 persons placed under investigation) or in conjunction with release (7,415 persons).

XI. Reply to the Committee's recommendations in paragraph 17 of its concluding observations

105. France signed the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 16 September 2005. The bill authorizing the ratification is currently (end of May 2008) under examination in Parliament.

106. Pending its approval, the Government has given effect to the Protocol through the adoption of the law of 30 October 2007 establishing the post of Comptroller General of places of deprivation of liberty, supplemented by the decree of 12 March 2008.

107. The main characteristics of the institution of Comptroller General of places of deprivation of liberty are:

(a) Responsibility for all places of deprivation of liberty: prisons, police and gendarmerie units, waiting zones and administrative detention premises, closed education centres, disciplinary quarters in military barracks, customs-service detention centres and hospitals containing persons detained against their will;

(b) Legally prescribed independence guaranteed by the way in which the incumbent is appointed, his terms of reference, conditions governing the exercise of his functions and his legal immunity;

(c) Freedom to recruit inspectors and other personnel and to manage his budget;

(d) Direct referral by any "any natural or legal person seeking to ensure respect for fundamental rights" and the possibility of taking up an issue on his own initiative;

(e) Authority to "visit at any time, on the territory of the Republic, any place where persons are deprived of their liberty by decision of a public authority";

(f) Possibility of referring a case to the Public Prosecutor and the authorities vested with disciplinary powers;

(g) Publication of inspection visits;

(h) Cooperation with the relevant international bodies.

108. By decree of 13 June 2008 of the Council of Ministers, M. Jean-Pierre Delarue, State Counsellor, was appointed Comptroller General of places of deprivation of liberty. In accordance with the provisions of the law of 30 October 2007, his appointment was approved by the legal commissions of the General Assembly and the Senate. The Government will take the opportunity provided by the oral presentation of this report to offer a preliminary activity report on this institution.

XII. Reply to the Committee's recommendations in paragraph 19 of its concluding observations

109. Solitary confinement is ordered by the relevant prison authority, initially for a period of three months (prison governor, interregional director, central administration, depending on the length of confinement). It is a means of segregating a prisoner from the rest of the prison population on grounds of the prisoner's own security or that of the establishment. Apart from this security requirement, the decision to place someone in solitary confinement is such as to have the least possible effect on the detention regime of the person concerned. Thus, every segregated individual, including persons considered dangerous, continues to have access to cultural and sporting activities, which are organized within the solitary confinement areas.

110. The procedure governing placement in solitary confinement has been modified by two decrees of 21 March 2006. This reform remedied the shortcomings of the old procedure, which was little explicated in the relevant provisions at the time and which led to certain disparities in local practice. It has moreover provided a better guarantee of rights and greater legal certainty for prisoners.

111. Prisoners can now be assisted or represented by a lawyer or an official representative, and have the right to learn the content of their files before any decision is taken by the prison administration on placement in, or extension of, solitary confinement.

112. The role of law officers in following up on segregation procedures has been strengthened. As a result, any decision to segregate a prisoner must immediately be communicated to the judge responsible for the enforcement of sentences, in the case of a convicted person, or the law officer seized of the case file, in the case of a person in pretrial detention. The opinion of these law officers is sought prior to any measure being taken to extend the measure concerned.

113. As for the maximum duration of administrative segregation, no strict limits have been laid down, given the special profile of some prisoners who it may be difficult, if not impossible, to keep in ordinary detention. On the other hand, the circular of 9 May 2006 on placement in segregation states that a period of segregation may not be extended beyond one year, unless no other solution has been found to enable the prisoner to benefit from the regular system of detention. Furthermore, article D.283-1 of the new Code of Criminal Procedure prohibits the extension of the measure for longer than two years, unless segregation is the only means of guaranteeing the security of persons or the institution. Periods prior to segregation are now factored into the calculation of the maximum duration of segregation.

114. In the framework of reform of the segregation procedure, training was organized for regional directors and prison governors, as the authorities competent to decide, in conjunction with the Minister of Justice, on the segregation of a prisoner. Their attention was drawn, inter alia, to the fact that, since a segregation measure makes conditions of detention worse, every effort must be made to find alternative solutions that safeguard the security of persons and the institution. They were also asked to be especially vigilant concerning the potential physical and psychological consequences for a prisoner of a protracted period of segregation.

115. The authority of line management in deciding on placement in and extension of segregation has moreover been strengthened. An effort has also been made to systematize proposals for transfers of convicted and segregated prisoners, at their request, with a view to their placement in ordinary detention in another institution.

116. Since the passing of the Act of 19 February 2007 on the reform of legal protection and its implementing decree of 26 July 2007, prisoners have been able to apply for legal aid to have their lawyer's costs paid by the State. Like all administrative decisions providing grounds for complaint, decisions on solitary confinement, disciplinary measures, withholding of correspondence, etc., can be appealed before the administrative courts. The detainee can request legal assistance in lodging such appeals.

117. It is to be noted that efforts to promote greater awareness on the part of all those in authority when deciding on segregation measures, together with stricter supervision of the procedure, have significantly reduced the number of detainees held in solitary confinement. In this way, on 1 February 2008, only 393 out of 62,094 prison detainees were held in segregation units, including 246 at their own request. For over a year, only 33 detainees have been placed in solitary confinement by order of the administration. By way of comparison, as of 1 January 2005, there were 602 detainees held in segregation, including 141 for over a year.

118. In terms of statistics, there has been a reduction in the number of detainees held in solitary confinement, from 602 on 1 January 2005 to 414 on 1 November 2007 and to 399 on 1 January 2008, i.e. a fall of 23 per cent in two years (2006–2008). Persons segregated in this way represent only 0.65 per cent of the total number of detainees in 2008. For over a year, the number of detainees held in solitary confinement represents 0.11 per cent of the total number of detainees in 2008.

Date	*Prison population (by number of detainees)*	*In solitary confinement (by number of detainees)*	*In solitary confinement as a proportion of the prison population as a whole*	*In solitary confinement for over a year (by number of detainees)*	*In solitary confinement for over a year as a proportion of the prison population as a whole*	*Segregated by decision of the judiciary (by number of detainees)*
01/01/2005	58 231	602	1.03 %	141	0.24 %	n.d.
01/01/2006	58 344	517	0.88 %	134	0.23 %	10
01/01/2007	58 402	377	0.66 %	96	0.16 %	19
01/01/2008	61 076	399	0.65 %	68	0.11 %	40

Sources: Monthly statistics of the prisoner and detainee population. National table of prisoners held in solitary confinement.

XIII. Reply to the Committee's recommendations in paragraph 20 of its concluding observations

119. Judicial enquiries are led by the Public Prosecutor, who also verifies that they are legal and that all necessary enquiries have been carried out in order to arrive at the truth. Once an inquiry is closed, the public prosecutor determines whether prosecution is appropriate under article 40 of the Code of Criminal Procedure.

120. It does not seem appropriate to call into question this general principle of French criminal procedure, including in relation to acts of torture, which helps to ensure that the judicial process is adapted to individual cases, always provided that discretionary prosecution does not prejudice the interests of the victim and offers the necessary guarantees with respect to the standard of justice. The Government does not see any objective grounds for thinking that the perpetrators of acts of torture may have escaped prosecution because of the existence of the system of discretionary prosecution.

121. On the contrary, this principle does not affect the right of victims to take legal action; pursuant to article 40-3 of the Code of Criminal Procedure, they may lodge an appeal with the competent chief public prosecutor concerning a decision to take no further action on a complaint. They can also institute proceedings themselves by filing for damages in a civil case with the senior investigating judge.

122. Finally, the status of the members of the Public Prosecutor's Office, who are judges and not civil servants, is a guarantee of objectivity in the way they exercise their powers.

123. Moreover, when civil servants, in particular police officers or gendarmes, commit acts that constitute criminal offences or, at the very least, breaches of professional ethics, the judicial or administrative authority can refer the matter for investigation to the inspectorate of the national police and gendarmerie. Under article 15-2 of the Code of Criminal Procedure, the General Inspectorate of Judicial Services may also participate in the said enquiries when the conduct of an officer or agent gives rise to a complaint.

XIV. Reply to the Committee's recommendations in paragraph 21 of its concluding observations

124. Combating police violence is a priority concern. The French authorities are engaged in preventing unlawful violence through appropriate training and in punishing it when it is seen to occur.

