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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Sixteenth periodic reports of States parties due in 2002

Addendum

FRANCE* ** ***

[15 March 2004]

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* This document contains the fifteenth and sixteenth periodic reports of France, due on 27 August 2000 and 2002 respectively, submitted in one document. For the twelfth, thirteenth and fourteenth periodic reports, submitted in one document and the summary records of the meetings at which the Committee considered those reports, see documents CERD/C/337/Add.5, CERD/C/SR.1014, 1015, 1373 and 1374.

** Annexes to the report may be consulted in the secretariat's files.

*** In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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I. GENERAL

For general background, please refer to the French core document (HRI/CORE/1/Add.17/Rev.1 of 7 October 1996), which forms an integral part of France's reports as a State party to the various United Nations treaty bodies.

A. Policy pursued since 1998

1. Prevention and suppression of racism and xenophobia

1. Since 1998, the French Government has continued its policy of eliminating racial discrimination, in accordance with the commitments it entered into on ratifying the Convention. This policy has given rise, at both the national and the European level, to initiatives intended to reinforce preventive mechanisms and suppress racism and xenophobia.

(a) Measures at national level

2. The new Penal Code entered into force on 1 March 1994 (Acts of 22 July 1992, 16 December 1992 and 19 July 1993). It brings together a large number of provisions directed against racism and xenophobia. The circulation of racist and xenophobic messages is punishable under the Act of 29 July 1881 on press freedom.

3. French anti-racist legislation as a whole will be discussed in the commentary on articles 2 and 4 of the Convention, however, it should be pointed out here that the Ministry of Justice has published a "Guide to anti-racist legislation" for specialists in the field and the wider public. This document, which is highly accessible and much acclaimed by human rights organizations, was published in January 1995 and updated in December 1997 for the European Year against Racism (see below, paras. 7-16). The guide was again updated in late 2002 to take account of changes in anti-racism legislation and provide a reference to existing means of combating racism and xenophobia. The updated version has not yet appeared in hard copy, but is available on the Ministry of Justice's public Internet site.

4. The guide (see annexes) in its present form consists of some 30 pages, divided into the following sections:

- The development of national and international law;
- A general description of French legislation;
- A definition of prohibited acts and behaviour, with a table summarizing violations, punishments and penalties;
- The rights of victims and courses of action available, including action by associations.

5. Another guide, perhaps a dozen pages long, is currently being prepared for use by public prosecutor's offices in particular. It covers the latest developments in legislation and case law and provides some figures on action taken by the Department of Criminal Affairs and Pardons to combat racism and anti-Semitism.

6. To improve the flow of information to and from public prosecutors' offices on offences committed in France, a bulletin board was installed on the Department of Criminal Affairs and Pardons Internet site in April 2003.

7. A number of circulars on criminal policy as regards racist and anti-Semitic offences have been sent to public prosecutors' offices.

8. The inter-ministerial circular dated 28 November 2001 on action to combat racial discrimination was intended to reactivate the national machinery for combating discrimination by revitalizing the departmental Commissions on Access to Citizenship (CODACs), on which public prosecutors sit as vice-chairmen.

9. The circular called for, among other things, a better flow of information from the Commissions to public prosecutors' offices when reported incidents appeared to be in breach of the law, and of information back from the prosecutors' offices to the Commissions on the legal action taken in response to reports.

10. The circular also provided for greater care to be taken of, and more individual attention to be paid to, victims and others complaining of racist and discriminatory conduct.

11. Following an upsurge in anti-Semitic acts in the spring of 2002, the Minister of Justice issued two circulars on criminal policy to prosecutors' offices on 2 and 18 April 2002, calling on them to take swift and stern action as soon as the perpetrators of anti-Semitic offences were identified.

12. Another purpose of the circulars was to ensure that the Ministry was systematically notified of the most serious anti-Semitic incidents, and to encourage public prosecutors to get in touch with the victims and associations representing Jewish communities and inform them of the outcome of the investigations undertaken.

13. Another circular on these issues went out to procurators' offices on 21 March 2003 against the background of the second Gulf war, asking prosecutors to press for very stern action - in terms of both severity of penalties and imprisonment - to be taken against those responsible for anti-Semitic acts.

14. The Government submitted an extensive programme of action to a meeting of the Inter-Ministerial Integration Committee on 10 April 2003. Several of the 55 measures announced in the programme reflect a "determined commitment to oppose racism and anti-Semitism". There is a call for the establishment of an independent administrative authority to combat all discriminatory, racist and homophobic conduct. With this end in view, the national Ombudsman, Mr. Bernard Stasi, was assigned to work together with the entities and organizations concerned. All the ministries concerned, including the Ministry of Justice, are also working hard on the forthcoming (2004) establishment of this independent administrative authority.

15. The new authority will be able to respond to the demands made in European directives on action to combat discrimination, and will supplement and improve existing arrangements with the Commissions on Access to Citizenship and the 114 helpline (see below).

(b) Measures at European level

16. Council of Europe. A European Conference against Racism was held in Strasbourg in October 2000. It called for stronger action from the European Commission against Racism and Intolerance (ECRI). ECRI is responsible for examining and evaluating the legislative, political and other measures taken by States to combat racism and stimulate action at local, national and European level. It conducts detailed studies into the situation in each member State and makes recommendations; it will shortly set up a database to permit more efficient processing and use of the mass of information it has received since it was founded. The Committee of Ministers adopted a new Statute for it on 13 June 2002, confirming its role as an independent monitoring body for human rights specializing in racism- and intolerance-related issues. At the closing session of the European Conference against Racism, on 13 December 2000, the States members of the Council of Europe undertook to:

- Take further steps, having in mind in particular the general conclusions of the European Conference, to prevent and eliminate racism, racial discrimination, xenophobia, anti-Semitism and related intolerance, and to monitor and evaluate such action on a regular basis. These include:

Legal measures

- To implement fully and effectively at national level the relevant universal and European human rights instruments and to consider signing and ratifying, as soon as, and wherever, possible without reservations, those instruments for which such action has not yet been taken;

- To adopt and implement, wherever necessary, national legislation and administrative measures that expressly and specifically counter racism and prohibit racial discrimination in all spheres of public life;

- To guarantee equality to all without discrimination as to origin, by ensuring equality of opportunity;

- To assure to all victims of racism, racial discrimination, xenophobia and related intolerance adequate information, support and national legal, administrative and judicial remedies;

- To bring to justice those responsible for racist acts and the violence to which they give rise, ensuring the prohibition of racial discrimination in the enjoyment of the right to freedom of expression;

- To combat all forms of expression which incite racial hatred as well as to take action against the dissemination of such material in the media in general and on the Internet in particular;

Policy measures

- To establish national policies and action plans to combat racism, racial discrimination, xenophobia, anti-Semitism and related intolerance, including through the creation of independent specialized national institutions with competence in this field, or reinforcing such existing institutions;

- To pay specific attention to the treatment of persons belonging to vulnerable groups and to persons who suffer discrimination on multiple grounds;

- To integrate a gender perspective in policies and action to combat racism with a view to empowering women belonging to vulnerable groups to claim respect for their rights in all spheres of public and private life;

- To create conditions for the promotion and protection of the ethnic, cultural, linguistic and religious identity of persons belonging to national minorities where such minorities exist;

- To counter social exclusion and marginalization, in particular by providing equal access to education, employment and housing;

- To ensure the development of specific measures, which actively involve the host society and encourage respect for cultural diversity, to promote fair treatment for non-nationals and to facilitate their integration into social, cultural, political and economic life;

- To pay increased attention to the non-discriminatory treatment of non-nationals detained by public authorities;

- To reflect on the effective access of all members of the community, including members of vulnerable groups, to the decision-making processes in society, in particular at local level;

- To develop effective policies and implementation mechanisms and exchange good practices for the full achievement of equality for Roma/gypsies and travellers;

Educational and training measures

- To give particular attention to education and awareness-raising in all sectors of society to promote a climate of tolerance, respect for human rights and cultural diversity, including introducing and strengthening such measures among young people;

- To ensure that adequate training and awareness-raising programmes are implemented for public officials such as the police and other law enforcement officers, judges, prosecutors, personnel of the prison system and of the armed forces, customs and immigration officers as well as teachers and health and social welfare services personnel;

- To combat ethnic and religious cleansing in Europe and in other regions of the world;

- To support non-governmental organizations, strengthening the dialogue with them, with the social partners and other actors in civil society and to involve them more closely in elaborating and implementing policies and programmes designed to combat racism and xenophobia;

- To consider how best to reinforce European bodies active in combating racism, discrimination and related intolerance, in particular the European Commission against Racism and Intolerance;

- To enhance cooperation between relevant European and international institutions so as mutually to reinforce their respective action to combat racism.

17. The Council of Europe has also acquired a binding legal instrument on action to combat cybercrime: the Convention on Cybercrime, opened for signature in Budapest on 23 November 2001 (and signed by France the same day).

18. As global communication networks such as the Internet provide potent means of disseminating material with a racist or xenophobic content, it was found necessary to supplement the Convention on Cybercrime with an additional protocol making it a criminal offence to distribute and host racist messages and material on computer systems.

19. In response to a French initiative, a Committee of Experts on the Criminalization of Acts of Racist or Xenophobic Nature committed through Computer Networks was assigned to produce a draft of the protocol by the end of 2001. France's intention was to ensure that those spreading such messages could not invoke freedom of expression as a pretext for arousing hatred and imperilling public order. Work progressed rapidly, and a draft protocol was adopted unanimously by the European Committee on Criminal Problems (CDPC) at its plenary session from 17 to 21 June 2002. The protocol has two objectives: to harmonize criminal legislation against racism and xenophobia on the Internet by making racist and xenophobic acts committed by means of computer systems into criminal offences, and thereby to improve international cooperation, in particular mutual legal assistance and extradition which, in States lacking precisely defined legislation on these matters, can fall foul of the rule requiring an extraditable offence to be clearly defined as an offence in both the requesting and the extraditing State. The additional protocol will be binding. To meet their obligations under it, States parties will have to pass appropriate legislation and ensure that it is correctly applied.

20. The Convention on Cybercrime also makes provision for mutual legal assistance in matters including the storage, disclosure, interception and collection of computer data, and searches and seizures of computer data.

21. The additional protocol to the Convention on Cybercrime makes it an offence to distribute racist and xenophobic material, to threaten to commit a serious criminal offence for racist or xenophobic reasons or to level racist or xenophobic insults by means of computer systems. Article 6 of the protocol makes it an offence to deny, grossly belittle, praise or justify acts constituting genocidal crimes against humanity as defined by the International Tribunal at Nuremberg. The drafters of the protocol expanded the scope of this provision to cover genocide and crimes against humanity established by other international tribunals created pursuant to the relevant legal agreements since 1945 (the International Criminal Court, ad hoc international criminal tribunals).

22. Case law from the European Court of Human Rights concerning article 10 of the European Convention on Human Rights (freedom of expression) holds that denial or revision of "clearly established historical facts such as the Holocaust ... would appear to be disbarred by article 17[1] from the protection afforded by article 10 of the Convention" (*Lehideux et Isorni v. France*, 23 September 1998).

23. The additional protocol to the Convention on Cybercrime, concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems, was adopted by the Committee of Ministers on 7 November 2002. France signed it on 28 January 2003 and launched the ratification process. The binding legal instruments adopted or being prepared in consequence are evidence of a strong desire to combat racism and xenophobia in Europe effectively.

24. Under the influence of this collective desire, cooperation in such matters among police and legal systems within Europe should gradually increase.

25. European Union. As the result of an initiative at the sixty-third Franco-German summit in Mulhouse, 30-31 May 1994, the European Council, meeting in Corfu on 24-25 June 1994, set up a consultative commission against racism, xenophobia and intolerance, to make recommendations on the development of cooperation between the Governments and social agencies concerned.

26. The desire to shape an overall European Union strategy against racism led to the foundation of a European monitoring centre on racism and xenophobia (Council regulation dated 2 June 1997) based in Vienna, with the task of providing the Community and its member States with reliable information on racism and xenophobia so they could take appropriate measures. The principal functions of the centre are collecting and analysing information, conducting research and scientific inquiries, issuing opinions, publishing an annual report and setting up a European Racism and Xenophobia Information Network (RAXEN).

27. The European Council also adopted, on 15 July 1996, a joint action on racism and xenophobia whereby its member States committed themselves to effective judicial cooperation over violations involving incitement to discrimination, violence or racial hatred; publicly defending, for racist or xenophobic reasons, crimes against humanity and human rights violations; public denial of the crimes defined in the Charter of the International Military Tribunal at Nuremberg; public dissemination or distribution of tracts, pictures or other material,

containing expressions of racism or xenophobia; and participation in the activities of groups, organizations or associations involving discrimination, violence or racial, ethnic or religious hatred.

28. States were called upon to take appropriate measures to seize and confiscate items purveying racist propaganda, respond appropriately to requests for judicial cooperation, and simplify exchanges of information among authorities in different countries, etc. The European Council now has to evaluate how the member States have complied with these commitments.

29. Mention should also be made of a resolution proclaiming 1997 the "European Year against Racism", adopted on 23 July 1996 by the European Council. The National Consultative Commission on Human Rights was chosen as France's national coordinating committee for the Year.

30. Two main objectives were set for the Year: communication and exchanges of experience. The communication aspect enabled each member State to organize commemorative events and information campaigns. Exchanges of experience took the form of expert seminars and lectures aimed at a broader audience. Activities were conducted for the most part by NGOs, but a number of major events involving the member States were staged during the year on topics of common interest, with more direct support from Governments.

31. Two international meetings were held in France as part of the Year: a symposium on crimes against humanity, held at the Court of Cassation on 13 June 1997, at the initiative of the National Consultative Commission on Human Rights and attended by leading figures such as Mr. Boutros Boutros-Ghali, the former Secretary-General of the United Nations; and a European seminar, held in Paris on 26 and 27 February 1998 at the initiative of the Ministry of Justice, on legal and judicial means of combating the spread of racism and xenophobia within the European Union.

32. The European Union's commitment to combat racism, racial discrimination, xenophobia and related intolerance can also be seen in EC regulations, in particular European Council directives 2000/43 of 29 June 2000, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, and 2000/78/CE of 27 November 2000, establishing a general framework for equal treatment in employment and occupation (see below for details of the incorporation of these directives into French law).

33. Directive 2000/43/CE calls, in article 13, for the establishment of an independent authority to combat all forms of discrimination and promote equal treatment for all without distinction as to race or ethnic origin.

34. The Commission has also adopted a draft outline decision on action to combat racism and xenophobia. The conclusions reached by the European Council at Tampere on 15-16 October 1999 emphasized the need to step up the campaign against racism and xenophobia.

35. Joint action by member States on legal cooperation, preventing and combating racism and xenophobia, is a means of attaining the European Union's objective of affording citizens a high level of protection in a setting of freedom, security and justice.

36. The legal device chosen for the purpose is the outline decision, which is binding on member States as regards the objective sought but leaves it to national bodies to determine the means by which to attain it. The objectives of the draft outline decision submitted by the Commission on 28 November 2001[2] are:

- To align member States' legislation by establishing a common definition of the types of racist and xenophobic conduct listed in the text of the outline decision (these include the crime of Holocaust denial) and setting effective, proportioned and deterrent criminal penalties including a minimum sentencing threshold;

- To encourage and improve legal cooperation.

37. The scope of the decision as currently defined extends in the main to three broad categories of offence:

- Public incitement to discrimination, violence or racial hatred towards persons defined by reference to their colour, race, national or ethnic origin, religion or beliefs;

- Defending crimes of genocide, crimes against humanity and war crimes as defined in articles 6, 7 and 8 of the Statute of the International Criminal Court;

- Publicly denying or grossly belittling the crimes defined in article 6 of the Charter of the International Military Tribunal annexed to the London Agreement of 8 August 1945.

38. It should be emphasized that the list of types of racist and xenophobic conduct has been enlarged to include the distribution of racist messages over the Internet, the reasoning being that "what is illegal offline should also be illegal online".

39. Arriving at common definitions and penalties for offences including Holocaust denial/negationism is a means of circumventing the need, for mutual legal assistance purposes, for an offence to be clearly defined as such under the legislation of both countries, and thus helps to improve cooperation.

40. Legal cooperation is also improved: the designation of routine contact addresses, for which provision was already made in the joint action of 1996, becomes mandatory under the draft outline decision. The contact addresses should make it easier to exchange information of value in investigations into and prosecutions of offences covered by the outline decision.

41. The European Parliament gave approval in principle to the draft outline decision and arrangements for its application, subject to a few amendments, on 4 July 2002.

42. The draft outline decision on action to combat racism and xenophobia is currently under discussion among the member countries of the European Union.

43. Lastly, a decision adopted on 13 June 2002[3] defines the European arrest warrant as "any judicial decision issued by a member State with a view to the arrest or surrender by another member State of a requested person, for the purposes of:

- Conducting a criminal prosecution;
- Executing a custodial sentence;
- Executing a detention order".

44. It is worth noting that racism and xenophobia appear among the exhaustive list[4] of types of conduct in the framework decision for which an individual can be surrendered without checking to ensure that the conduct is clearly defined as an offence in both the requesting and the surrendering State, provided that the offence is punishable in the State issuing the warrant by a custodial sentence of at least three years. Since the requirement that conduct must be criminal in both States is often an impediment to judicial cooperation within the European Union, the explicit listing of racism and xenophobia shows the importance that member States attach to the suppression of these phenomena within the Union.

45. To add emphasis to this point, cooperation among member States has recently been reinforced by the establishment within the European Union of a judicial cooperation unit, Eurojust (Council decision dated 28 February 2002).

46. Eurojust is a European Union body responsible for coordinating investigations and prosecutions involving at least two EU member States.

2. Policy on the entry, sojourn and removal of aliens

47. French immigration policy is based on two series of considerations: first, respect for fundamental human rights, especially human dignity, in keeping with France's international commitments in the field of human rights; second, a concern to prevent illegal immigration.

48. The origin of legislation governing aliens' entry into and sojourn in France is an order dating from 2 November 1945, which was amended in 1993, 1997 and 1998. It has just been revised by the Act on immigration control, alien sojourn in France and nationality passed by Parliament on 26 November 2003. The overall trend in legislation governing the rights of foreigners in France over the past 10 years or so has been set by a concern to provide more effective action against illegal immigration, rackets and disturbances of the peace, but also a stricter regard for the guarantees due to foreigners subject to removal orders and a greater concern for stability in the law governing sojourn in France.

49. Mention should be made in this regard of the influence of legal precedents set by the Constitutional Council and the Council of State on the basis of general principles of French legislation and the rights and guarantees set forth in international instruments. In a decision dated 22 January 1990 on a supplementary allocation from the National Solidarity Fund, the Council ruled that "Parliament may adopt specific arrangements for aliens provided that it respects the international commitments entered into by France and the basic freedoms and rights

of constitutional rank that all living in the territory of the Republic enjoy." In a decision dated 13 August 1993 concerning the Act on immigration control and alien entry, reception and sojourn in France, it added that "while Parliament may adopt specific arrangements for aliens, it behoves it to respect the basic freedoms and rights of constitutional rank that all living in the territory of the Republic enjoy" and that "furthermore, provided that they are stably and legally resident in French territory, aliens are entitled to social protection". As to the Council of State, a ruling dated 30 June 1989 (City of Paris, *Paris Social Assistance Office v. Monsieur Lévy*) refers to the scope of the principle that the users of a public service or beneficiaries of public assistance should be treated equally. The Paris Municipal Council was accordingly taken to task for refusing to accord parental leave to people on account of their nationality.

50. Constitutionally recognized rights and freedoms explicitly mentioned by the Council include "individual freedom and safety, including the freedom to come and go, marry and lead a normal family life". In addition, "foreigners enjoy the right to social protection provided they reside in France on a stable and regular basis". Finally, "they must be able to seek redress so as to ensure that these rights and freedoms are safeguarded".

51. The Council of State has also played an important part in affirming the right of aliens to lead a normal family life (Council of State, 26 September 1986, *Information and Support Group for Immigrant Workers*) and in recognizing the principle of the right of residence for asylum-seekers (Council of State, 13 December 1991, *Dakoury*). The right to family reunion is now enshrined in law and cannot be denied except on the limited grounds listed in the legislation. The same is true of the right of asylum.

52. The Act of 26 November 2003 amending the order dated 2 November 1945 was essentially a response to considerations of three kinds:

- Entrenching the policy of social integration by ensuring that better account is taken of the private and family lives of delinquent aliens who have particularly strong ties to France before any decision to expel them is taken, and by establishing a link between the issuance of a resident's card and integration into French society;

- Combating illegal immigration through better monitoring of aliens in France, while seeking better enforcement of expulsion measures and punishing attempts to circumvent established procedure such as marriages of convenience;

- Improving the legal safeguards available to aliens. As far as detention is concerned, for example, the maximum permitted period has been extended but aliens are being better informed of their rights and the conditions under which they can be exercised, arrangements have been made to ensure more transparency and monitoring, and a national committee has been set up to monitor detention centres and premises, seeing to it that aliens' rights are respected and that the aliens are being properly accommodated.

3. The right of asylum

53. A notable development as regards asylum policy was the passage on 10 December 2003[5] of a new law on asylum which is intended to improve the reception and care given to refugees, given the growing number of asylum-seekers.

(a) Main points of the law on the right of asylum

54. Single procedure. Henceforward OFPRA will have sole jurisdiction over asylum issues. Depending on the circumstances, it will be able to grant ordinary asylum (applying the criteria for refugee status laid down in the Geneva Convention) or subsidiary protection (which replaces territorial asylum). The Refugee Appeals Commission will deal with all asylum-related disputes.

55. Administrative arrangements. The Office remains under the purview of the Ministry of Foreign Affairs. The supervisory powers of its board of directors will be markedly extended.

56. Stronger links between the Office and the Ministry of the Interior. There are plans for an internal liaison office between the Ministry and the Office, operating under the authority of the Office Director. Its role will be to facilitate the transmission of all information of use in asylum proceedings.

57. Persecution need no longer come from the State. Once the criteria for application of the Geneva Convention are met, refugee status can now be granted even if the threat of persecution comes from a source other than a State institution or employee. This change is in keeping with the practice of France's European partners and the doctrine of the Office of the United Nations High Commissioner for Refugees.

58. Introduction of concepts already applied by France's European partners into French law.

- "Internal asylum": OFPRA will be able to deny refugee status to people who will be protected in parts of their home countries and can reasonably be sent back there. Such cases will nonetheless be examined on their merits, due consideration being given to all aspects of the applicants' personal situations.

- "Safe home countries": There will be an accelerated procedure (with a guarantee of examination on the merits in individual cases) for handling asylum applications submitted by people from countries that are assumed to be "safe", i.e. sufficiently stable, democratic and observant of human rights. The objective is to arrive at a standard list of countries presumed Europe-wide to be "safe".

59. The reform of the right to asylum took effect on 1 January 2004 (source: OFPRA report, 2002, and Ministry of Foreign Affairs).

(b) Increase in the number of asylum-seekers

60. The numbers of asylum-seekers applying to OFPRA (the French Office for the Protection of Refugees and Stateless Persons, which is responsible for applying the Geneva Convention) increased by over 138 per cent between 1997 and 2002, by 22 per cent between 2000 and 2001 and by 8 per cent between 2001 and 2002, rising from 21,416 in 1997 to 51,087 in 2002. There

has in particular been an increase in applications by asylum-seekers from Mauritania, the former Soviet Union, Turkey and the Democratic Republic of the Congo. The largest numbers of applicants are Turks, Congolese (Democratic Republic), Mauritanians, Chinese, Algerians, Malians, Congolese (Republic of), Sri Lankans, Haitians and Russians (source: OFPRA report, 2002).

61. An increasing proportion of asylum-seekers do not answer to the definition of refugee given in the Convention relating to the Status of Refugees (Geneva Convention). It is noticeable that economic migrants are resorting more and more frequently to asylum proceedings. Refugee status was granted in only 16.9 per cent of cases in 2002, as against 18 per cent in 2001. This overall figure, however, covers a wide variety of situations: refugee status was granted to far more than 50 per cent of applicants of certain nationalities (Rwandan, 85.4 per cent; Ethiopian, 84.6 per cent; former Yugoslav, 80 per cent) and to a tiny proportion of others (Turkish, 11.1 per cent; Algerian, 6.4 per cent; Chinese, 1 per cent; Malian, 0.4 per cent) (source: OFPRA report, 2002, and observations from the Ministry of Foreign Affairs).

(c) Reception of asylum-seekers

62. Initial reception and guidance for asylum-seekers. France has about 15 reception and guidance facilities for asylum-seekers, which have been assigned the following objectives:

- To receive asylum-seekers on first arrival and produce an initial, overall assessment of their situations;
- To offer an appropriate service in the form of directly delivered support;
- To direct asylum-seekers towards useful institutions or services.

63. These objectives in essence entail:

- Initial social assessment;
- Assignment of an address;
- Provision of basic information on the steps involved in applying for asylum, administrative assistance in putting the file together, and an indication of the related rights and obligations;
- Establishment of entitlement to universal health insurance coverage;
- Help in looking for housing.

64. Housing for asylum-seekers. To meet its obligations under the Geneva Convention, France has made specific arrangements to house asylum-seekers and refugees which, in the case of asylum-seekers, consist of:

- Asylum-seeker reception centres, providing housing and social and administrative support for asylum-seekers engaged in proceedings before OFPRA or the Refugee

Appeals Commission - the average length of stay in such centres in 2002 was 570 days;

- Transit centres, pending assignment to a reception centre or other arrangements;

- A centre specifically for unaccompanied minor asylum-seekers, in Boissy-Saint-Léger.

Growth in housing capacity for asylum-seekers at French reception facilities (other than the Boissy-Saint-Léger centre)

Asylum-seeker reception centres							
Capacity							
Number of centres							
Transit and initial reception centres							
Capacity							
Number of centres							
Total capacity							

65. At the same time, the Population and Migration Office has continued to finance emergency reception facilities for asylum-seekers. Many such places have been used to improve the situation in the Paris region, where the concentration of migrants makes matters difficult.

66. Cash benefits payable to applicants for ordinary asylum. The Immigrants' Aid Service (SSAE) pays a waiting allowance to asylum-seekers who have just arrived in France, and emergency assistance and social integration support to certain asylum-seekers (and statutory refugees).

67. The Immigrants' Aid Service pays a waiting allowance of €304.89 per adult and €106.71 per child under 16 to all asylum-seekers who hold at least a residence permit issued by the prefecture and an application certificate from OFPRA. This does not apply to asylum-seekers already in lodgings whose total expenses are covered by State aid or the welfare system. In total, assistance of this kind amounted to €12.1 million in 2002.