125. Generally speaking, the sentences passed on police officers found guilty of violence cannot be seen as disproportionate to the accusations, and the suspended sentences sometimes imposed by the criminal courts are explained by the fact that, since they are subject simultaneously to disciplinary sanctions, which may even involve dismissal, the officers concerned are almost always first offenders who benefit from the suspended sentences usually applied to this category.

126. For example, out of the 3,228 disciplinary measures taken against police officers in 2006, 114 (3.5 per cent) were related to proven assaults, of which 8 led to dismissal or the equivalent. In the same year, the Office of the Inspector General of the National Police dealt with 1,510 cases (a reduction of 3.6 per cent compared with 2005), including 639 acts of violence. Over 85 per cent of these concerned minor violence. These figures should be set against the 4 million police interventions carried out every year (not including maintenance of public order and border control operations).

127. Alongside disciplinary provisions, the French authorities are continuing to develop measures to prevent torture and ill-treatment.

128. Firstly, the principles embodied in the National Police Force Code of Ethics of 16 March 1986 are emphasized throughout police training; and the provisions of the Convention, it may be noted, are taken into account in that context.

129. The principles underlying the Code of Ethics are reflected in the general rules and regulations of the National Police of 6 June 2006. Among these principles, compliance with the rule that police action should be proportionate to the situation with which the officer has to contend is promoted at all levels of initial and in-service training, from both the legal and practical standpoints (use of firearms, professional intervention techniques). Systematic emphasis is placed on the protection due to any person apprehended and/or placed under police responsibility.

130. The National Police Master Plan 2008–2012 similarly provides for updated training in professional intervention techniques, incorporating the above principles. This plan also places the emphasis on a culture of exemplariness. In this way, the Office of the Inspector

General of the National Police (IGPN) and the National Police training directorate have jointly selected for the purpose of police training, from the files chosen by the National Commission on Security Ethics (CNDS), those that best illustrate 22 typical situations with which police officers are most frequently confronted in practice. These examples are used to analyse everyday experience and to identify errors or malfunctions that have occurred, particularly during questioning. The aim is to draw the practical lessons from real-life situations with a view to anticipation and prevention.

131. Secondly, instruction on the exercise of hierarchical authority, adopted on 28 July 2006, emphasizes the need for personal commitment and the assumption of responsibility at all levels.

132. Furthermore, the operational presence of superintendants and police officers has been strengthened in the Paris region and the major urban centres of France so as to improve the leadership and guidance given to personnel on the ground and ensure closer staff supervision.

133. Finally, a system piloted by the IGPN has been introduced to carry out impromptu checks in police departments. These checks are designed to assess the reception given to complainants and to verify the conditions in which persons are held.

134. Concerning the outcome of prosecutions initiated by the French courts, it is to be noted that there were 76 convictions for acts of violence committed by persons in a position of public authority in 2006, as compared with 57 in 2005. There were no convictions for acts of a criminal nature, which could be seen as the result of the preventive measures undertaken.

135. In 2006, 123 offences resulting in convictions for acts of violence committed by persons in a position of public authority were registered in the national criminal records, compared with 98 in 2005. There were no convictions for criminal acts.

136. In 2006, as regards criminal offences, convictions can be broken down in terms of the total loss of work time occasioned by deliberate violence:

- Twelve instances of total incapacity for work lasting more than eight days. The sentences imposed mostly involved unconditional prison terms or suspended sentences. The average length of unconditional imprisonment was five months.
- Fifty-four instances of total incapacity for work lasting less than eight days. In 59 per cent of the cases, the punishment handed down was a suspended prison sentence. A fine of 500 euros was imposed in one case.
- Fifty-seven instances involved no incapacity. In these cases too, the most common punishment (53 per cent of cases) was unconditional imprisonment or a suspended prison sentence. The average length of sentence was 3.7 months. In a more limited number of cases, the court imposed unconditional fines averaging 733 euros.

XV. Reply to the Committee's recommendations in paragraph 22 of its concluding observations

137. The National Commission on Security Ethics (CNDS) is an independent administrative authority created by the Act of 6 June 2000, with responsibility for ensuring that persons providing security services in the French Republic observe professional ethical standards.

138. Pursuant to article 4 of this Act, "any person who has been a victim of, or a witness to, events that they consider to constitute a breach of rules of ethics" can lodge an

individual complaint with a deputy or senator asking for the case to be brought to the attention of the CNDS. The deputy or senator forwards the complaint to the Commission when "he considers that it comes within the remit of that body and merits its intervention".

139. In addition, the Prime Minister, the Ombudsman of the Republic, the President of the High Authority to Combat Discrimination and Promote Equality (HALDE), the Children's Ombudsman, the Comptroller General of Prisons, and members of Parliament can refer the matter to the CNDS on their own initiative.

140. This system for complaining to the CNDS exists alongside the right of anyone claiming to be the victim of ill-treatment to lodge a complaint with the courts or to protest to the administrative authorities.

141. It should also be noted that article A-40 of the Code of Criminal Procedure provides for the possibility of prisoners communicating directly with the President of the CNDS by sealed letter.

142. In these circumstances, irrespective of the provisions of the Act of 6 June 2000 establishing the CNDS, everyone has a right of direct appeal in keeping with article 13 of the Convention.

143. Between 1 February and 31 December 2007, the CNDS dealt with 117 complaints submitted in the course of 2005, 2006 and 2007. Of these 117 cases, 73 concerned the National Police, 21 the National Gendarmerie and 14 the prison administration. They gave rise to 86 opinions (50 accompanied by recommendations) and 31 inadmissibility decisions (dismissal, beyond the legal deadline, not within the Commission's remit).

144. The CNDS concluded that there had been no breach of ethics in 42 of the 86 cases on which it had given its opinion. In five cases, it transmitted its opinion to the Office of the Public Prosecutor.

145. It should be added that the Act of 30 October 2007, supplemented by the decree of 12 March 2008, established the function of Comptroller General of places of deprivation of liberty pursuant to the Optional Protocol to the Convention against Torture. This authority, whose task is "to monitor the conditions of admission and transfer of persons deprived of liberty in order to ensure that their fundamental rights are respected", may receive referrals from "any natural or legal person seeking to ensure respect for fundamental rights" with regard to acts or situations that may come within its mandate.

XVI. Reply to the Committee's recommendation in paragraph 23 of its concluding observations

146. With regard to the implementation of the Convention in the overseas departments and collectivities, attention should be drawn to the institutional framework overseas.

147. The French Constitution of 4 October 1958 establishes the indivisibility of the Republic. It recognizes one single French nationality, to which rights are attached. There is no legal distinction between nationals of metropolitan and overseas France. The latter, who possess French nationality, enjoy the right to vote in all elections, are represented in Parliament and are free to move and reside anywhere on French territory.

148. The Constitution distinguishes between:

(a) The overseas departments and regions referred to in article 73 (Guadeloupe, French Guiana, Martinique and Réunion) forming part of the system of legislative assimilation, within which national laws and regulations are automatically applicable but may be adapted in light of the special characteristics of the communities concerned. Such

adaptations may be requested by Parliament, the Government or by the collectivities if they are empowered to do so. The overseas departments and regions may also draw up regulations on certain questions in the legislative domain, to the exclusion of certain sovereign matters (justice, public freedoms, etc.);

(b) The overseas collectivities referred to in article 74 (Mayotte, St Pierre and Miquelon, French Polynesia, Wallis and Futuna Islands), whose status takes account of their specific interests within the Republic and affords them varying degrees of autonomy. An institutional act defines the distribution of powers between the State and the collectivity. The latter's institutions may establish regulations, including those coming within the legislative sphere, within the powers conferred on them. Some of these collectivities are governed by the principle of "legislative specificity", according to which laws and regulations are only applicable to them where expressly so provided;

(c) New Caledonia (Title XIII of the Constitution), which is in a special category and is also governed by the principle of legislative specificity.

149. The Constitution also permits, with the consent of the electorate, a change of status from overseas department or region to overseas collectivity. On 7 December 2003, voters in the communes of St-Barthélemy and St-Martin in this way voted in favour of separation from Guadeloupe, the two communes being established as overseas collectivities on 15 July 2007.

150. The Government stresses that in the areas with which the Committee against Torture is concerned, which are essentially sovereign domains, France applies a uniform legal system, which is applied by State public services throughout the territory of the Republic.

151. As to the overseas applicability of the Convention, international conventions are as a general rule automatically applicable to overseas departments and regions and to overseas collectivities, except where express provisions of non-applicability are contained in the instrument itself. On 14 May 1993, the Council of State ruled that an international convention promulgated in metropolitan France was automatically applicable overseas and required no additional formalities, provided it did not contain a clause expressly excluding such applicability.

152. In the absence of any specific reservations in that regard, the Convention, which was ratified by France on 18 February 1986, is automatically applicable in all French overseas departments and collectivities.

153. In response to the Committee's observations concerning a lack of information on the implementation of the Convention in the overseas departments and collectivities, the Government wishes to provide the following data concerning overseas detention facilities.

Situation of prisons overseas

154. In July 2007, 96.8 per cent of the 4,379 detainees in the overseas departments and collectivities were men. The 80 minors among them represented 1.8 per cent of the prison population.

155. The percentage of remand prisoners showed a slight downward trend, standing at 29 per cent of detainees as of 1 July 2007 (compared with 29.2 on 1 January 2006 and 29.8 on 1 January 2005). On the same date, the average rate of occupancy in all overseas departments combined stood at 138 per cent, compared with 123 per cent in 2006 and 127 per cent in 2005. This figure was higher than that for France as a whole, i.e. 121.7 per cent.

156. Although all prisons have seen a rise in the detainee population, some have reached alarming levels, such as the St-Denis remand facility in Réunion, where the occupancy rate has attained 216 per cent.

157. The following table shows the occupancy rate for each of the 14 detention facilities in the French overseas departments and collectivities.

Prison population in overseas departments (as of 1 July 2007)						
	Type of facility	*Name of facility*	*Standard occupancy*	*Number of detainees*	*Occupancy rate*	*Reference rate 2006*
Guadeloupe	Prison	Baie-Mahault	504	563	112%	106.9%
	Remand centre	Basse-Terre	130	219	168%	156.2%
Martinique	Prison	Ducos	490	737	150%	140.2%
Réunion	Prison,	Le Port,	667	735	110%	96.4%
	Remand centre	St-Denis,	123	266	216%	152.8%
	Remand centre	St-Pierre	121	214	177%	134.7%
French Guiana	Prison	Remire-Montjoly	469	733	156%	139.4%
Subtotal			**2 504**	**3 467**	**138%**	**123%**
Prison population in overseas collectivities (as of 1 July 2007)						
French Polynesia	Prison	Faa'a-Nuutania,	139	379	273%	155.9%
	Remand centre	Taiohae	5	5	100%	100%
	Remand centre	Uturoa	20	5	25%	75%
New Caledonia	Prison	Nouméa	192	362	189%	159.9%
Wallis and Futuna Islands*	Remand centre	Mata-Utu	3	0	0%	66.7%
Mayotte	Remand centre	Majicavo	90	155	172%	148.9%
St Pierre and Miquelon	Remand centre		8	6	75%	50%
Total			**2 961**	**4 379**	**148%**	

* The territory does not have a prison. The detention facilities are located in one of the buildings of the Mata-Utu gendarmerie and consist of three individual cells for periods of imprisonment of not more than four months. Detainees sentenced to imprisonment for longer periods are transferred to the Nouméa prison, as are those who cannot be cared for locally or whose situation is judged unsuited to the local facilities. As of 1 July 2007, this facility had no prisoners.

158. Construction programmes currently under way are designed to put an end to this situation of prison overcrowding as soon as possible.

159. The State has been endeavouring for a number of years to increase prison capacity in the overseas departments and collectivities. To that end, Act No. 2002-1138 of 9 September 2002 (organization and planning of the justice system) provided for the creation of 1,600 places overseas with a view to replacing the most dilapidated facilities and increasing the intake capacity of several other facilities. This is the setting for the construction projects reviewed below.

160. The extension of the Ducros prison in Martinique, scheduled for completion in late 2006, came into service in July 2007. Since that date, 80 additional places have been

available to the prison administration, making it possible to reduce the occupancy rate in this facility.

161. The New Caledonian prison service was placed under the authority of the State by means of Act No. 88-82 of 22 January 1988 (New Caledonia) and has remained under its jurisdiction since that time. This measure, running counter to the evolving status of this territory, reflected the wish to pursue a comprehensive juridical policy bringing the prison administration within the remit of the State with regard to criminal law and criminal procedure.

162. In New Caledonia, the master restructuring plan provides for major extension and renovation works. Several projects are currently under way. An initial project has involved the construction of a 15-person unit for juveniles.

163. Although the escape of three prisoners on 16 April 2007 (since recaptured) is a reminder of the dilapidated state of the New Caledonia prison, which is located on the site of a nineteenth-century penal colony, the prison complex, extending over 20 hectares, offers the possibility for numerous improvements. Two blocks have been renovated: the women's remand prison in 2004 and the prison kitchen in 2002. The juvenile wing (18 places) is under construction at a cost of 1.62 million euros and is scheduled for completion in the third quarter of 2008.

164. Other second-stage works are under way: renewal of the primary electrical network (450,000 euros) begun in June 2007; repairs to the secondary electrical network; and the construction of new administrative premises (90,000 euros). These works have been temporarily suspended to allow for security work following the escapes.

165. In addition, two new building operations are scheduled for completion in 2008:

(a) The extension by 78 places of the Remire-Montjoly prison in French Guiana. Following a delay caused by an unsuccessful call for tender in 2006, construction work began in March 2007 and is scheduled to be completed in the first half of 2008;

(b) The construction of the Domenjod prison in Réunion. This new facility, with a capacity of 570 places, will include separate blocks for men, women, juveniles and new arrivals, and a semi-open detention centre. Construction began on 10 May 2006, and the facility is expected to be brought into service in September 2008. It will in this way help to relieve the overcrowding at the St-Pierre and St-Denis remand prisons.

166. Other projects are expected to take shape soon, such as the creation of additional places at the Faa'a prison in French Polynesia. Following an on-site visit by a group of experts in the third quarter of 2005, the Minister of Justice decided that the expansion of the Faa'a prison would be carried out on the facility's existing site, on one of the lots that the Government of French Polynesia had agreed in July 2006 to make available to the State.

167. A pre-release centre, capable of accommodating 32 inmates, is due to open in late 2008.

168. In Mayotte, the master plan for the restructuring of the Majivaco prison provides for 25 additional places, to be financed under the State-Mayotte planning contract (2000–2004), and the creation of 125 additional places on land allotted to the prison, to be financed under the Act on the organization and planning of the justice system.

169. Other projects are envisaged in the longer term, including in the period leading up to 2011–2012:

(a) In Guadeloupe, the construction of a remand prison in Gourbeyre with a capacity of 340 places, to replace the Basse-Terre remand facility. Feasibility and financial impact studies have been under way since last year. The prison administration also plans to

build a unit to accommodate 60 prisoners serving short-term sentences on the site of the new prison so as to bring the total capacity of the project to 400 places;

(b) In French Guiana, the addition of 150 places at the Remire-Montjoly prison complex;

(c) In Martinique, the construction in the medium term of 100 to 150 additional places at the Ducos centre. A preliminary study is expected to confirm the feasibility of building a unit to accommodate 60 prisoners serving short-term sentences;

(d) In New Caledonia, studies are taking place for the construction of a pre-release centre for 80 inmates, with a scheduled delivery date of 2011;

(e) In French Polynesia, plans to extend capacity by 100 places are in their initial stages, with a view to delivery in mid-2011;

(f) The creation of some 110 additional places in Mayotte on the site of the remand facility, which is due to become a prison.

170. With regard to the Committee's question concerning the implementation of the Convention in territories outside the jurisdiction of the State party where its armed forces are deployed, the Government wishes to provide the following information.

171. Generally speaking, military regulations prohibit the use of torture. Article L 4122-2 of the Defence Code, deriving from the Act of 24 March 2005 establishing the general military regulations, states that: "military personnel must obey the orders of their superior officers and are responsible for executing the missions entrusted to them. However, they may not be ordered to perform and may not perform acts that are contrary to the law, the customs of war or international conventions".

Article D 4122-8 of the same code supplements this provision by stating that "soldiers in combat shall respect and treat humanely all persons protected by international conventions and their property ... Soldiers in combat shall collect, protect and care for the wounded, ill and shipwrecked without discrimination of any kind on the basis of race, sex, religion, nationality, ideology or ethnicity".

For its part, article D 4122-9 states that "it is prohibited to issue a no-survivors order or to threaten the enemy with such an order ... It is prohibited to torture or to inflict inhuman or degrading treatment ...".