68. After a check on their social situation, asylum-seekers may also receive emergency assistance, which is also administered by the Immigrants' Aid Service and financed out of the budget of the Ministry for Social Affairs, Labour and Solidarity. Assistance of this kind amounted to €260,000 in 2002.

69. Asylum-seekers accommodated at reception centres are paid an overall welfare benefit according to a scale that takes into account their family composition and the catering facilities available at each centre.

70. Asylum-seekers not accommodated at a reception centre are entitled to a minimum subsistence allowance amounting to €9.55 per day in 2003 which also entitles them to health insurance and maternity coverage under the general social security scheme. The allowance is payable by the local unemployment insurance agencies for a maximum period of 12 months.

(d) Social policy in favour of statutory refugees

71. Economic and social rights. Once they have been granted refugee status, refugees are issued with automatically renewable residents' cards valid for 10 years.

72. The principle applied is that refugees are, where economic and social rights are concerned, assimilated to French nationals with a view to their integration into French society.

73. Where appropriate, refugees can claim a minimum subsistence benefit for one year, minimum subsistence income irrespective of their length of stay on French soil, and full benefits under the general social security scheme if they are working and being paid a wage.

74. Once their social situation has been checked, they can also claim assistance from the Immigrants' Aid Service (SSAE) Assistance and Integration Fund. Assistance of this kind amounted to €840,000 in 2002.

75. With a resident's card, a refugee is entitled to exercise a professional activity. Refugees also have access to all vocational training opportunities financed by the State and the regional councils. They may take advantage of specific training arrangements focusing on the teaching of the French language which are financed by the State and the European Social Fund. Total budget appropriations for refugee training amounted to €4.8 million in 2002.

76. Accommodation for refugees. As part of its national reception system, France has temporary accommodation centres whose function is to pave the way, by arranging jobs and housing, for refugees allowed into France under the Geneva Convention to be integrated into French society.

Available accommodation for refugees (temporary accommodation centres)

Temporary accommodation centres						
Capacity						
Number of centres						

77. The average length of stay in 2002 was 283 days.

78. Refugees have access to housing assistance under ordinary law. To make it easier for them to obtain public housing, an outline agreement between the National Low-rent Housing Union and the State was signed on 3 April 2002.

4. The right to a nationality

79. Although States parties' legislative provisions on nationality are not directly within the purview of the Convention (see art. 1, para. 2), the following general indications of recent trends in French legislation in this area may be of interest to the Committee.

80. The Act of 16 March 1998 (Act No. 98-170, published in the Official Journal on 16 and 17 March 1998) changed the rules governing indication of a desire to become French, which had been introduced by the Act of 22 July 1993 to apply to children born in France of foreign parents and having lived in France for the five years before giving such an indication. Thus it

mainly concerns acquisition of French nationality, but does contain other provisions, relating to the rules for attribution of the original nationality, proof of the original nationality and loss of nationality, among others. It entered into force on 1 September 1998. Act No. 2003-1119 of 26 November 2003 on immigration control, alien sojourn in France and nationality also amended these points.

(a) Acquisition of French nationality

81. Under article 21-7 of the Civil Code, any child born in France to foreign parents now automatically acquires French nationality on reaching majority if he/she is then resident in France and has been so continuously or continually for at least five years since the age of 11. All public agencies and services, including the courts, municipal governments and educational establishments, have been asked to spread the information, to the public at large and to individuals, about these new provisions. How they are to do so is described in Decree No. 98-719 of 20 August 1998 (Official Journal of 21 August 1998, p. 12754).

82. Article 21-8 of the Civil Code does, however, give foreign children the option of declining French nationality within the 6 months preceding or the 12 months following majority, provided - to avoid creating cases of statelessness - they can show they have the nationality of a foreign State.

83. Furthermore, minor children born in France to foreign parents may choose not to await majority before acquiring French nationality, but apply for nationality at the age of 16 under conditions laid down in new article 21-11 of the Civil Code. The parents of such a child born in France may also apply for French nationality on their child's behalf, but only when the child has reached the age of 13 and has given consent.

84. The conditions for acquiring French nationality through marriage have been amended by the Act of 26 November 2003. The period after which the foreign spouse of a French national may make a declaration of intent to acquire French nationality is now set at two years from the date of the marriage, subject to certain conditions. The requisite period of living together has been increased to three years if the alien cannot demonstrate at least one year's uninterrupted residence in France since the date of the marriage (Civil Code, art. 21-2).

85. The provisions concerning the effects of adoption on the acquisition of French nationality have also been amended (art. 21-12 of the Civil Code), as have several provisions concerning naturalization.

(b) Other main reforms to the legislation on nationality

86. Attribution of nationality of origin. Article 19-1 of the Civil Code, as amended by the Acts of 16 March 1998 and 26 November 2003, stipulates that any child born in France to foreign parents who cannot acquire the nationality of either of his parents under foreign law is French (Act of 26 November 2003). The child shall be considered never to have been French if a foreign nationality acquired or possessed by either of his parents is transmitted to him at any time during his minority (art. 13 of the Act of 16 March 1998).

87. Proof of French nationality. The first issuance of a certificate of French nationality and official documents relating to the acquisition, loss or readoption of French nationality shall be noted in the margin of the birth certificate (art. 28 of the Civil Code). The annotations may also be entered in official copies of the birth certificate or the family record booklet, at the request of the parties concerned (art. 28-1 of the Civil Code).

88. Loss of French nationality. Article 25 of the Civil Code, concerning loss of nationality, rules out loss of nationality if the result would be to leave the individual concerned stateless.

89. Other provisions. The Act of 16 March 1998 introduces a French identity document designed to facilitate proof of identity and travel abroad (exemption from visa requirements), to be issued to any minor born in France to foreign parents who themselves hold residence permits.

5. Policies to combat exclusion

90. Persistent economic and social difficulties in the 1980s led to the establishment of a wide variety of measures: for example the RMI, introduced in 1988, guaranteed everyone over the age of 25 a minimum income. For the last 15 years, however, whereas average income has increased by 33 per cent, the proportion of households living below the poverty threshold (50 per cent of average income) has remained the same, i.e. 15 per cent. For that reason, on 4 March 1988 the Government adopted a programme of action to combat exclusion, which consists of an overall policy to prevent and combat exclusion and mobilizes legislative, regulatory and financial means towards that objective (FF 51.4 billion over a three-year period, including FF 38.3 billion financed by the State). The Act of 29 July 1998 on action to combat exclusion has been supplemented by legislation concerning access to rights, improved relations between the administration and the public and the establishment of universal health insurance, and a housing law.

91. The substance of the Act, sponsored by the Ministry of Employment and Solidarity, evolved from wide-ranging cooperation among the ministries (15 or so) and associations concerned. The Act has three objectives: abandoning the welfare approach and promoting access by all to fundamental rights, using appropriate means rather than creating specific, and necessarily artificial, entitlements; preventing exclusion and addressing problems as far upstream as possible; and improving the functioning and coordination of institutions and actors, particularly in dealing with emergencies.

92. This is, indeed, what one finds in the text as presented. The 1998 Act has been supplemented by a national scheme to boost efforts to combat insecurity and exclusion (Plan national de renforcement de la lutte contre la précarité et l'exclusion, PNRLPE), which was announced in the Prime Minister's general policy statement on 3 July 2002. The scheme, drawn up after extensive consultation with associations and local governments, has won the approval of the National Poverty and Social Exclusion Policy Council (CNLE); it is intended to ensure that the rights of individuals in situations of insecurity and exclusion as set forth in the Act of 29 July 1998 really can be exercised. The scheme is being put into effect in partnership with the various ministries concerned, and will be continued through the forthcoming national

plan of action for social inclusion (Plan national d'action pour l'inclusion, PNAI), which is to be submitted to the European Union in July 2003. The three objectives are laid out in the Framework Act to combat exclusion, the application of which is monitored by the National Consultative Commission on Human Rights (CNCDH).

(a) Improving access to fundamental rights

93. Better access to civic rights. Several provisions seek to provide excluded persons with representation before the welfare agencies where decisions concerning them are taken (arts. 2, 31, 150). Others are aimed at helping people in difficulties to participate in social and political affairs: allowing job-seekers to join trade unions; assigning homeless people a national address so that they can exercise their right to vote and obtain legal aid (arts. 81 and 82). The national scheme to boost efforts to combat insecurity and exclusion also seeks to simplify relations between the administration and people in situations of insecurity and exclusion, to inform people of their rights and to avoid losses of rights that may result in social exclusion.

94. Access to employment. The chapter on access to employment is designed to help people in difficulties prepare for long-term entry into the labour market. The principal measures include:

- PARE/PAP: the Return to Employment Scheme (Plan d'aide au retour à l'emploi, PARE) has been in operation since 2001. It represents a contract between a job-seeker and his or her National Job Agency (ANPE) counsellor, under which they draw up a Personalized Action Proposal (Projet d'Action Personnalisé, PAP) - a reciprocal undertaking by the job-seeker and the Agency (initial interview, formulation of the proposal, review every six months, help in looking for a job and assistance in entering the job market);

- TRACE: the Job Access (Trajet d'accès à l'emploi) scheme, which, starting in the summer of 2003, will be the 24-month "heightened support" component of the Integration into Social Life Contract (Contrat d'insertion dans la vie sociale, CIVIS). The Integration into Social Life Contract will also include support for the creation or resumption of activity and the creation of socially useful work;

- Use of assisted contracts: employment-solidarity contracts (CESs) and consolidated employment contracts (CECs);

- Restructuring of entry-level hiring by economic sector;

- Assistance with the creation or resumption of business activity (ACCRE and EDEN schemes).

95. Right to housing. The accent here is on three aspects:

- Revision of the Act of 31 May 1990 (Besson Act) on housing for the disadvantaged (arts. 32, 36, 40);

- Incentives to increase the housing supply (arts. 51, 49, 42, 43 and 52);

- Reform of the system for assignment of subsidized housing (arts. 55 and 56).

96. Preventive measures and access to health care. Regional prevention and care programmes (programmes régionaux d'accès à la prévention et aux soins, PRAPS) have been set up to reduce inequalities in access to care and to offer preventive care for the very frail, while coordinating local agencies and decompartmentalizing health and social work professionals. Full-time health-care access services (medical and social work units intended to facilitate the provision of hospital care to the least well-off) now cover the whole of France. To ensure that everyone in difficulty really can be given proper care, mobile health-care access services will be tested in rural areas. The national scheme to boost efforts to combat insecurity and exclusion rounds out these arrangements with measures to cater for psychological disturbances among the least well-off and to bolster nutritional assistance.

97. Act No. 99-641 of 27 July 1999, which took effect on 1 January 2000, introduced universal health insurance (CMU) and complementary universal health insurance (CMUC, which covers the patient's contribution towards the cost of health care and the standard daily charge for in-patient treatment etc.). The complementary scheme extends health insurance coverage to anyone legally and steadily resident in France (for more than three months). It is available to people who are entitled to universal health insurance benefits and have resources below a fixed ceiling (€6,798 per year as of 1 July 2003). Over 1.2 million people benefited under CMU, and about 4.5 million people under the complementary scheme, in 2003.

(b) Preventing exclusion

98. Prevention is a key element of the Act, which provides for the following:

- Tightening the law on household over indebtedness (Consumer Code) arts. 86, 87 and 88, 92, 93 and 94 (introducing "civil bankruptcy" whereby debts can be cancelled under certain conditions);

- Preventing exclusion by enabling people to remain in their own homes, i.e. substituting a social work approach for law enforcement. Other measures are aimed at improving living conditions (e.g. preventing lead poisoning);

- Guaranteed minimum assistance for all: in the event of seizure of assets, for example, the Act stipulates that the resources needed for the person's recurrent expenditure must be held back, and that these cannot be lower than the monthly minimum subsistence income (RMI). Several allowances have been indexed to inflation and/or made exempt from attachment. In addition, the needy are now entitled to "community assistance" to remain connected to the water supply, energy and telephone service. Finally, municipal governments and certain approved bodies will be able to distribute personalized assistance cheques (CAPs) to supplement legal welfare;

- Access by all to education and culture (arts. 140, 142 and 143), in addition to the reintroduction of secondary school scholarships.

(c) More effective policy to combat exclusion

99. This entails:

- Updating the training arrangements for social workers;
- Reforming the social and medical institutions active in combating exclusion;
- Getting to know the population groups in difficulties and evaluating the policies intended to help them: establishing a national poverty watchdog body, with biennial reports from the Government to Parliament assessing the implementation of legislation. Special reports need to be issued in several fields, for example the situation of French nationals from abroad when faced with exclusion.

6. Housing policy

(a) More effective departmental action plans to house disadvantaged persons (PDALPDs) and housing solidarity funds (FSLs)

100. The PDALPD (departmental action plan to house disadvantaged persons) was instituted by the Act of 31 May 1990 for the purpose of giving effect to the right to housing; it is run by the State (in the person of the departmental prefect) and the local authority, the Department (represented by the President of the General Council). Its purpose is to bring together the various parties involved in giving effect to the right to housing (public housing authorities, associations) to evaluate housing requirements for disadvantaged persons, to coordinate arrangements, improve the range of housing available privately and through the public housing authorities, and mobilize such financial assistance as is available. These arrangements have been bolstered by the law against exclusion, in particular the provisions extending the terms of reference of the housing solidarity funds (FSLs) to cover all leases, sub-leases, residential homes and student lodgings.