172. Apart from having their attention drawn to this legal framework, French military personnel awaiting deployment are reminded of these regulations as part of their preparation. They also receive oral instructions in that regard in the theatre of operations, in particular through the presence of a legal adviser alongside the troop commander. These regulations are also printed on the military identity card distributed to each soldier on arrival.

173. Statutory obligations may be backed up by battlefield measures specific to particular situations.

(a) In its relations with countries to which French forces have been deployed, France attaches particular importance, in the context of the missions entrusted to it, to ensuring respect for human dignity and international human rights standards;

(b) France considers this to be particularly relevant to its actions in Kosovo, where it maintains a security presence under Security Council resolution 1244 (1999), under the terms of an agreement concluded between NATO and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

174. Soldiers taking part in foreign military operations remain subject to French criminal law, which punishes acts of torture.

175. Article 113-6 of the Criminal Code stipulates that "French criminal law shall be applicable to any serious offence that is committed by a French national outside the territory of the Republic ..." This includes French military personnel deployed in a foreign country.

176. Under article 222-1 of the same Code, torture and acts of barbarity constitute an offence punishable by 15 years' criminal imprisonment. In addition, the commission of such acts by a person vested with public authority is considered to be an aggravating circumstance. In such cases, the offence is punishable by 20 years' criminal imprisonment, as prescribed by article 222-8, number 7, of the Criminal Code.

177. Criminal offences committed by military personnel on active duty in foreign countries are reported by military officials of the national gendarmerie in charge of the military police, under the authority and control of the prosecutor at the Military Court of Paris (article L 211-1 of the Code of Military Justice).

178. Measures are also taken to ensure that military personnel subject to legal proceedings are not themselves subjected to ill-treatment. In view of the geographical isolation involved in detachment to a foreign country, article 212-221 of the Code of Military Justice provides for the designation, at the site of each foreign military operation, of a number of military defence counsels. One of these volunteers, chosen by the soldier facing prosecution, is given the brief — much like professional lawyers on French territory — of ensuring that the rights of defence are safeguarded. The presence of the military defence counsel also plays a part in preventing any ill-treatment.

XVII. Reply to the Committee's request for disaggregated data (CAT/C/FRA/CO/3, para. 24)

179. The Committee asked to receive data, disaggregated by age, sex and ethnicity, on:

(a) The number of asylum applications registered;

(b) The number of applications accepted;

(c) The number of applicants whose application for asylum was accepted on the grounds that they had been tortured or might be tortured if returned to their country of origin;

(d) The number of cases of refusal of entry at the border (*refoulement*) or expulsion;

(e) The number of recorded complaints containing allegations of torture or cruel, inhuman or degrading treatment.

180. By way of introduction, the Government wishes to refer to the general framework for the collection of data on ethnicity.

181. Article 8 of Act. No. 78-17 of 6 January 1978 concerning information technology, files and liberties prohibits the collection or processing of personal data that directly or indirectly reveals racial or ethnic origins. However, this prohibition is not absolute since this same article entitles the National Commission for Information Technology and Civil Liberties (CNIL) to authorize certain categories of processing where this is justified by the public interest.

182. A distinction should be made between two cases:

(a) Research statistics involving sample-based surveys carried out anonymously for general information purposes. These statistics utilize data linked to people's origins as a source of items of information such as parents' nationality and place of birth or language spoken in childhood. In this type of study, the CNIL bases its authorization on the criterion of public interest in the knowledge in question, the relevance of the data to the survey's objective, the consent of those surveyed, and the confidentiality of the replies.

(b) Management files (for example, the personnel files of a company or government department). Given the permanent and comprehensive nature of these files relating to named persons, current legislation does not permit them to include information on national origins. The CNIL has always considered that public and private employers should refrain from including in their human resources records data indicating racial or ethnic origins in view of the sensitivity of such information and the absence, at the national level, of a standard classification for ethnic and racial origins. It is for the legislature alone to decide on the establishment of such a classification.

183. When reviewing the Immigration Control Act, the Constitutional Council stated, in its decision of 15 November 2007, that "while the processing necessary in order to carry out studies to measure the diversity of the origins of persons, discrimination and integration may cover objective data, it may not, without disregarding the principle embodied in article 1 of the Constitution, be based on ethnic origin or race" (para. 29).

184. In response to the Committee's request for statistics on asylum applications (registered and accepted, and the grounds for doing so), the following tables (derived from the activity report of the French Office for the Protection of Refugees and Stateless Persons (OFPRA)[1]) are intended to meet the Committee's request. The Government wishes however to point out that the risk of being subjected to torture is covered under the Geneva Convention relating to the Status of Refugees (by definition coming before the so-called "subsidiary" protection) insofar as it corresponds to one of the bases of the Convention. The risk of being subjected to torture is covered, from this standpoint, in the great majority (92 per cent) of cases.

[1] http://www.ofpra.gouv.fr/documents/Rapport_OFPRA_2007_BD.pdf.

Applications for asylum, reviews and decisions adopted, by nationality – 2007

	Applications to OFPRA					*Decisions by OFPRA (excluding A minors)*				*Total admissions (excluding A minors)*		
Continent	***Total applications (excluding A minors)***	*Initial applications*	*Reviews*	*Applications – A Minors*	***Overall total***	***Total***	*Acceptances (including SP)*	*Rejections*	*% Accepted*	*Acceptances following AN (including SP)*	***Total acceptances (RC + AN + SP)***	***Total SP***
Europe	**11 237**	9 229	2 008	3 131	**14 368**	**10 697**	716	9 981	6.7%	2 446	**3 162**	**232**
Asia	**7 226**	5 335	1 891	544	**7 770**	**7 109**	859	6 250	12.1%	1 066	**1 925**	**130**
Africa	**10 045**	8 223	1 822	1 784	**11 829**	**9 856**	1 620	8 236	16.4%	1 577	**3 197**	**219**
Americas	**1 228**	816	412	124	**1 352**	**1 448**	155	1 333	10.4%	291	**446**	**125**
Stateless	**201**	201			**201**	**173**	51	122	29.5%		**51**	
Total	**29 937**	**23 804**	**6 133**	**5 583**	**35 520**	**29 323**	**3 401**	**25 922**	**11.6%**	**5 380**	**8 781**	**706**

A minors = accompanying minors;
RC = refugee certificate;
SP = admissions to subsidiary protection;
RJ = rejections;
AN = acceptances following annulment by Refugee Appeals Commission (CRR);
Acceptances = RC + SP;
OFPRA acceptance rate % = RC + SP;
Total OFPRA decisions % = RC + SP + RJ.

Data on nationalities accounting for less than five initial applications, or for less than five recognized refugees in the year in question, remain confidential for reasons of personal security and may not be disseminated without the prior agreement of OFPRA.

	Applications to OFPRA					*Decisions by OFPRA (excluding A minors)*				*Total admissions (excluding A minors)*		
Europe	***Total applications (excluding A minors)***	*Initial applications*	*Reviews*	*Applications – A Minors*	***Overall total***	***Total***	*Acceptances (including SP)*	*Rejections*	*% Accepted*	*Acceptances following AN (including SP)*	***Total acceptances (RC + AN + SP)***	***Total SP***
Albania	**214**	166	48	32	**246**	**202**	13	189	6.4%	56	**69**	**36**
Armenia	**1 718**	1 495	223	434	**2 152**	**1 660**	53	1 607	3.2%	232	**285**	**41**
Azerbaijan	**458**	388	70	185	**643**	**501**	80	421	16.0%	173	**253**	**2**
Belarus	**112**	87	25	9	**121**	**114**	5	109	4.4%	39	**44**	
Bosnia and Herzegovina	**192**	112	80	68	**260**	**182**	14	168	7.7%	180	**194**	**4**
Bulgaria	**15**	15		8	**23**						**<5**	
Croatia	**10**	7	3		**10**						**<5**	
Former Yugoslav Republic of Macedonia	**100**	80	20	34	**134**	**103**		103		25	**25**	**3**
Georgia	**290**	153	137	23	**313**	**316**	26	290	8.2%	114	**140**	**25**
Moldova	**300**	269	31	13	**313**	**336**	1	335	0.3%	30	**31**	**3**
Montenegro	**41**	41		13	**54**						**<5**	
Romania	**44**	41	3	20	**64**	**42**		42		5	**5**	
Russian Federation	**2 247**	2 001	246	1 264	**3 511**	**1 679**	302	1 377	18.0%	502	**804**	**48**
Serbia	**2 524**	2 250	274	818	**3 342**	**2 535**	64	2 471	2.5%	577	**641**	**48**
Slovakia	**8**	8		6	**14**						**<5**	
Turkey	**2 858**	2 039	819	195	**3 053**	**2 851**	149	2 702	5.2%	476	**625**	**12**
Ukraine	**93**	65	28	8	**101**	**98**	7	91	7.1%	25	**32**	**4**
Other countries – Europe	**13**	12	1	1	**14**	**78**	2	76		12	**14**	**6**
Total	**11 237**	**9 229**	**2 008**	**3 131**	**14 368**	**10 697**	**716**	**9 981**	**6.7%**	**2 446**	**3 162**	**232**

	Applications to OFPRA					*Decisions by OFPRA (excluding A minors)*				*Total admissions (excluding A minors)*		
Americas	***Total applications (excluding A minors)***	*Initial applications*	*Reviews*	*Applications – A Minors*	***Overall total***	***Total***	*Acceptances (including SP)*	*Rejections*	*% Accepted*	*Acceptances following AN (including SP)*	***Total acceptances (RC + AN + SP)***	***Total SP***
Bolivia	**18**	18		4	**22**	**13**	3	10	23.1%	4	**7**	
Brazil	**14**	14		1	**15**						**<5**	
Colombia	**68**	65	3	14	**82**	**113**	29	84	25.7%	22	**51**	**10**
Cuba	**22**	21	1	2	**24**	**26**	5	21	19.2%	6	**11**	
Dominican Republic	**12**	11	1		**12**	**10**		10				
Haiti	**991**	588	403	89	**1 080**	**1 216**	114	1 102	9.4%	241	**355**	**108**
Peru	**63**	63		6	**69**	**60**	1	59	1.7%	12	**13**	**4**
USA	**9**	9		1	**10**	**8**		8				
Venezuela	**7**	7		3	**10**						**<5**	
Other countries – Americas	**24**	20	4	4	**28**	**42**	3	39	7.1%	6	**9**	**3**
Total	**1 228**	**816**	**412**	**124**	**1 352**	**1 488**	**155**	**1 333**	**10.4%**	**291**	**446**	**125**

	Applications to OFPRA					*Decisions by OFPRA (excluding A minors)*				*Total admissions (excluding A minors)*		
Asia	***Total applications (excluding A minors)***	*Initial applications*	*Reviews*	*Applications – A Minors*	***Overall total***	***Total***	*Acceptances (including SP)*	*Rejections*	*% Accepted*	*Acceptances following AN (including SP)*	***Total acceptances (RC + AN + SP)***	***Total SP***
Afghanistan	**178**	161	17	23	**201**	**119**	37	82	31.1%	25	**62**	**3**
Bangladesh	**1 352**	923	429	37	**1 389**	**1 085**	35	1 050	3.2%	204	**239**	**7**
Bhutan	**16**	15	1	1	**17**						**<5**	
Cambodia	**35**	30	5	7	**42**	**33**	3	30	9.1%	5	**8**	**4**
China	**1 303**	1 262	41	24	**1 327**	**1 472**	71	1 401	4.8%	13	**84**	**2**
India	**68**	55	13	8	**76**	**67**	1	66	1.5%	7	**8**	
Iran	**146**	132	14	15	**161**	**120**	31	89	25.8%	38	**69**	**11**

	Applications to OFPRA					*Decisions by OFPRA (excluding A minors)*				*Total admissions (excluding A minors)*		
Asia	***Total applications (excluding A minors)***	*Initial applications*	*Reviews*	*Applications – A Minors*	***Overall total***	***Total***	*Acceptances (including SP)*	*Rejections*	*% Accepted*	*Acceptances following AN (including SP)*	***Total acceptances (RC + AN + SP)***	***Total SP***
Iraq	**155**	125	30	19	**174**	**145**	70	75	48.3%	52	**122**	**38**
Kazakhstan	**45**	32	13	14	**59**	**36**		36		27	**27**	**8**
Kyrgyzstan	**42**	26	16	8	**50**	**44**	3	41	6.8%	16	**19**	**6**
Lebanon	**42**	39	3	9	**51**						**<5**	
Mongolia	**106**	85	21	12	**118**	**109**	6	103	5.5%	13	**19**	**4**
Myanmar	**27**	20	7		**27**	**26**	4	22	15.4%	6	**10**	
Nepal	**23**	22	1	2	**25**						**<5**	
Pakistan	**363**	324	39	19	**382**	**400**	15	385	3.8%	30	**45**	**4**
Palestinian Authority	**56**	49	7	5	**61**	**56**	6	50	10.7%	6	**12**	
Philippines	**5**	5			**5**						**<5**	
Sri Lanka	**3 057**	1 845	1 212	314	**3 371**	**3 177**	538	2 639	16.9%	592	**1 130**	**34**
Syrian Arab Republic	**33**	30	3	15	**48**	**22**	3	19	13.6%	9	**12**	**3**
Tajikistan	**5**	5			**5**	**3**		3				
Turkmenistan	**5**	5			**5**						**<5**	
Uzbekistan	**29**	17	12	7	**36**	**29**	2	27	6.9%	9	**11**	**3**
Viet Nam	**23**	23		3	**26**						**<5**	
Other countries – Asia	**112**	105	7	2	**114**	**166**	34	132	20.5%	14	**48**	**3**
Total	**7 226**	**5 335**	**1 891**	**544**	**7 770**	**7 109**	**859**	**6 250**	**12.1**	**1 066**	**1 925**	**130**

	Applications to OFPRA					*Decisions by OFPRA (excluding A minors)*				*Total admissions (excluding A minors)*		
Africa	***Total applications (excluding A minors)***	*Initial applications*	*Reviews*	*Applications – A Minors*	***Overall total***	***Total***	*Acceptances (including SP)*	*Rejections*	*% Accepted*	*Acceptances following AN (including SP)*	***Total acceptances (RC + AN + SP)***	***Total SP***
Algeria	949	865	84	102	**1 051**	**1 032**	59	973	5.7%	129	**188**	**72**
Angola	482	376	106	119	**601**	**481**	35	446	7.3%	118	**153**	**7**
Benin	7	7			**7**						**<5**	
Burkina Faso	14	14		3	**17**	**14**	3	11	21.4%	2	**5**	**1**
Burundi	31	26	5	8	**39**	**25**	8	17	32.0%	15	**23**	**1**
Cameroon	203	180	23	20	**223**	**186**	20	166	10.8%	49	**69**	**13**
Central African Republic	192	177	15	32	**224**	**175**	22	153	12.6%	16	**38**	**1**
Chad	160	131	29	34	**194**	**144**	22	122	15.3%	48	**70**	**3**
Comoros	92	55	37	8	**100**	**68**	2	66	2.9%	17	**19**	**1**
Congo	926	827	99	74	**1 000**	**826**	65	761	7.9%	105	**170**	**7**
Côte d'Ivoire	619	560	59	72	**691**	**648**	106	542	16.4%	87	**193**	**4**
Democratic Republic of the Congo	2 191	1 802	389	352	**2 543**	**2 086**	212	1 874	10.2%	312	**524**	**35**
Djibouti	7	7		4	**11**						**<5**	
Egypt	34	32	2	8	**42**	**30**	8	22	26.7%	1	**9**	
Eritrea	78	77	1	14	**92**	**67**	50	17	74.6%	8	**58**	**2**
Ethiopia	47	44	3	4	**51**	**53**	30	23	56.6%	24	**54**	**1**
Gabon	10	10			**10**	**12**	3	9	25.0%	3	**6**	**2**
Gambia	43	37	6	3	**46**	**27**		27				
Ghana	19	17	2	1	**20**						**<5**	
Guinea	1 181	787	394	194	**1 375**	**1 124**	278	846	24.7%	234	**512**	**26**
Guinea-Bissau	80	74	6	9	**89**	**71**	7	64	9.9%	3	**10**	
Kenya	8	7	1		**8**						**<5**	
Liberia	23	17	6		**23**	**19**	2	17	10.5%	7	**9**	**2**
Madagascar	40	32	8	4	**44**	**40**	7	33	17.5%	22	**29**	**4**