101. Housing solidarity funds take care of rent arrears, provide financial help with obtaining and gaining access to housing, and also finance the support provided by social workers for persons and families in difficulties (housing-related social services). The financial help they provide consists of subsidies (60 per cent) and loans (40 per cent). They supported 275,000 families and individuals in difficulty in 2000, with an outlay of €220 million. They are financed by the State (39 per cent), departments (39 per cent, obligatory matching funding) and voluntary contributions (22 per cent) from other partners (public housing authorities, family allowance offices, other local authorities).

102. The Government has submitted to Parliament a bill on local responsibility which, where housing is concerned, includes a number of measures directly relating to the creation and operation of the entities mentioned above. Parliament is currently considering it. The bill calls for the decentralization and merger of the housing solidarity funds with other existing funds to meet arrears on energy (electricity), water and telephone bills. These latter funds are much smaller, providing annual support amounting to €40 million in 2000. The funds will all be

lumped together into housing solidarity funds with a single board which will assemble files just once to cover various kinds of assistance. People in difficulties will find it easier to obtain assistance, and the running costs of the single fund will be lower.

103. The single habitat fund that will supplant the current housing solidarity fund in each department will be decentralized, i.e. set up and run by the department itself, but the national rules governing its operations (response deadlines, general conditions for intervention) will continue to apply.

(b) Prevention of evictions

104. Tenants now enjoy stronger protection against eviction under articles 114 to 122 of the Act against exclusion, thanks in particular to the introduction of mandatory grace periods to allow the State and social services and various other parties to suggest and take steps to pay off rent arrears and keep tenants in their homes, avoiding the cancellation of leases.

- Public low-rental housing agencies must now allow an initial three-month grace period between mandatory notification of the board which rules on the maintenance of housing assistance and service of a summons;

- All housing agencies, whether public or private, must allow a two-month grace period between service of the summons and the date of the hearing, with the prefect of the department being notified of the summons;

- The courts have been given new powers (arts. 114 to 117), the conditions under which evictions can take place have been altered (art. 120) and departments are required to draw up eviction-avoidance charters (art. 121) in order to ensure that all parties concerned take steps to reduce the number of evictions substantially.

105. Despite improved coordination in preventive arrangements and the fact that 60 eviction-avoidance charters had been signed by 1 July 2002, eviction prevention remains an important concern to the ministries of capital works and of justice, which are working together to reduce today's still excessive (around 6,000 per year) number of evictions substantially.

(c) Public housing allocation reform

106. The assignment of a single registration number to applications for public housing as called for in the Framework Act to combat exclusion has indeed been in operation since 1 June 2001. Each applicant keeps the same number until he or she obtains housing or withdraws the application. Between 1 May 2002 and 31 May 2003 the system registered 1,996,000 applications nationwide, 1,803,000 of which were genuine after allowance for deletions and multiple applications. Altogether 17 per cent of applications came from people already accommodated in public low-rental housing.

107. The purpose of this system is to safeguard applicants' rights and improve the transparency of public housing allocation. The number is a registration number which carries no information on the nature or characteristics of the applicant and makes no mention of nationality.

108. The system also reveals abnormally long delays between submission of an application and an offer of housing from the public housing authorities. An applicant who has not received an offer of housing after an abnormally long time, as defined in each department or for different market segments within a department, can take his or her case to a mediation board established at the prefect's office pursuant to the Act against exclusion; the membership of this board includes representatives of housing integration associations who are there to uphold the interests of disadvantaged individuals and families. Sixty-nine such boards had been set up by 1 March 2003, and 21 were being set up.

109. The decentralization bill envisages changes in the housing allocation system - in particular, a move to bring allocations into line with provisions relating to housing for the disadvantaged. The right of the departmental prefect to a stock of housing for allocation (the prefectoral quota) may, under the bill, be delegated by arrangement to urban districts that have signed an agreement with the State. The mediation boards will have a greater role, with a true right to raise questions, making them a true appeal mechanism which should be of service to individuals and families who have difficulty in obtaining public housing.

(d) Foreigners living in public housing

110. The detailed statistics relating to the findings of the 1996 national housing survey forwarded in 2000 are the most recent available; work on the 2000-2001 housing survey is not yet complete. Initial results do not indicate any great change since foreign families in 2000-2001 represented 5.5 per cent of households residing in France, and occupied 11.5 per cent of public housing units. The proportion of foreign families living in public low-rental housing is thus twice as large as that of foreign families living in France.

(e) The May 2001 Anti-discrimination Research Unit (GELD) report on racial and ethnic discrimination in access to housing

111. The Anti-discrimination Research Unit (GELD) report confirms the observation that immigrants occupy a larger share of public housing than they represent of all households living in France. It suggests that immigrant households are concentrated in sensitive public-housing districts and that segregationism tends to direct them towards the least attractive areas of the public housing stock. It argues that means-testing and the problems involved in making large housing units available are the reasons for the overrepresentation of immigrant households. It also argues that allocation procedures may have contributed indirectly to the "relegation" of certain immigrant groups to the most run-down city districts. The report also points out that immigrants accounted for 23 per cent of pending applications in 1996 (200,000 out of a total of 855,000), and that the average waiting time for public housing was therefore longer for immigrant families. It further underscores that public-housing allocation procedures do not do enough to require attention to be paid to applications from groups in difficulty, and that the State and local authorities still have too few resources at their disposal (the prefectoral quota, local authorities' reservation entitlements, collective agreements with public housing authorities) to cope with applications.

112. The report also shows the knock-on effects of the principle of social mingling as laid down in laws and regulations, which may frustrate some applications from immigrant families in sensitive districts when in fact such families do not have enough opportunity to obtain the more

attractive units in the public housing stock. It offers constructive criticism of some aspects of the reform of allocation policy that has taken place under the Framework Act to combat exclusion, even though some parts of the Act had not yet fully taken effect when the report came out (among them the introduction of the single departmental number and the mediation boards).

113. The Act of 17 January 2002 concerning social modernization added to the law governing relations between landlords and tenants language affirming the ban on denial of a lease based on discrimination of any kind (origin, physical appearance, sex, actual or supposed membership of an ethnic group or nation …) and laying the onus of proof that denial was justified on the landlord. The Ministry of Capital Works has made widely available a leaflet entitled "Housing without discrimination", which is intended to facilitate matters for would-be tenants and avert the risk of discrimination.

114. The Inter-Ministerial Committee on Social Integration, meeting on 10 April 2003, decided to give fresh impetus to the Government's programme of action to facilitate the social integration of foreigners; in the housing domain, in particular, it decided to press for the production of large housing units suitable for large families.

7. Urban policy

115. From action to combat exclusion to integration. The Inter-Ministerial Committee on Urban Affairs (CIV), meeting on 30 June 1998 under the chairmanship of the Prime Minister, noted that an essential goal of urban policy, beyond combating exclusion, was to bring civic life into a new era. One of the challenges of urban policy is to help re-establish the social compact. It should, in particular, restore the function of public service as a means of becoming part of society while reaffirming that membership of society brings with it both rights and obligations. Everyone, regardless of origin, place of residence and social status, must feel he belongs to the same community, by circumstance and by destiny. The city must become the setting for better integration of groups from a wide variety of backgrounds, counteracting the xenophobic trends which distort democracy.

116. Membership of and participation in society. From the onset of this policy, conducted by the Inter-Ministerial Authority on Urban Affairs (DIV), public participation has been a key theme of studies on urban social development. Encouragement is given to activities involving the population in their city's development: campaigns by associations and educational projects to maintain social bonds, efforts to mobilize public services and the municipal and State authorities to deal with environmental problems and living conditions, mediation services and neighbourhood committees.

117. It should be emphasized that a prerequisite for effective action, and beyond that the political goal of the nation's efforts to help neighbourhoods in difficulty, must be to seek to involve city dwellers in projects concerning the future of their cities. Thus before the project development stage people are asked to say what they think about the priorities chosen for action on their behalf and to provide strong backing for their initiatives. The State will henceforth refuse to sign any contract in which the actual conditions for public participation are not specifically defined.

118. Access to rights through action to combat discrimination. Access to rights is a means of combating discrimination. Awareness of one's own rights is an effective means of upholding the principle of equality and combating discrimination. French departments currently have legal aid services attached to the courts of major jurisdiction, which are responsible for assessing the need for access to rights and implementing policy in this area, in part by financing the structures (associations) that provide advisory assistance.

119. The bill on access to the law and out-of-court settlements passed by the National Assembly in first reading on 29 June 1998 extends these departmental services' scope of action to include receiving applicants, providing information about rights, especially to disadvantaged groups, and out-of-court settlement methods. The new legislation should thus facilitate recognition of everyone's rights and combat marginalization.

120. In difficult circumstances, urban policy has provided backing to the tune of over 400 million francs per year for associations which have been setting up outreach and solidarity networks to combat all forms of discrimination, including racial discrimination. These networks have given rise to initiatives in the field which attest to the mobilization and know-how of many different partners.

121. Various elements of the State apparatus, including the Inter-Ministerial Agency for Urban Affairs, have remarked on the value of the work performed by the Agency for the Development of Intercultural Relations (ADRI), "encouraging and arranging contacts and exchanges between the different entities involved in integration and urban policy". One outcome of its efforts in 1998 were workshops on local integration which featured pilot experiments in combating discrimination in access to employment and culture.

122. It has been decided to bring more consistency to these activities by allowing ADRI to register as a joint public venture (*groupement d'intérêt public*, GIP) and develop the resources and units necessary to combat discrimination through the use of new technology (Internet sites, for example).

B. Demographic composition

1. Population census

123. The population of metropolitan France in March 1999, the date of the last census, was, according to the National Institute for Statistics and Economic Studies (INSEE), 58.5 million, of whom 3,263,186, or 5.6 per cent, were foreigners. The working population was 26.5 million, of whom 1,591,772, or 6 per cent, were foreigners. These figures, compared to those from the previous census nine years earlier, indicate a certain shrinkage in the foreign population which is chiefly due to a sharp increase in numbers of naturalized French citizens (2.35 million in 1999 as compared with 1.8 million in 1990).

124. As an adjunct to this, it should be mentioned that according to the employment survey conducted every year by INSEE, there were 2,974,865 aliens aged 15 or over in France in March 2002, of whom 1,623,786 were in employment or looking for a job. The overseas

departments (Guadeloupe, Martinique, French Guyana and Réunion) have a population of 1,680,000 and had, at the time of the 1999 census, 74,882 foreigners. The population of the overseas territories (New Caledonia, French Polynesia, Wallis and Futuna) and territorial communities (St. Pierre and Miquelon and Mayotte) amounts to 735,000. Non-metropolitan France thus accounts for nearly 4 per cent of the French population.

2. Aliens holding residence permits

125. Only aliens aged 18 and over (16 if in professional employment) being required to have residence permits, the figures below do not include minors, the exact number of whom is not known, or illegal aliens.

126. On 31 December 2001, the number of aliens holding valid residence permits was 3,269,612. Of these, 44 per cent (1,450,737) were women and 55.6 per cent (1,818,875) were men. These figures represent an increase of 1.16 per cent over 1996 and 0.84 per cent over the year 2000. They should be read against the growing number of naturalized French citizens, which increased by over 29 per cent between 1997 and 2000 (*source*: Aliens in France with residence permits in 2001, report to Parliament).

127. The foreign population living in France on 31 December 2001 comprised:

- 36.4 per cent European Union nationals;
- 35.4 per cent from countries in the Maghreb;
- 10 per cent from non-European Union countries (including Turkey);
- 6.5 per cent from countries formerly under French administration;
- 6.4 per cent from Asian countries.

128. The breakdown of residence permits by major nationalities was as follows:

- Portuguese: 559,133;
- Algerians: 537,059;
- Moroccans: 458,054;
- Italians: 198,344;
- Turks: 173,051;
- Spaniards: 163,864;
- Tunisians: 161,101.

(*Source*: Aliens in France with residence permits in 2001, report to Parliament).

C. Legal status of the overseas departments and territories

129. The application of the Convention in the overseas departments and territories is governed by the general principle that international texts apply there as in metropolitan France, provided that these territories are not expressly excluded. There is in fact no provision excluding the overseas territories from the scope of application of the Convention.

130. The population of non-metropolitan France does enjoy the rights and freedoms set forth in the Convention, which apply without restriction in the overseas departments and regions and in New Caledonia, French Polynesia, Wallis and Futuna, the Southern and Antarctic Territories, Mayotte and St. Pierre and Miquelon.

131. This equal treatment does not preclude due regard for a number of specific features. The overseas territories have a special status within the French Republic and, out of respect for the identity of each, their administrative and legal systems display certain special features. The Constitutional Act on the Decentralization of the Republic of 28 March 2003 reaffirms and reinforces these special features by permitting the particular expectations of each of the territories concerned to be addressed.

132. Guadeloupe, Martinique, French Guiana and Réunion are overseas departments and regions, where law enforcement is governed by the principles of assimilation and adaptation. The laws of the Republic automatically apply as in metropolitan France.

133. The legal systems and administrations of these departments may be modified as required by their particular characteristics and constraints. In such an event, the general or regional councils must be consulted. Modifications have been made in, for example, the economic and social field (tax regime, employment-boosting measures, etc.). Since the passage of the Constitutional Act of 28 March 2003, the overseas departments and regions can also decide for themselves what rules will apply there in matters over which they have jurisdiction or have been empowered by law.

134. Mayotte, St. Pierre and Miquelon, the Wallis and Futuna Islands, French Polynesia, the Southern and Antarctic Territories and New Caledonia are overseas communities. These communities and territories are governed by their own statutory laws. Any change in regime requires consultation with the local assemblies.

135. Under the principle of "special legislative status" that applies to New Caledonia, French Polynesia, Wallis and Futuna and the Southern and Antarctic Territories, the laws of the mainland are not automatically applicable but must be explicitly made applicable or extended under subsequent provisions. This principle makes it possible to take account of local conditions.

136. The law provides that, apart from the powers reserved to the State, the elected assemblies of the overseas communities have direct responsibility for running their affairs. Within their recognized areas of competence, therefore, they may enact directly enforceable legislation without the approval of the central authorities.

137. In French Polynesia and New Caledonia, the State has only limited jurisdiction. The communities are responsible for such important areas as social welfare, health, education, cultural affairs, economic development and taxation.

138. Local assemblies are required to be consulted on legislation that applies to the overseas communities or affects their particular administrative arrangements. Such legislation must also be published locally.

139. The Organization Act of 12 April 1996 on the autonomy of French Polynesia gave the territory increased autonomy and broader jurisdiction in economic and other matters.

140. The regime for Wallis and Futuna confers certain powers on the local authorities. Under statutory law, the customary authorities are members of the administration. The territory is divided into three administrative districts, corresponding to the three kingdoms (Wallis, Sigave and Alo).

141. The current regime in New Caledonia resulting from the Act of 19 March 1999 is a legal reframing of the agreement on the future of New Caledonia signed by representatives of the two leading political families in the territory and the Government on 5 May 1998. The Act provides for progressive, irreversible transfers of jurisdiction to New Caledonia, institutes New Caledonian citizenship for the purpose of voting in elections for local institutions, and confirms the customary status of the Kanaks.

142. In St. Pierre and Miquelon, law enforcement is governed by the principle of legislative assimilation. Apart from matters that fall within the General Council's jurisdiction (customs and excise, town planning and housing), new legislation is automatically applicable. The General Council must be consulted about bills containing special provisions for the archipelago and on draft regional cooperation agreements or international agreements relating to the economic zone.

143. In July 2000 the population of Mayotte was consulted over the terms of the agreement on the future of the island signed by the French Government and the three political parties represented on the General Council. The Act of 11 July 2001 determining the status of Mayotte was signed after that consultation.

144. The new regime reflects the desire of the Mahorais to be governed by something closer to ordinary law. Except in a few selected areas, law enforcement is governed by the principle of special status.

II. INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

A. Article 2

145. The full range of France's legislation against racism, including the Press Act, has already been described in earlier periodic reports. It is clearly presented in the Guide to anti-racist legislation, attached as an annex. Nevertheless, mention should be made of the main innovations since the introduction of the new Penal Code in 1994.

1. Criminalization of racist acts

146. The new French Penal Code, which entered into force on 1 March 1994, defined a series of offences in a veritable battery of legislation against any racially discriminatory act or practice. The discussion under article 2 of the Convention will concern the criminalization of racist conduct; while criminalization of racist propaganda in its various forms will be dealt with under article 4. The discussion will first focus on the most serious offences and then, in succession, on discrimination, aggravated desecration of cemeteries and the prohibition on computerized storage of information on race.

(a) Crimes against humanity

147. Crimes against humanity, which rank as the most important of the crimes and offences against the person (Book II of the Penal Code), are divided into four offences that may be racially motivated.

148. Genocide is defined in article 211-1 of the Penal Code. The definition of genocide is broader than the one contained in the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, since the Penal Code protects not only groups of victims defined on national, ethnic, racial or religious grounds, but also groups singled out on "any other arbitrary grounds".

149. Other crimes against humanity are defined in article 212-1 of the Penal Code. These include deportation, enslavement or systematic, arbitrary, mass execution, the abduction and subsequent disappearance of persons, torture and inhuman acts motivated by politics, philosophy, race or religion and carried out as part of an organized campaign against a section of the civilian population.

150. Plotting or conspiring to commit crimes against humanity is described and made punishable under article 212-3 of the Penal Code. This is a special form of criminal association, known as conspiracy in Anglo-Saxon law and in international law as plotting (as defined in the Charter of the International Military Tribunal of Nuremberg).

151. With regard to crimes against humanity, the following points should be made:

- First, they are subject to no statutory limitation: the imprescriptibility provided for under Act 64-1326 of 26 December 1964 is confirmed by article 213-5 of the Penal Code;

- Second, such crimes are punishable by life imprisonment, including a period of up to 22 years of unconditional detention during which no modification of the sentence is authorized (Penal Code, art. 132-23);

- Third, the perpetrator of such a crime can never be absolved of criminal responsibility simply on the grounds that he was carrying out an act prescribed or authorized by legal or regulatory provisions or was acting on the orders of a legitimate authority (Penal Code, art. 213-4);

- Fourth, corporate entities can be held criminally liable for crimes against humanity (Penal Code, art. 213-4);

- Fifth, French legislation to bring domestic law into line with the statutes of the international criminal tribunals for crimes committed in the former Yugoslavia and Rwanda gave full jurisdiction to French courts to try offences falling within the subject matter jurisdiction of these two international tribunals, including the crime of genocide and crimes against humanity (Acts Nos. 95-1 of 2 January 1995 and 96-432 of 22 May 1996). Furthermore, by a judgement dated 6 January 1998, the Criminal Division of the Court of Cassation recognized the competence of French courts to try a Rwandan priest who was facing prosecution in French territory for acts constituting torture committed in Rwanda against Rwandan citizens at the time of the genocide in April 1994;

- Lastly, France was one of the first signatories of the Rome Statute of the International Criminal Court adopted on 17 July 1998, which will be competent to try the crime of genocide, crimes against humanity and war crimes.

152. Article 24 bis of the Act of 29 July 1881 has not been amended to satisfy the wish expressed in the Committee's concluding observations of 19 April 2000 that contesting the reality of any crime against humanity, not merely the genocide of the Jews in the Second World War, should be punishable.

153. It should, however, be borne in mind that justifying crimes against humanity or war crimes may amount to the offence of arguing in favour of such crimes (*apologie*), which is covered by article 14 of the 1881 Act. The conviction of General Aussaresses for defending the use of torture during the war in Algeria was upheld on appeal, the Paris Court of Appeal holding that such a defence was tantamount to an argument in favour of torture (Paris Court of Appeal, 25 April 2003; an application for judicial review has been lodged against this ruling).

154. In current European discussions over a framework decision on action to combat racism and xenophobia, France has backed proposals to make disputing crimes against humanity an offence without the scope of such an offence being limited to the crimes against humanity committed during the Second World War.

155. Aggravated war crimes are described in article 212-2 of the Penal Code. Under this definition, the acts covered by article 212-1 are punishable as crimes against humanity when committed in time of war as part of an organized campaign against those fighting against the ideological system in whose name crimes against humanity are being perpetrated. This provision is intended to cover armed forces fighting against other armed forces in the service of a racist ideology.

(b) Racist, xenophobic and homophobic conduct as an aggravating circumstance

156. Act No. 2003-98 of 3 February 2003, originally proposed by Mr. Lellouche, a French Member of Parliament, has established racism, xenophobia or anti-Semitism as a new aggravating circumstance (article 132-76 of the Penal Code).

157. The aggravating circumstance must be objectively demonstrated and is competent, under article 132-76 of the Penal Code, only if an offence is preceded, accompanied or followed by spoken or written words, images, items or acts of any kind that are injurious to the honour or esteem of the victim, or group of persons including the victim, by virtue of their actual or supposed membership or non-membership of a particular ethnic group, nation, race or religion.

158. The effect of the aggravating circumstance is to increase the possible penalty or even to change the nature of the offence. For example, the offence of dangerous damage to private property, when associated with the aggravating circumstance of racist conduct, becomes a serious crime.

159. Racist, xenophobic or anti-Semitic motives may be regarded as an aggravating circumstance in connection with the following offences:

Offence	
Wilful homicide	
Torture and barbarous acts	
Violence inadvertently resulting in death	
Violence resulting in permanent disfigurement or disability	
Violence entailing 9 or more days' sick leave from work	
Violence entailing up to 8 or fewer days' sick leave or no sick leave	
Damage to private property	
Damage to private property caused by dangerous means	

160. The bill submitted to Parliament with a view to bringing the justice system into line with changing patterns of crime seeks to enlarge the list of offences in connection with which racist or anti-Semitic conduct may be regarded as an aggravating circumstance: the offences added would cover all threats, robbery and extortion. The bill is due to be promulgated in March 2004 after it passes the Senate in second reading.

161. The Internal Security Act No. 2003-239 of 18 March 2003 (Official Journal dated 19 March 2003) adds a new article 132-77 to the Penal Code that explicitly provides for the possibility of admitting a further aggravating circumstance when an offence is committed because of the victim's sexual orientation.

162. For the first time, the law allows homophobic motives to be taken into account as an aggravating circumstance in the event of certain criminal offences.

163. The circumstance is competent when an offence is preceded, accompanied or followed by spoken or written words, images, items or acts of any kind that are injurious to the honour or esteem of the victim, or group of persons including the victim, by virtue of their actual or supposed sexual orientation.

164. There must, accordingly, be objective evidence indicating, clearly and specifically, that the conduct with which the defendant is charged was inspired by homophobic motives.

165. The same course was followed in the Act of 3 February 2003 to define racist conduct as an aggravating circumstance. The offences concerned are as follows:

Offence	
Murder	
Torture	
Violence inadvertently resulting in death	
Violence resulting in permanent disfigurement or disability	
Violence entailing 9 or more days' sick leave from work	
Violence entailing up to 8 or fewer days' sick leave or no sick leave	
Rape	
Sexual attacks	

(c) Racial discrimination

166. General context of the criminalization of acts of discrimination. Two recent laws have amended the field of discrimination under both criminal and civil law, in the right to work and the right to housing: Act No. 2001-1066 of 16 November 2001 concerning measures to combat discrimination, and the Act of 17 January 2002 concerning social modernization.

167. The Act of 16 November 2001. The Act of 16 November 2001 concerning measures to combat discrimination amended articles 225-1 and 225-2 of the Penal Code, which cover discrimination and penalties for it.

168. Parliament sought to expand the scope of efforts to combat discrimination to cover all discriminatory situations by adding to article 225-1 of the Penal Code the notions of "sexual orientation, age, physical appearance and family name".

169. The Act also enlarges the professional domains within which criminal proceedings for discrimination may be brought by adding to article 225-2 of the Penal Code "applications for job-experience courses or periods of vocational training".

170. As regards the right to work, furthermore, the Act has got the measure of discriminatory behaviour by banning it in all its forms (occupation, pay, skills, training) in connection with access to work (whether for recruitment or for job experience) and career development.

171. The Act seeks to protect employees who report discrimination at work and to shift the burden of proof in favour of employees who have encountered discrimination: they no longer need to prove that they have been discriminated against in their jobs, but need only present the court with facts suggesting the existence of direct or indirect discrimination.

172. The Act also allows trade unions to take overt action in support of victims of discrimination provided that the victims, having been apprised in writing of the unions' intentions, do not formally object.

173. The same possibility is open, in the field of labour law, to properly constituted associations militating against discrimination that have been in existence for at least five years, if they have written approval from the individual concerned.

174. The Act of 17 January 2002. The Act of 17 January 2002 concerning social modernization amended article 1, paragraph 2, of the Act of 6 July 1989 on housing leases.

175. This explicitly prohibits refusal to rent housing for reasons related to the tenant's origins, name, physical appearance, habits, sexual orientation, beliefs, race or nationality.

176. In the event of a dispute, the same shift in the burden of proof applies in the civil courts as before industrial tribunals.

177. Bill to bring the justice system into line with changing patterns of crime. This bill proposes increased penalties for discrimination: a possible prison term of three years instead of two, and a possible fine of €45,000 instead of 30,000.

178. The penalty would rise from three to five years in prison and from €45,000 to 75,000 in fines if the discrimination was committed by an individual employed in or entrusted with the performance of a public service.

179. The same penalties would apply if discrimination occurred at the entry to premises accessible to the public, such as discotheques.

180. Criminal Division case law on testing. In a ruling dated 1 June 2002, the Criminal Division of the Court of Cassation allowed the practice of discrimination testing as a form of evidence, on the grounds that the principle of unconstrained evidence should prevail in criminal proceedings pursuant to article 427 of the Code of Criminal Procedure.

181. It is thus up to the courts to assess the probatory value of discrimination testing case by case. Testing, which is not a form of entrapment, has been used on several occasions by associations combating racism and discrimination to show that discrimination does occur at, for example, the entrances to discotheques. It involves presenting several individuals from different backgrounds at the entrances to night clubs, generally in the presence of a judicial marshal, and observing how they are treated.

182. Upshot of discrimination testing at discotheques. On 25 October 2001 the Department of Criminal Affairs and Pardons sent to every public prosecutor's office, as a spur to local practice, the full findings of a national discrimination-testing operation mounted by the association "*S.O.S. racisme*" at a number of discotheques on 17 March 2000. It stressed a number of points:

183. Racial discrimination, whether in the leisure industry or in tourism, housing or any other kind of economic activity, is often awkward to demonstrate, and the evidence difficult to gather.

184. The practice of "discrimination testing" had been allowed as a form of evidence in the criminal courts even before the Criminal Division ruling mentioned above, especially where discrimination was observed by parties other than the plaintiffs, but was felt to be insufficient to convince the courts and thus had to be corroborated by a thorough police inquiry conducted under the authority and guidance of public prosecutors.