	Applications to OFPRA					*Decisions by OFPRA (excluding A minors)*				*Total admissions (excluding A minors)*		
Africa	***Total applications (excluding A minors)***	*Initial applications*	*Reviews*	*Applications – A Minors*	***Overall total***	***Total***	*Acceptances (including SP)*	*Rejections*	*% Accepted*	*Acceptances following AN (including SP)*	***Total acceptances (RC + AN + SP)***	***Total SP***
Mali	315	282	33	325	**640**	**264**	207	57	78.4%	10	**217**	**3**
Mauritania	596	320	276	112	**708**	**672**	56	616	8.3%	104	**160**	**4**
Morocco	47	46	1	4	**51**	**40**	2	38	5.0%	6	**8**	**1**
Niger	14	12	2	3	**17**	**7**	2	5	28.6%	3	**5**	
Nigeria	518	404	114	42	**560**	**521**	17	504	3.3%	45	**62**	**14**
Rwanda	319	293	26	113	**432**	**251**	144	107	57.4%	59	**203**	**1**
Senegal	50	38	12	24	**74**	**49**	8	41	16.3%	4	**12**	**1**
Sierra Leone	107	70	37	17	**124**	**111**	19	92	17.1%	12	**31**	**1**
Somalia	43	37	6	14	**57**	**64**	31	33	48.4%	18	**49**	**2**
South Africa	5	5			**5**	**7**		7				
The Sudan	387	374	13	30	**417**	**482**	160	322	33.2%	57	**217**	**3**
Togo	142	121	21	18	**160**	**140**	14	126	10.0%	45	**59**	**2**
Tunisia	29	27	2	10	**39**	**32**	9	23	28.1%	1	**10**	**1**
Uganda	11	9	2		**11**						**<5**	
Zimbabwe	8	8		7	**15**	**9**	5	4	55.6%	1	**6**	
Other countries – Africa	18	16	2		**18**	**79**	7	72		12	**19**	**4**
Total	**10 045**	**8 223**	**1 822**	**1 784**	**11 829**	**9 856**	**1 620**	**8 236**	**16.4%**	**1 577**	**3 197**	**219**

Asylum-seekers, 2007

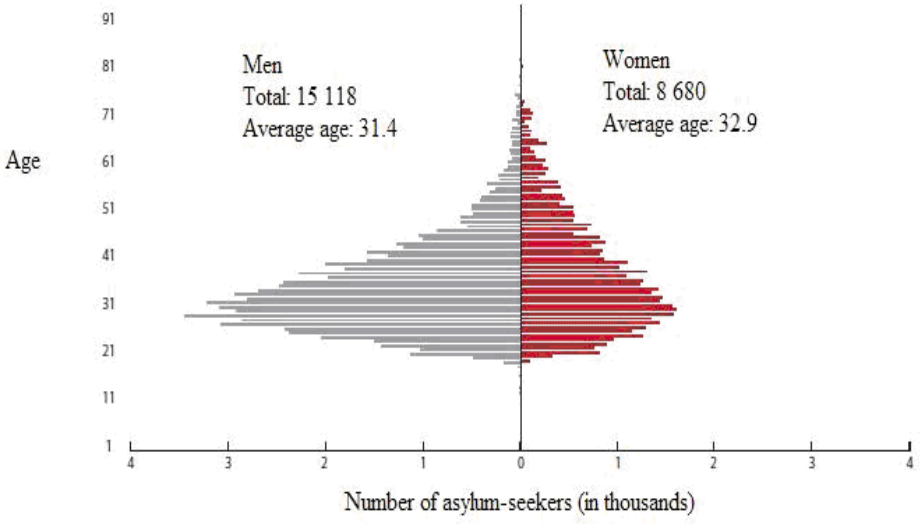
By sex, age and family situation

Initial applications (excluding accompanying minors)

	Number	*%*	*Average age*
Women	8 682	36.5%	32.9
Men	15 122	63.5%	31.4
Total	**23 804**	**100.0%**	

	Women	*%*	*Men*	*%*	***Total***	*%*
Single	3 472	40.0%	8 513	56.3%	**11 985**	50.3%
Married	3 123	36.0%	4 302	28.4%	**7 425**	31.2%
Living together	1 107	12.8%	1 760	11.6%	**2 867**	12.0%
Divorced	298	3.4%	243	1.6%	**541**	2.3%
Widowed	540	6.2%	100	0.7%	**640**	2.7%
Separated	101	1.2%	72	0.5%	**173**	0.7%
Undeclared	41	0.5%	132	0.9%	**173**	0.7%
Total	**8 682**	**100.0%**	**15 122**	**100.0%**	**23 804**	**100.0%**

Asylum-seekers, 2007



Total number of asylum-seekers: 23,798
Data missing: 6

Initial asylum applications, 2007

By nationality, sex and age
(excluding accompanying minors)

	Total		
Continent	*Number*	*Average age*	*% Women*
Europe	9 229	32.1	37%
Asia	5 335	32.9	31%
Africa	8 223	30.7	39%
Americas	816	33.5	36%
Stateless	201	34.6	31%
Total	**23 804**	**31.0**	**36%**

	Total		
Europe	*Number*	*Average age*	*% Women*
Albania	166	32.0	35%
Armenia	1 495	36.2	47%
Azerbaijan	388	37.5	60%
Belarus	87	32.3	37%
Bosnia and Herzegovina	112	33.7	45%
Bulgaria	15	35.2	47%
Croatia	7	32.5	43%
Former Yugoslav Republic of Macedonia	80	33.3	35%
Georgia	153	33.3	35%
Moldova	269	33.0	38%
Montenegro	41	33.7	44%
Romania	41	30.6	49%
Russian Federation	2 001	32.9	48%
Serbia	2 250	31.4	29%
Slovakia	8	37.9	50%
Turkey	2 039	28.3	22%
Ukraine	65	34.8	29%
Other countries – Europe	12		42%
Total	**9 229**	**32.1**	**37%**

	Total		
Asia	*Number*	*Average age*	*% Women*
Afghanistan	161	25.6	10%
Bangladesh	923	30.0	6%
Bhutan	15	26.0	7%
Cambodia	30	39.6	70%
China	1 262	36.7	59%
India	55	32.6	20%
Iran	132	31.8	29%
Iraq	125	33.3	27%
Kazakhstan	32	33.4	59%
Kyrgyzstan	26	30.6	58%
Lebanon	39	33.6	26%
Mongolia	85	29.8	51%
Myanmar	20	34.9	15%
Nepal	22	29.9	23%
Pakistan	324	31.0	7%
Palestinian Authority	49	30.6	6%
Philippines	5	32.1	80%
Sri Lanka	1 845	32.9	30%
Syrian Arab Republic	30	35.9	37%
Tajikistan	5	29.1	
Turkmenistan	5	29.5	20%
Uzbekistan	17	40.1	53%
Viet Nam	23	29.8	43
Other countries – Asia	105		48%
Total	**5 335**	**32.9**	**31%**

	Total		
Americas	*Number*	*Average age*	*% Women*
Bolivia	18	33.2	33%
Brazil	14	31.5	57%
Colombia	65	33.2	37%
Cuba	21	37.5	29%
Dominican Republic	11	30.1	55%
Haiti	588	33.0	35%
Peru	63	34.4	41%
USA	9	44.3	44%
Venezuela	7	40.5	14%

	Total		
Americas	*Number*	*Average age*	*% Women*
Other counties – Americas	20		30%
Total	**816**	**33.5**	**36%**

	Total		
Africa	*Number*	*Average age*	*% Women*
Algeria	865	35.9	16%
Angola	376	29.9	45%
Benin	7	32.1	43%
Burkina Faso	14	32.9	36%
Burundi	26	34.1	35%
Cameroon	180	32.0	46%
Central African Republic	177	29.8	42%
Chad	131	28.2	31%
Comoros	55	31.1	16%
Congo	827	31.3	44%
Côte d'Ivoire	560	31.0	29%
Democratic Republic of the Congo	1 802	30.5	51%
Djibouti	7	43.2	57%
Egypt	32	31.7	19%
Eritrea	77	28.4	36%
Ethiopia	44	25.6	75%
Gabon	10	32.2	60%
Gambia	37	28.4	14%
Ghana	17	31.3	35%
Guinea	787	27.9	37%
Guinea-Bissau	74	29.5	27%
Kenya	7	23.8	57%
Liberia	17	28.7	47%
Madagascar	32	29.6	44%
Mali	282	31.1	76%
Mauritania	320	31.8	23%
Morocco	46	30.9	22%
Niger	12	37.8	0%
Nigeria	404	28.4	52%
Rwanda	293	29.8	50%
Senegal	38	30.9	47%
Sierra Leone	70	26.7	51%