185. When testing operations were mounted by associations, therefore, public prosecutors' offices and the police had to be notified and collaborative arrangements agreed beforehand.

186. The departmental Commissions on Access to Citizenship seemed to be the most appropriate forums for contacts and exchanges among the State services, local partners and the various associations (see below, paras. 252 ff.).

187. In any event, public prosecutors were reminded that it was their responsibility, in the exercise of their prerogatives of giving instructions to the judicial police and bringing prosecutions, to record criminal acts of discrimination and have the perpetrators identified, alerting the investigative services and prompting the judicial police to launch inquiries.

188. Specific action to combat discrimination in the civil service. Act No. 83-634 of 13 July 1983 as amended concerning the rights and obligations of civil servants provides in article 6 that "freedom of opinion is guaranteed to civil servants" and that "no distinction may be made between civil servants on the basis of their political, trade union, philosophical or religious opinions, their sex, their state of health, their disability or their ethnic origin".

189. The text was amended by article 11 of Act No. 2001-1066 of 16 November 2001 concerning measures to combat discrimination, which incorporates into French law various provisions of European Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. It stipulates that "no distinction, direct or indirect, may be made between civil servants on the basis of their political, trade union, philosophical or religious opinions, their sexual orientation, their ages, their family names, their state of health, their physical appearance, their disabilities or their actual or supposed membership or non-membership of an ethnic group or race".

190. The text also establishes protection for victims who seek redress through administrative or litigious proceedings, provides for witness protection and lays down punishments for discriminatory conduct:

> "No action relating inter alia to the recruitment, assignment to grade, training, evaluation, discipline, promotion, posting or transfer of a civil servant may be taken in consideration of the fact that he or she:
>
> 1. Has appealed to a hierarchical superior or taken legal action to secure respect for the principles set forth in the second paragraph of this article; or
>
> 2. Has attested to or given accounts of conduct contrary to those principles.
>
> Any employee engaging in the conduct defined above shall be liable to disciplinary proceedings."

191. As regards the burden of proof, administrative proceedings in France fall under the derogation allowed by article 8, paragraph 5, of Council Directive 2000/43/EC. This states that member States need not apply procedures relating to the burden of proof when "it is for the court or competent body to investigate the facts of the case". French administrative proceedings are inquisitorial, i.e. the investigation is under the control not of the parties but of the magistrate handling the application. Article R.411-1 of the Code of Administrative Justice states that "the

application shall contain a description of the facts and pleadings, and a statement of the conclusions submitted to the court". There is thus no need for the applicant to prove the complaint: providing a summary description of the facts and pleadings is sufficient. And it is therefore up to the magistrate, by conducting an inquiry which will automatically enable him to take up all valid legal pleadings, to ascertain whether in fact the decision was based on objective considerations.

192. Clients' rights. The rights and guarantees enjoyed by the clients of public services were recognized in the "Public Services Charter" adopted on 18 March 1992. An annual report on its implementation is made to the Prime Minister and subsequently transmitted to Parliament, together with opinions from the Council of State and the Economic and Social Council. The Charter reminds administrations and civil servants of the importance of the principle of neutrality: a secular State, impartial public servants, and no discrimination of any kind. It emphasizes the need for even-handed provision of public services, and respect for the equal rights of clients in their dealings with the administration. Furthermore, the penalties for acts of discrimination under the aforementioned articles 225-1 and 225-2 of the Penal Code are increased, in accordance with article 432-7 of the Penal Code (three years' imprisonment and a FF 300,000 fine) if the perpetrators are in positions of official authority.

193. On 12 October 2000 the Inter-Ministerial Committee on State Reform (CIRE) announced that "each local office and each public body will embark by the end of 2001 on a definition of its commitments as regards quality of service offered to clients". Some ministries (finance, defence, capital works and the interior (for the network of prefects' offices)) defined a certain number of service commitments in 2002.

194. A client service charter for State services was drawn up in the first half of 2003. It defines a common core of commitments shared by all State services that have dealings with the general public, which every ministry must flesh out with specific commitments appropriate to its assigned tasks and client base. The charter is being tested in pilot departments in collaboration with client representatives. It will start to be applied nationwide in early 2004 and should be on display in all services by the beginning of 2005. Simultaneously, services are being strongly encouraged to introduce rigorous systems for dealing with complaints.

195. The charter will be followed up by a set of specific, certifiable benchmarks for customer service by State bodies, which will enable voluntary services to ensure that their commitments are consistently being honoured. The benchmarks should be published in the Official Bulletin in early 2004.

(d) Aggravated desecration of cemeteries

196. In the case of assault, homicide, murder, acts of violence or offences against property, such as damage, the Penal Code does not, generally speaking, consider racism an aggravating circumstance, although judges will normally take racist motives into account in sentencing. Parliament nevertheless considers the desecration of cemeteries a special case. This offence, which in principle carries a sentence of two years' imprisonment, is aggravated when committed on the grounds of the deceased person's actual or supposed membership or non-membership of a particular ethnic group, nation, race or religion. The penalty is then increased to three years' imprisonment and a FF 300,000 fine. Similarly, exhumation of a body, an offence normally

punishable by two years' imprisonment, is subject to a sentence of five years' imprisonment if committed for reasons of a racist nature (article 225-18 of the Penal Code).

197. Mention must be made of the desecration of the Carpentras cemetery. On 10 May 1990, a number of graves in the Jewish cemetery at Carpentras were found to have been damaged. A man's corpse had been exhumed and placed on a nearby tomb. An attempt had been made to decapitate the body, a mock impalement had taken place and a Star of David placed on it, clearly in order to identify the target of the offences. In a judgement of 24 April 1997, the Marseille Correctional Court sentenced two people to two years' imprisonment and two others to 20 months' imprisonment.

198. The Toulon Correctional Court has also recently tried cases of damage and desecration of cemeteries, followed by violations of the integrity of a corpse. Three persons were given unconditional prison sentences for these acts. In a judgement of 20 October 1997, the Court pointed out the offences had been motivated by "explicit discrimination, notably on the grounds of religion and racial origin". The accused claimed to be "Satanists", and therefore, the court emphasized, "the desecration of the grave of a Catholic was no accident but a considered and explicit choice".

(e) Ban on electronic storage of data on race

199. Article 226-19 of the Penal Code prohibits the creation or saving in electronic form, without the express permission of the party concerned, of personal information showing an individual's racial origins or political, philosophical or religious opinions, their trade union membership or personal habits. The penalty for this offence is harsh: five years' imprisonment and a €300,000 fine.

(f) Criminal liability of corporate bodies

200. For the majority of these offences (crimes against humanity, discrimination, violations of individual rights through the use of electronic files or data processing), the French Penal Code provides not only for individual but also for corporate liability (associations, clubs, groups, etc.), which is a not inconsiderable factor in many offences of a racist or xenophobic nature. Strict conditions govern the criminal liability of corporate bodies: it applies only when offences are committed on their behalf by their organs or representatives, it being understood that criminal liability on the part of a corporate body does not preclude liability on the part of the individuals who perpetrate or are accomplices to the offences concerned. Appropriate penalties apply: dissolution, temporary banning, confiscation, judicial supervision order, inter alia.

2. Other action by the Ministry of the Interior and the Ministry of Defence

201. In its efforts to counter racial discrimination, the Ministry of the Interior has built local cooperative arrangements with all its partners, institutional and otherwise, to combat xenophobia and racism effectively. It is also taking preventive measures:

- Urban police forces are improving protection for sensitive areas by stepping up neighbourhood policing;

- The intelligence services have committed over 100 agents to surveillance of extreme right-wing circles;

- Police training in combating racism and anti-Semitism has been intensified.

202. When the previous report was orally introduced in 2000, the Committee voiced concerns over the training of police officers in professional ethics and measures to ensure that the code of professional ethics was complied with. The information below is therefore pertinent.

203. The obligation to respect the principle of non-discrimination when using force is taught during the initial training course and refresher courses in the form of specific modules on professional ethics.

204. Attention should also be drawn to the publication in 1999, to supplement the code of professional ethics of the national police force (decree dated 8 March 1996), of a practical guide to professional ethics that is issued and discussed during police officers' initial training courses and refresher courses. It is a working tool, designed to provide responses to particular situations by indicating how officers should deal with members of the public, crime victims and offenders. Among other things, it mentions that an officer must refrain from any discriminatory gesture or remark, and must display "absolute respect for individuals, whatever their nationality or origins, their social status or their political, religious or philosophical beliefs".

205. A Professional Ethics Board for the national security forces, established by the Act of 6 June 2000, began working on 25 January 2001. It is responsible for monitoring compliance with the code of ethics by all services and authorities concerned with security or protection (national and municipal police officers, gendarmes and private individuals performing security functions, and security companies).

206. Specific arrangements are made, with police surveillance recommended, where a community has been singled out for threats. Permanent or roving surveillance is mounted, depending on:

- Who may be at risk because of their nationality or faith;

- What sites may be affected (consulates or private residences, synagogues, mosques, educational establishments, residential hostels or meeting rooms, etc.). Thus buildings belonging to Jewish communities that might be targeted during the approach to religious festivals (synagogues, diplomatic and consular premises) have been assigned roving surveillance squads. These squads were stepped up and assigned to various places of worship following the activation on 11 September 2001 of the augmented Vigipirate plan, with an increase in numbers of permanent guard posts and a greater police presence during religious services. Dynamic steps have been taken in the form of contacts with community officials and surveillance patrols around the places of worship and edifices that are regarded as being the most sensitive;

- What corporate bodies (airlines, commercial establishments); and

– What social and cultural, religious or business events (the Eid Al-Kebir or Yom Kippur holidays, trade fairs or exhibitions, etc.) are concerned.

207. To supplement these measures, the police maintain regular contact with representatives of the various communities involved, so as to encourage mutual understanding.

208. Lastly, it should be mentioned that 47 racist and 193 anti-Semitic incidents were recorded in 2002, "incidents" meaning more than trivial acts directed against persons or property.

209. The corresponding figures for previous years (*source*: CNCDH report 2002) were as follows:

- 18 and 32 in 2001;
- 16 and 119 in 2000;
- 13 and 9 in 1999;
- 8 and 1 in 1998.

210. The Minister of the Interior has launched an extensive programme to modernize physical conditions in custody and detention, in keeping with his instruction of 13 March 2003 to uphold the dignity of individuals taken into custody. The purpose is to bring conditions in custody as close as possible to the standards laid down by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment: redesigned detention facilities, hot meals served at regular hours, medical check-ups performed as soon as possible, availability of a room in which detainees and their lawyers may speak in private, detainees being allowed to telephone their immediate families or employers at once. The national police inspection body has been assigned to review this topic extensively and come up with innovative proposals.

211. Lastly, the Act of 15 November 2001 on day-to-day security added a number of provisions stepping up the campaign against terrorism to the Code of Criminal Procedure. The Act of 18 March 2003 on immigration control and alien sojourn in France made some of these provisions permanent and extended the validity of others.

212. These provisions include:

- Inspection by the judicial police of vehicles moving, stationary or parked on the public highway or in areas accessible to the general public for the purpose of investigating and prosecuting acts of terrorism, weapons- and drugs-related offences, theft and receiving of stolen goods, upon instructions from a public prosecutor, for a renewable period of not more than 24 hours. The Constitutional Court declared this constitutional in a decision handed down on 13 March 2003. The Court ruled it consistent with the principle of individual liberty and emphasized that "the list of offences … is not manifestly excessive given the importance of investigating them";

- Searches and seizures of incriminating evidence without the consent of the owner or tenant of premises if an investigation into an offence relating to weapons or explosives or a drug-related crime so requires. They are authorized by the courts upon application by a public prosecutor and are carried out by the judicial police;

- Inspection by judicial police officers of persons, luggage, parcels, aircraft, vehicles and vessels entering or found within areas not freely accessible to the public at airfields and ancillary facilities and areas of ports not freely accessible to the public, with a view to ensuring the safety of domestic and international flights, ocean shipping and the related port operations;

- Electronic storage of personal data for a limited period, for use in the investigation of criminal offences.

213. This is not a discriminatory provision. It applies to anyone in France, irrespective of his or her religion, national or ethnic origin, or sex.

214. The National Gendarmerie, under the Ministry of Defence, is also active in combating racism, anti-Semitism and xenophobia, taking action in areas where it has sole jurisdiction similar to that taken by the police. Its flying squad can be called in to back up action by departmental gendarmeries.

215. In the area of training, special modules for the various categories of staff have been incorporated into course programmes. Gendarmes on active service are made aware of the moral and civic aspects of racism. The legal aspects are studied in the context of penal procedure (respect for the human person) and special criminal law (offences of a racist nature).

3. Mediation

216. The Ministry of Social Affairs, Labour and Solidarity is particularly active in the campaign against racism, providing significant financial backing for associations that support action by the public authorities. Long-term understandings on objectives, providing a clear framework for the action taken, have created a partnership. Some of the financing goes to legal aid, thus ensuring that people are properly informed and that difficult situations are followed up, and some to efforts to make people (the general public, pupils and teachers) aware of the campaign against discrimination. In liaison with other ministerial departments, the Ministry has been working on mediation to make immigrant population groups feel less alienated from institutions. Mediation is also intended to prevent conflict and facilitate coexistence.

217. One form of mediation is practised by immigrant women, "*femmes-relais*", who have set up and run a wide variety of grass-roots-level activities to supplement the efforts of social workers. These women play a leading role in district community and social life, especially in welcoming migrants and helping them to integrate.