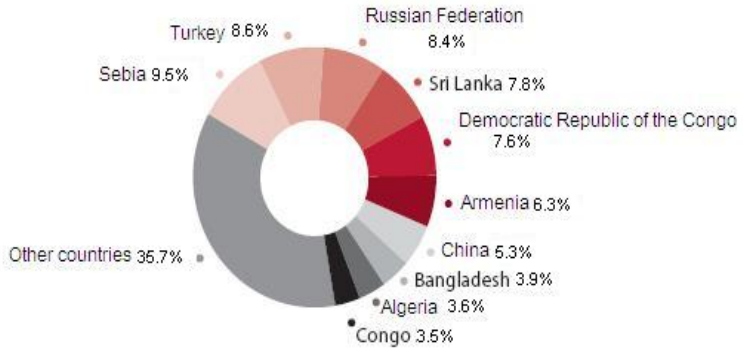
	Total		
Africa	*Number*	*Average age*	*% Women*
Somalia	37	28.9	32%
South Africa	5	25.9	20%
The Sudan	374	28.7	10%
Togo	121	32.4	31%
Tunisia	27	32.7	26%
Uganda	9	31.6	33%
Zimbabwe	8	30.6	75%
Other countries – Africa	16		25%
Total	**8 223**	**30.7**	**39%**

Main countries of origin of asylum-seekers, 2006–2007

Initial applications (excluding accompanying minors and reviews)

	2007	*2006*	*% change 2007/2006*
Serbia	2 250	2 182	3.1%
Turkey	2 039	2 570	-20.7%
Russian Federation	2 001	1 550	29.0%
Sri Lanka	1 845	1 933	-7.4%
Democratic Republic of the Congo	1 802	1 958	-8.0%
Armenia	1 495	1 232	21.3%
China	1 262	1 200	5.2%
Bangladesh	923	581	58.9%
Algeria	865	998	-13.3%
Congo	827	769	7.5%
Other countries	8 495	11 236	-24.4%
Total	**23 804**	**26 269**	**-9.4%**

Main countries of origin of asylum-seekers, 2007



Applications for asylum and reviews, 2007

Under priority procedure

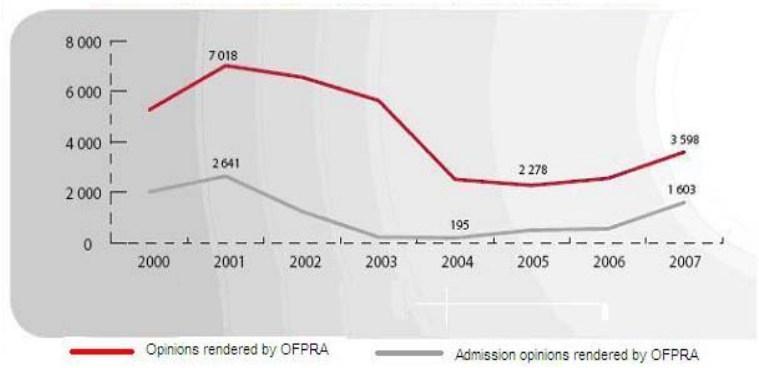
(Excluding accompanying minors)

	Initial applications			*Reviews*					
Continent	*PP*	*In detention*	*% PP/AA*	*PPR*	*In detention*	*% PPR*	***Total***	*In detention*	***% PP/Total asylum-seekers***
Europe	1 364	377	15%	1 561	231	78%	**2 925**	608	**26%**
Asia	603	237	11%	1 637	107	87%	**2 240**	344	**31%**
Africa	1 187	409	14%	1 387	212	76%	**2 574**	621	**26%**
Americas	294	184	36%	343	107	83%	**637**	291	**52%**
Total	**3 448**	**1 207**	**14.5%**	**4 928**	**657**	**80.4%**	**8 376**	**1 864**	**28.0%**

PP = Priority procedure for initial application;
PP/AA = Priority procedure for asylum applications;
PPR = Priority procedure for review.

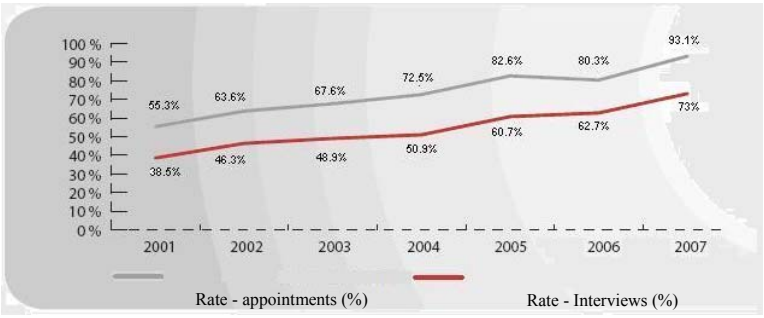
Asylum applications at the border

Opinions rendered at the border since 2000*



* Initially attached to the Ministry for Foreign Affairs (MFA), the Division responsible for asylum at the border was transferred to the French Office for the Protection of Refugees and Stateless Persons (OFPRA) in July 2004.

Annual trends in the rates of appointments and interviews in relation to the decisions since 2001

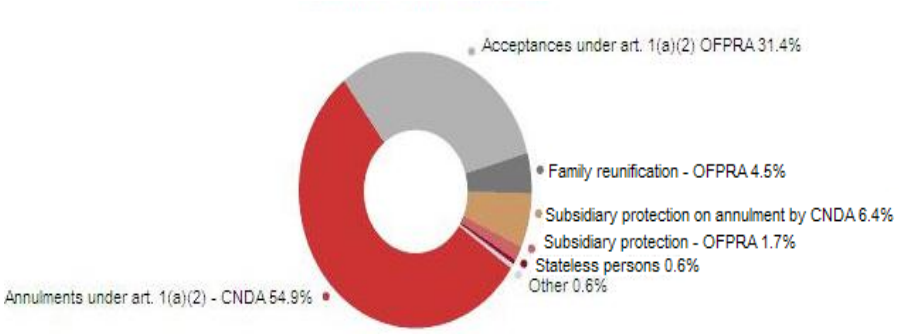


Admissions in 2007, by sex and ground of application

(Excluding accompanying minors)