218. The "*femmes-relais*" are particularly well known for their work in health care, with very young children and in mediating between families and schools. They also pick up and channel information to the public institutions, enabling them to identify any special difficulties encountered by immigrant population groups. They are so effective in part because of their local and ethnic ties, which set them apart from interpreters.

219. "*Femmes-relais*" are thus a real point of reference for the neighbourhood and play a large part in the provision of effective grass-roots support for immigrant population groups. Their activities include:

- Making initial contact with newly arrived families;
- Listening and offering information to people in the neighbourhood;
- Setting up support groups and neighbourhood party committees;
- Dialogue between public services and their clients;
- Forging links between parents and schools;
- Accompanying inhabitants of strife-torn districts in their dealings with the authorities;
- Acting as intermediaries to facilitate dialogue across the generations.

220. A series of occupation-specific benchmarks were drawn up in 1997 by the Profession Banlieue community resource centre, and these have helped to win greater recognition for the mediation work done by "*femmes-relais*". With the publication of the circular dated 26 April 2000 on the introduction under urban policy of State-subsidized "mature community-support persons" ("*adultes-relais*"), moreover, some "*femmes-relais*" were incorporated into the "*adultes-relais*" system. In mid-2002 there were rather more than 1,500 registered "*adultes-relais*", of whom 70 per cent were women.

221. Recent legislative change. Community associations being unable by themselves to cater for all needs nationwide, the Inter-Ministerial Committee on Cities decided on 1 October 2001 to enlarge the field of potential employers by allowing municipal governments and public institutions to make use of the "*adultes-relais*" system (Finance Act, 2002, article 149). This is an important change since, with the creation of a new employment contract (fixed-term not exceeding three years, renewable once, for municipal governments and other bodies corporate under public law; a contract of indefinite duration for bodies corporate established under private law), the job of an "*adulte-relais*" is now covered by the Labour Code.

(a) Welcome and integration policy

222. A proper welcome for aliens arriving in France is essential to their successful integration: first contacts with the host society determine the later course of the integration process.

Statistics

223. A total of 23,091 arrivals for purposes of family reunification and 39,015 arriving members of French nationals' families were recorded in 2001. There were 27,267 arrivals for purposes of family reunification and 47,609 arriving members of French nationals' families in 2002. France's 16 reception facilities dealt with 30,515 people in 2002, 21,508 of them in Paris and the surrounding departments. Altogether 35.4 per cent (10,819) were given a language assessment, and 28.9 per cent (8,825) had an interview with a social worker.

224. Foreign members of French nationals' families (mostly the wives/husbands of French nationals) now account for 78.5 per cent of the people passing through the reception facilities.

225. The Government, at the urging of the President, has decided to make integration and action to combat discrimination one of its priorities. The Inter-Ministerial Committee on Integration, at a meeting chaired by the Prime Minister on 10 April 2003, radically revised France's welcome and integration policy. That policy, the Prime Minister said, "must be viewed as the definition and fulfilment of a shared civic undertaking common to all the inhabitants of this country", and must revive the will to coexist and respect certain basic principles intrinsic to French society, foremost among them being equality of rights, among men and women in particular, secularism and fraternity.

226. This is the purpose of the welcome and integration contracts that new arrivals will sign with the French authorities, setting out their reciprocal obligations.

227. The Government has therefore redefined its priorities:

228. Setting up a proper public reception service hinging on language-learning as a determining factor in integration, and formalizing the reciprocal undertakings by the State and new arrivals in individual welcome and integration contracts.

229. These contracts lay emphasis on a day of civic instruction which all signatories, whatever their linguistic abilities, must undergo, and on language instruction, this being individually prescribed in the light of each person's level and needs.

230. The contracts also cover follow-up appropriate to immigrants' needs: personalized guidance by a mentor, or simply straightforward administrative follow-up by the International Immigration Office. Special attention is paid to newly arrived women, based on an analysis of their needs, the aim being to secure their individual integration.

231. Social and professional encouragement. The agreements reached by the Inter-Ministerial Committee on Integration are particularly concerned with encouraging social and professional advancement through employment (sponsorship, preparation for competitive examinations, backing for business ventures, etc.), access to rights (mediation, encouraging people to exercise their rights by accentuating and redefining the roles of the mature community-support persons

and "*femmes-relais*", creating "rights desks") and education (school enrolment for newly arrived children, the civic mission of schools, further experiments in making schools more open to cultural diversity, guidance, and training for teaching staff and care workers).

232. There are also specific agreements on women's position in society, mutual respect between boys and girls from early childhood onwards, recognition of their personal rights and the need to give them better access to training and jobs.

(b) Anti-discrimination policy

233. Poor qualifications and an inadequate knowledge of French expose immigrant workers to discrimination at work.

234. Since about 10 years ago, the children and grandchildren of immigrants who arrived in France after the war have been having great difficulty in finding jobs although they have grown up in France, have generally become naturalized French, have been through the French school system and are, for the most part, considerably better educated than their parents. This is a new development.

235. Despite the recent fall in unemployment, the proportion of job-seekers among non-European Union aliens in France is still three times as high as among the French population (25.1 per cent as opposed to 8.3 per cent), and young foreigners are twice as likely to be out of work as young French nationals (March 2002 jobs survey). Contrary to popular belief, these proportions are higher still among individuals with a high-school diploma (*baccalauréat*) or higher qualification - non-EU aliens are, depending on their level, three or four times as likely as French nationals to be out of a job.

236. These findings have prompted the Government to set up, alongside a policy of integration which is essential to enable foreigners arriving in France to find their place within French society, a programme to combat racial discrimination. This seeks to change the way society looks at foreigners. The programme and policy are especially concerned with access to employment and equality of opportunity in professional careers.

237. The programme to combat discrimination was initially designed in late 1998, then discussed by representatives of the State, business and labour at a round-table conference in May 1999 which culminated in a joint statement.

238. Most of the features of the programme were taken up again and endorsed at the National Conference on Citizenship and Action to Combat Discrimination on 18 March 2000, which also decided upon such important steps as the establishment of a free racial discrimination hotline, reached by dialling 114.

239. At the meeting of the Inter-Ministerial Committee on Integration on 10 April 2003, the Government committed itself to resisting all forms of intolerance and discrimination, expanding and extending efforts to that end and resolving to set up an independent authority to deal with all forms of discrimination.

240. Main features of the programme to combat discrimination:

Getting to the bottom of discrimination: establishment of the Discrimination Study Unit and the 114 hotline

241. As discrimination is complicated, cumulative and often difficult to pin down (indirect discrimination involving a number of parties) it was found necessary to understand it better, the better to be able to fight it. The Discrimination Study Unit (*Groupe d'étude des discriminations* (GED)) was thus set up in 1999 as a joint public venture bringing together the chief ministries involved, representatives of business and labour and the big anti-racism organizations.

242. The Discrimination Study Unit became the Discrimination Study and Action Unit (*Groupe d'étude et de lutte contre les discriminations (*GELD)) following the National Conference on Citizenship, when the Prime Minister assigned it the task of producing an annual report on discrimination in France and the action taken to combat it. The new Unit was also assigned to operate the new, free 114 hotlines from the beginning of 2001.

Strengthening anti-discrimination legislation in the employment field

243. Despite a substantial arsenal of laws against discrimination in employment, litigation is extremely rare, not least because it is so hard for victims to assemble evidence of discrimination.

244. Accordingly, a number of modifications to the legal system were put before representatives of labour and management at a round-table conference on 11 May 1999. These were added to in 2000 at the National Conference on Citizenship, in part to take account of European directives on the subject (discrimination based on sex, 15 December 1997; equal treatment without distinction as to race or ethnic origin, 29 June 2000; establishment of a general framework for equal treatment in employment and occupation, 17 October 2000).

245. These changes were incorporated into the Anti-Discrimination Act of 16 November 2001, which introduced the notion of indirect discrimination into French law and shifted the burden of proof in favour of the individual claiming to have been discriminated against.

246. The main features of the Act are as follows:

- Extending the scope of the discrimination covered by article L 122-45 of the Labour Code to include work-experience courses, on-the-job training schemes and all aspects of professional life;

- Lengthening the list of types of discrimination covered to include sexual orientation, physical appearance, family name and age;

- Introducing the notion of indirect discrimination;

- Shifting the burden of proof: the victim simply needs to establish the facts, the employer must then show that his decision was not motivated by discriminatory considerations, and the court reaches its own conclusion;

- Allowing trade unions to go to law in the victims' stead, provided the victims agree;

- Giving labour inspectors more extensive powers and increasing the scope of the staff representative alert procedure;

- Adding preventive measures to collective labour agreements.

247. The Act concerning social modernization of 17 January 2002 extends the scope of the Act of 16 November 2001 to cover access to rented accommodation.

Enlisting public and private entities in the fight against discrimination

Training in the public employment service

248. The Public Employment Service (SPE) has a special role to play in preventing and coping with discrimination, and this requires each of its constituent parts - the National Association for Adult Vocational Training (AFPA), the National Employment Agency (ANPE), the National Jobs, Employment and Vocational Training Institute (INTEFP) which trains labour inspectors, and the local offices to which young people apply for assistance - progressively to make preventing discrimination a key part of its employees' professional concerns, and to cooperate with other agencies in order to secure tangible results at the regional and departmental level.

249. The Service was given instructions in 1998 to promote staff training in combating discrimination and coping better with the particular problems encountered by immigrant groups; agreements to this effect have been signed with ANPE and AFPA.

250. A scheme to meld the Service's various efforts and allow experiments to be run at the regional and departmental level is now being set up under the European EQUAL programme, in partnership with Portugal and Denmark.

Private entities

251. Where the business world is concerned, in-house trouble-shooting operations, awareness-raising campaigns and training courses have been launched with the help of the Integration and Anti-Discrimination Action and Support Fund (FASILD), and with backing from the Corporate Sponsorship Institute (IMS) and the Agir Contre l'Exclusion Foundation, at corporations such as ADECCO, ADIA and EIFFAGE-Construction and in human-resources departments.

252. A partnership agreement has been entered into with the Permanent Assembly of Chambers of Trades to pursue anti-discrimination campaigns and make it easier for young people from immigrant families to be taken on as apprentices.

Decentralizing anti-discrimination policy

253. This aim is being pursued by two means: the Departmental Commissions on Access to Citizenship, and city contracts.

Departmental Commissions on Access to Citizenship (CODACs)

254. Departmental Commissions on Access to Citizenship (CODACs) were established by the Ministry of the Interior in January 1999 to help young people from immigrant families find employment and beat back the discrimination they encounter in obtaining jobs and housing and in spending their leisure time. The commission in each department brings together representatives of the various State and public services, local communities, political, economic and social bodies. It is chaired by the prefect; public prosecutors serve as the vice-chairmen. Local bodies concerned with combating racism and discrimination (decentralized authorities, local administrations, associations etc.) are also involved.

255. These commissions have been given two tasks:

- To run collective anti-discrimination activities under departmental programmes;
- To deal with reports received over a free hotline (obtained by dialling 114) operated by the Discrimination Study and Action Unit for people who have witnessed or suffered racial discrimination so that they can report what they have seen or undergone.

256. After two years of operation the Government found it necessary to relaunch and reinforce the CODAC/114 hotline system in order to pay more heed to victims' reports of violence and to respond wholeheartedly to their expectations, the aim being to turn the commissions into places where people could really discuss and argue their positions, and to ensure that cases of discrimination were more consistently reported and followed up.

257. The inter-ministerial circular of 30 October 2001 reinvigorated the commissions and called for departmental plans of action to combat discrimination, taking the form of fresh initiatives in the fields of employment, housing, leisure and preparation for citizenship, to be drawn up starting in 2002.

258. The departmental plans take three main lines of action to promote access to employment: introducing sponsorship; alerting employers to the issue; and training and informing job-placement personnel (at the National Employment Agency, for instance). In housing matters, they focus on alerting public and private landlords to the issue and monitoring housing allocations. In the leisure and entertainment field, there are charters with discotheque operators. And in education and citizenship, besides school-related activities, mention can be made of electoral enrolment campaigns and the official presentation of a national identity card along with the certificate of naturalization.

Urban policy

259. Forty per cent of the population in the urban districts affected by urban policy is foreign or descended from immigrants. Action to combat racial discrimination has naturally, therefore, been made a priority topic in the new urban contracts:

- The surveys conducted before such contracts are negotiated take account of the problems these population groups face;

- Job placement for immigrants and action to combat discrimination are prominent features of the prefects' negotiating mandates;

- A guide was produced in 2000 to help those negotiating urban contracts to include this priority in the sections dealing with employment. Trials, based in part on the advice given in the guide, have been set up at a number of sites to support the design of local plans to combat discrimination on the job market.

Sponsoring young people in jobs

260. Sponsorship - individual support for young people looking for work and during the first few weeks of employment, offered by volunteers familiar with the business world - is a good way of countering discrimination and giving young people the best possible opportunities.

261. Those concerned by this arrangement, which has been under test since 1993, are chiefly young people from immigrant families or depressed areas, or with poor qualifications, or coming from underprivileged social backgrounds. Sponsorship works very well, leaving over 60 per cent of recipients with a job or a marketable skill.

262. Since 2002, sponsorship has also been available to adults under the second plan of action to combat exclusion. It was given a hefty boost in 2003 by the Inter-Ministerial Committee on Integration, which ranked it as one of its most important measures and set the target of very quickly doubling the number of people helped towards employment by this means.