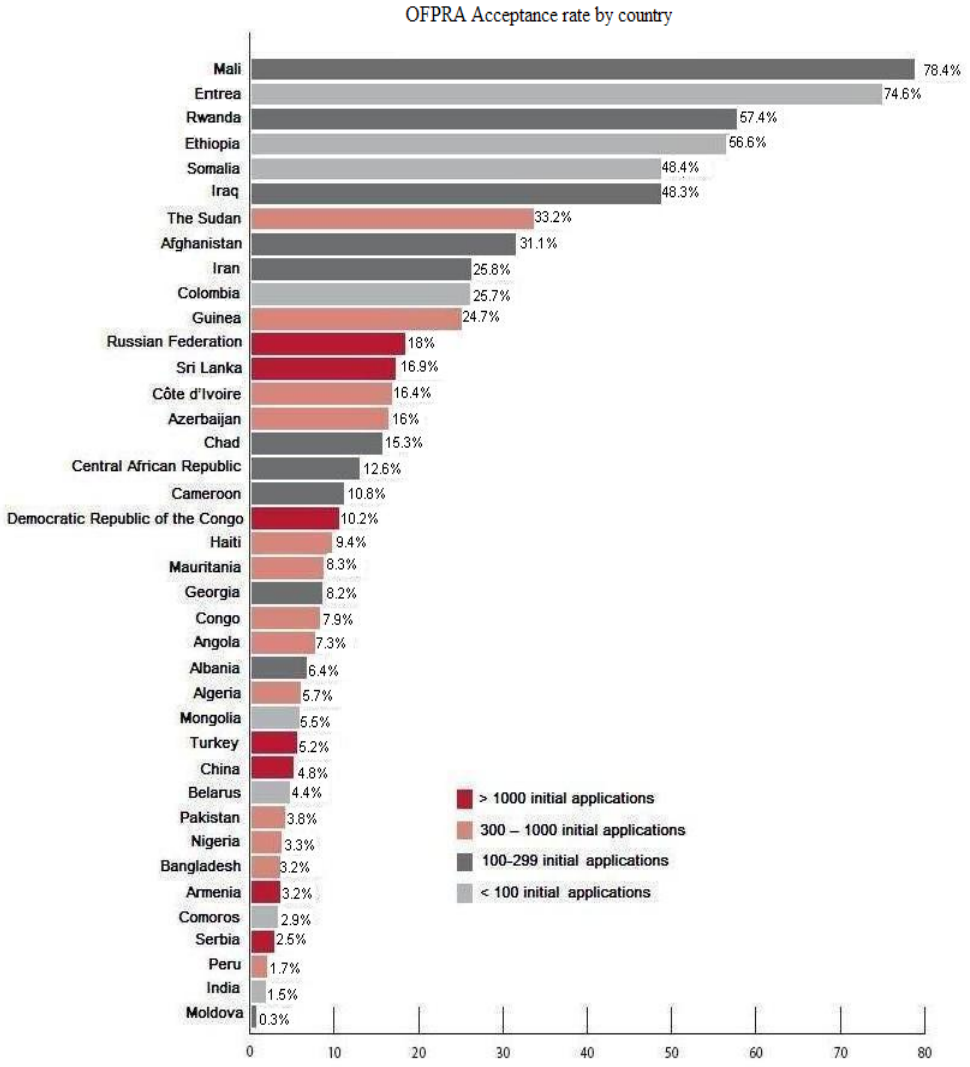
	Women	*% Women*	*Men*	***Total admissions***	***% Total admissions***
Admissions under the Geneva Convention relating to the Status of Refugees	**3 360**	**42%**	**4 664**	**8 024**	**91.4%**
Admissions by OFPRA	**1 496**	**47%**	**1 708**	**3 204**	**36.5%**
Under article 1 (a) (2) of the Geneva Convention	1 210	44%	1 544	**2 754**	**31.4%**
Under UNHCR's mandate	3	75%	1	**4**	**0.05%**
Action in furtherance of freedom	1	100%		**1**	**0.0%**
"Family reunification" admissions	265	66%	134	**399**	**4.5%**
Children	40	54%	34	**74**	**0.8%**
Spouses	209	70%	88	**297**	**3.4%**
Under guardianship	16	57%	12	**28**	**0.3%**
Transfers to France	15	42%	21	**36**	**0.4%**
Grounds not known	2	20%	8	**10**	**0.1%**
Admissions following annulment by the Refugee Appeals Board (CNDA)	**1 864**	**39%**	**2 956**	**4 820**	**54.9%**
Admissions - stateless persons	**21**	**41%**	**30**	**51**	**0.6%**
Under New York Protocol	21	41%	30	**51**	**0.6%**
Annulment Administrative Tribunal				**0**	
Admissions - subsidiary protection	**394**	**56%**	**312**	**706**	**8.0%**
Under OFPRA	82	56%	64	**146**	**1.7%**
Refugee Appeals Board (CNDA)	312	56%	248	**560**	**6.4%**
Total admissions 2007	**3 775**	**43%**	**5 006**	**8 781**	**100%**
Under OFPRA	1 599	47%	1 802	**3 401**	**38.7%**
Refugee Appeals Board (CNDA)	2 176	40%	3 204	**5 380**	**61.3%**

Grounds for admission 2007



OFPRA acceptance rate in 2007, for some of the main nationalities

(Excluding accompanying minors)

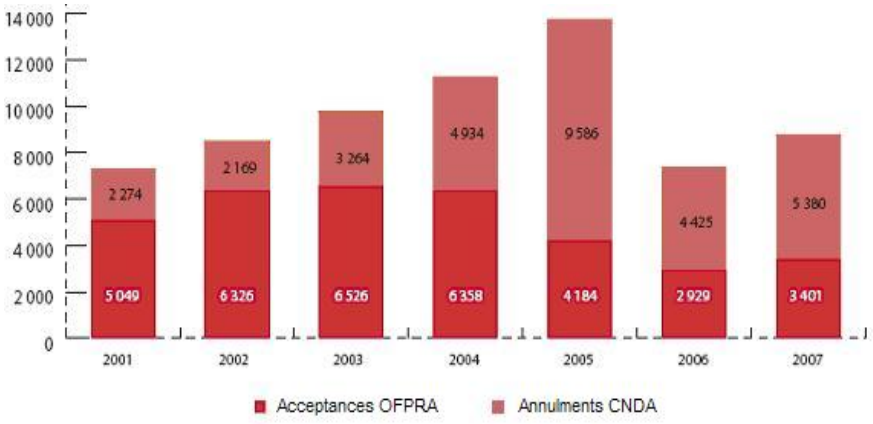


Estimated number of persons placed under OFPRA protection as of 31 December 2007

(Excluding accompanying minors)

	*Statutory refugees**		*Under subsidiary protection*		*Total persons under protection*	
Continent	***Total***	*% Women*	***Total***	*% Women*	***Total***	*% Women*
Europe	**36 522**	43%	**656**	55%	**37 178**	43%
Asia	**54 289**	43%	**327**	43%	**54 616**	43%
Africa	**33 630**	38%	**585**	64%	**34 215**	39%
Americas	**3 701**	41%	**268**	51%	**3 969**	42%
Stateless or nationality unknown	**948**	33%			**948**	33%
Total	**129 090**	**41%**	**1 836**	**55%**	**130 926**	**42%**

Annual admissions to refugee status by the French Office for the Protection of Refugees and Stateless Persons (OFPRA) and the Refugee Appeals Board (CNDA)



185. In response to the Committee's request for information on the number of cases of persons denied entry (*refoulement*) or expelled, the Government wishes to provide the following information.

(a) Decisions to refuse entry (*refoulements*) (metropolitan France):

2002 26,787

2003 20,278

2004 20,893

2005 23,542

2006 21,235

(b) Deportation orders executed, including escort to the border by prefectoral order (*arrêtés préfectoraux de reconduite à la frontière – APRF*) for unauthorized residence, voluntary departures, expulsions for reasons of public order, judicial bans from French territory and readmissions.

2002	10 067
2003	11 692
2004	15 660
2005	19 841
2006	23,831, of which 16,616 were APRF, 1,419 voluntary departures, 223 expulsions, 1,892 orders banning from French territory and 3,681 readmissions

186. The Government informs the Committee that statistics for 2007 are in the process of being compiled. They will be transmitted to the Committee as soon as they have been made public.

187. The Committee asks the Government about the number of complaints registered involving allegations of torture or cruel, inhuman or degrading treatment.

188. The statistics of the Ministry of Justice are derived from the final judgements entered in the judicial record. Since 2000, there have been no convictions for acts of torture or acts of barbarity committed by a person vested with public authority. Convictions for acts of wilful violence committed by persons vested with public authority have already been indicated in paragraph 126.

189. As is the case with all offences, these statistical data may be disaggregated by age, sex and nationality of the offender.

190. For example, with regard to wilful violence committed by persons vested with public authority, 2.6 per cent of the 123 offences in 2006 that led to convictions involved women offenders compared with 97.4 per cent of men offenders.

191. The breakdown of convictions by age bracket is as follows:

- 31.6 per cent: persons aged 30 to 40
- 25 per cent: persons under 25
- 18.4 per cent: persons aged 40 to 50
- 17 per cent: persons aged 25 to 30
- 8 per cent: persons aged 50 to 60

192. A new statistical tool is currently being developed by the Ministry of Justice. Known as “Cassiopée”, this criminal justice system software is scheduled to be made available in 2008/2009 (initially) to the 175 courts of major jurisdiction. It will be accompanied by a data collation tool linked to an “Infocentre”, which promises to open up new areas of exploration for criminal statistics. “Cassiopée” is an integrated software application that encompasses nearly the whole of the criminal justice activity of the courts of major jurisdiction. It replaces older, disparate software applications that covered only limited parts of the criminal justice chain.

193. This new software programme is expected to facilitate the development of a sophisticated statistical tool capable of tabulating case files, decisions on courses of action, individuals and convictions, as well as to facilitate cross-referencing, in particular, by type of litigation.

194. At the same time, thought is being given to the possibility of unifying data relating to incidents reported by the police and gendarmerie services and that relating to the responses of the criminal justice system. This reflects the difficulties encountered in this area, with particular reference to the fact that:

(a) The system for classifying offences varies, especially since the classification of offences may change in the course of judicial proceedings;

(b) Apart from the records of the police and gendarmerie services, the courts can draw on direct complaints from victims, accusations and the records of other relevant government bodies and authorities;

(c) The scope of these statistics differs: "police" statistics deal only with serious crimes and other major offences, whereas "justice" statistics encompass class-five minor offences and traffic violations.

195. The Cassiopée tool is designed to harmonize all these data. In this regard, an interministerial working group composed of representatives of the police, justice ministry and gendarmerie has been meeting regularly since 15 November 2006 with a view to ensuring the overall coherence of exchanges between the different existing applications.