263. The Government has decided to set up an independent administrative authority to deal with all the forms of discrimination covered by European directives: discrimination based on race, sex, sexual orientation, disability, convictions and opinions and age. This will provide victims with legal support, produce independent studies and reports and advise the public authorities on the regulations and laws that need to be passed. In June 2003 the Prime Minister assigned Mr. Bernard Stasi, a former minister and Ombudsman, to carry out the preliminary legal assessments required before such a body is created, and to engage in broad-ranging consultations. Once legally established, the independent authority should gradually take up work in the various fields of discrimination beginning in 2005.

4. Role of the National Consultative Commission on Human Rights (CNCDH)

(a) Background

264. A decree by the Ministry of Foreign Affairs, published in the Official Journal of 27 March 1947, established the Consultative Commission for the Codification of International Law and the Defence of the Rights and Duties of States and of Human Rights. Its first president was René Cassin, a Nobel Peace Prize winner, who took part in the drafting of the Universal Declaration of Human Rights in 1948 and establishing the United Nations Commission on Human Rights, one of whose first contacts at the national level was France's Consultative Commission.

265. In its early years, the Consultative Commission contributed to the preparation of French positions on all human rights issues in international forums, particularly during the drafting of covenants and conventions. By 1952 it had four working groups and was constantly expanding its mandate up until 1976, the year René Cassin died.

266. In 1984, the Consultative Commission on Human Rights was revived with Mrs. Nicole Questiaux, a former minister and member of the Council of State, presiding. She advised the Minister for Foreign Affairs on France's efforts to promote human rights throughout the world and, in particular, within international organizations. In 1986, the Commission's mandate was extended to the domestic front and on 31 January 1989 it was attached directly to the Office of the Prime Minister. It was empowered to take up any matter falling within its jurisdiction. It was given legal status in legislation for the first time in 1990 and, on 9 February 1993, was officially recognized as an independent institution in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights, adopted by the United Nations.

(b) Composition and general powers of CNCDH

267. The composition of CNCDH reflects a desire to establish an ongoing dialogue between the State and civil society in the field of human rights. The State (Executive) is represented on the Commission by representatives of the Prime Minister and the ministries principally concerned. A deputy and a senator are also members of the Commission, together with members of the Council of State and the bench. The Ombudsman is also a member. Civil society is represented by delegates from 26 national associations concerned with the promotion and protection of human rights; representatives of the 6 confederations of trade unions; 38 distinguished individuals (representatives of the Catholic and Protestant churches, Islam and Jewry, university professors, diplomats, sociologists, lawyers, etc.); and these are joined by French experts who are members, in a personal capacity, of the international human rights bodies - the Sub-Commission on the Prevention of Discrimination and Protection of Minorities (Mr. Louis Joinet), the Human Rights Committee (Ms. Christine Chanet), the Committee on Economic, Social and Cultural Rights (Mr. Philippe Texier) and the Committee on the Elimination of Racial Discrimination (Mr. Régis de Gouttes).

268. The Commission's mandate covers the entire field of human rights: individual, civil and political freedoms; economic, social and cultural rights; new areas opened up as a result of social, scientific and technological progress; and, following a decree dated 11 September 1996, humanitarian action.

269. The Commission serves the dual purpose of monitoring and of proposing, both upstream of government action - while bills and draft regulations, policies and programmes are formulated - and downstream, checking to ensure that human rights have indeed been respected in administrative practice or in preventive measures. As an independent body, the Commission advises the Government, through opinions adopted only by the representatives of civil society: the representatives of the administration do not take part in the vote. The Prime Minister and members of the Government may bring matters before the Commission or it may examine issues on its own initiative. Its opinions and studies are published.

270. For example, the Commission has adopted opinions on the relaunching of the integration policy, the rights of aliens, the reform of nationality legislation, the bill on entry and sojourn of aliens and asylum, and on the harmonization of French legislation with the European Union's Joint Action concerning action to combat racism and xenophobia.

(c) Specific role of CNCDH in combating racism and xenophobia

271. Act No. 90-615 of 13 July 1990, providing for the punishment of all racist, anti-Semitic or xenophobic acts, requires CNCDH to submit an annual report to the Prime Minister on action to combat racism and xenophobia in France on the symbolic date of 21 March, proclaimed by the United Nations the International Day for the Elimination of Racial Discrimination. Twelve reports have been published so far (1990-2002). The latest of these is organized as follows:

(a) A first part devoted to an assessment of racism and xenophobia:

- Summary of racist, xenophobic, anti-Semitic and anti-Jewish incidents in 2002;
- Summary of legal action taken;
- Opinion poll;
- Anti-Semitism in France;
- Action taken in 2002.

(b) A second part devoted to euthanasia and the end of life;

(c) A third part summing up the activities of CNCDH over the past year:

- Opinions rendered in 2002;
- Work in plenary;
- Work in subcommittees;
- International activities.

272. This report is eagerly awaited, not only by non-governmental organizations, but also by administrations, which participate actively in the work of CNCDH, whose roles as adviser, watchdog and policy maker have gradually gained in importance. For the Committee's information, the last two reports of CNCDH, for 2001 and 2002, are attached as annexes (the 2003 report will be available in 2004).

B. Article 3

273. Since the release of Mr. Nelson Mandela in 1990, direct political contacts with the Pretoria Government, which had been suspended in 1976, have been resumed. France provided considerable support to the South African transition by offering substantial aid in the form of

technical assistance missions to the transition bodies: experts seconded to various independent structures (Independent Electoral Commission, Truth and Reconciliation Commission), large participation in the international arrangements to observe the 1994 elections, and French assistance in the drafting of a new constitution.

274. The overall French cooperation effort directed towards the underprivileged black population through NGOs and the Alliance Française network has been gradually increased and redirected in line with government priorities.

C. Article 4

1. Provisions of the Penal Code making all propaganda promoting racial discrimination an offence punishable by law

275. The Penal Code makes it an offence of the fifth degree to wear in public or display any uniform, insignia or emblem depicting organizations or persons found guilty of crimes against humanity. No such offence is committed if the display of the objects in question is necessary in the context of a portrayal of historical events (art. R.645-1, Penal Code). Moreover, under article 42-7-1 of Act No. 84-610 of 16 July 1984, as amended on 6 December 1993, bringing, wearing or displaying insignia, signs or symbols suggesting a racist or xenophobic ideology in a sports venue, while a sporting event is taking place or being publicly broadcast, is punishable by a fine of €15,000 and one year's imprisonment. The attention of public prosecutors was drawn most particularly to this matter by the Minister of Justice during the recent World Cup football championships.

276. The Internal Security Act No. 2003-239 of 18 March 2003 added a new article 433-5-1 to the Penal Code which imposes a fine of €7,500 for publicly dishonouring the national anthem or the French tricolour at an event organized or regulated by the public authorities. The penalty is raised to six months' imprisonment and a €7,500 fine if such conduct is perpetrated by a group.

277. The Internal Security Act amended article 42-11 of Act No. 84-610 of 16 July 1984 in various ways. It added a clause stipulating that if a suspect is prosecuted for a repeat offence under articles 42-4, 42-5, 42-7, 42-7-1, 42-8, 42-9 or 42-10, there is an automatic supplementary punishment consisting in a ban on entering sports facilities.

278. It also made it a criminal offence to violate a ban from sports facilities, punishable by two years' imprisonment and a €30,000 fine: this offence is committed if, in breach of a court ban, a person enters or goes to, or to the immediate vicinity of, a ground where a sporting event is taking place.

2. Legislative provisions on freedom of the press

279. The Act of 29 July 1881 on freedom of the press guarantees freedom of expression and opinion subject to respect for public order. Abuses of this freedom, especially overt manifestations of racism and xenophobia, are punishable by law. To combat the expression of racism and xenophobia while at the same time guaranteeing freedom of the press, the legislature has added a number of criminal offences to the Act of 28 July 1881.

(a) Incitement to discrimination, hatred or violence on grounds of racial or religious origin or background

280. Article 24, paragraph 5, of the 1881 Act, as amended by the Act of 1 July 1972, imposes correctional penalties on "those who, by any of the means referred to in article 23, incite to hatred or violence against a person or group of persons on account of their origin or membership or non-membership of a particular ethnic group, nation, race or religion". The purpose of the incitement must be to encourage those at whom it is directed to adopt against the persons protected a form of discriminatory conduct prohibited by article 225-2 of the Penal Code, such as denying the rights which the person affected may claim, refusing to provide a good or service, dismissing or refusing to hire the person, etc. The incitement may also be intended to encourage among members of the public psychological or physical reactions hostile to the racial or religious groups concerned.

281. For such an offence to be punishable, the Court of Cassation requires the incitement to be explicit, as oral or written statements which are merely "capable" of provoking racial hatred do not fall under article 24 of the 1881 Act. By way of example, the criminal division of the Court of Cassation found the following actions to have constituted incitement to racial discrimination:

- The publication of an article which included a drawing that showed young blacks and North Africans brandishing knives and clubs, with the caption: "Insecurity is often caused by ethnic gangs (of blacks and North Africans)" (decision of 5 January 1995);

- The publication of an article entitled "Plural society", which, citing the President of the Republic as having said that "the French nation has a profound sense of the value of having immigrants among us, where they work and work well", related various incidents involving persons from North Africa, black Africa or the gypsy community, singled out because of their membership of a particular ethnic group, race or religion, such a tendentious presentation, even without further comment, being likely to encourage reactions of rejection in the reader (decision of 21 May 1996, Crim. Bull. 210);

- An election pamphlet making a commitment to fight immigration fiercely, calling for the "invaders" to be driven out immediately, denouncing French officials as accomplices or collaborators with the "occupants of our land", and demanding the expulsion of foreign pupils who were disrespectful and "harmful to the education of French youth" (decision of 24 June 1997, Crim. Bull. 253).

282. In this latter decision, the Criminal Division of the Court of Cassation for the first time made an extensive interpretation of the term "group of persons" used in article 24 of the 1881 Act on freedom of the press, stating that "foreigners residing in France who are singled out because they do not belong to the French nation constitute a group of persons within the meaning of article 24, paragraph 6", which criminalizes incitement to discrimination, hatred or violence. This is an important step forward compared with earlier rulings, which had said that the provisions of the 1881 Act, as amended by the Act of 1 July 1972, did not cover remarks that merely single out a category of persons as "foreigners" or "immigrants" without referring

expressly to their origin or membership or non-membership of a given ethnic group, nation, race or religion (see, in particular, a decision by the Criminal Division of 6 May 1986, Crim. Bull. 153).

(b) Public defamation or insult on grounds of racial or religious origin or background

283. These two offences were incorporated into the 1881 Act by the Act of 1 July 1972. Some legislation already existed before, of course, but it was felt to be insufficient. Previously, only the concepts of race and religion formed the basis of such defamation or insults; the 1972 Act added the concepts of ethnic group and nationality in order to deal more effectively with outbursts of racism, and allowed for the protection of a group of persons, since until then only the individual had been protected.

284. Public defamation. Such defamation, punishable under article 32, paragraph 2, of the 1881 Act, results from any allegation or imputation of specific and erroneous facts affecting the honour or esteem of a particular person or group of persons on account of race, religion or national or ethnic background. Thus, a false allegation made against a person or group of persons concerning a crime or lesser offence, or conduct contrary to morals, probity or the duties dictated by patriotism, constitutes defamation.

285. Public insult. This offence, covered by article 33, paragraph 3, of the 1881 Act, results from the use of any term of contempt or offensive expression. It differs from defamation in that defamation involves the allegation of a specific fact which can be proved to be true or false without difficulty. Defamation or insults constitute an offence only if the allegations or offensive remarks are made public by one of the means contemplated by the 1881 Act. In the absence of publicity, insults or defamation are only petty offences punishable by a maximum fine of FF 5,000 under articles R.624-3 and R.624-4 of the Penal Code.

(c) Defending crimes against humanity

286. This offence was incorporated in article 24, paragraph 3 of the Act on freedom of the press, by the Act of 31 December 1987.

287. As established in case law, a publication or public statement urging those to whom it is addressed to pass a favourable moral judgement on one or more crimes against humanity and seeking to justify such crimes or their perpetrators constitutes defending crimes against humanity.

288. Crimes against humanity, again as established by case law, include inhuman racist acts and acts of persecution which are committed systematically, in the name of a State practising a policy of ideological hegemony, against persons on account of their membership of a racial or religious community, or against opponents of the policy of that State.

289. The defence of crimes against humanity is now prohibited in the same way as defence of the ordinary crimes of murder, pillage, arson, war crimes or crimes of collaboration with the enemy.

(d) Disputing crimes against humanity

290. This offence is included in article 24 bis of the 1881 Act and results from the Act of 13 July 1990. The law is intended to punish any public denial of the crimes against humanity referred to above and recognized as a reality by a French or international court. The offence relates most particularly to those who seek to demonstrate that the Holocaust did not occur, since there had been no law to punish the authors of writings deemed to be "revisionist" or "negationist" who were able to give their views a racist ring. The new article 24 bis makes it possible to cover in penal law a grave manifestation of racism and vehicle of anti-Semitism.

291. A ruling by the Criminal Division on 29 January 1998 held that article 24 bis covers challenges to the reality of crimes against humanity, even if they are disguised, questionable or take the form of insinuations.

292. Nowadays it is forbidden to challenge the reality of the Jewish genocide committed by the Nazi war criminals convicted of crimes against humanity by the International Tribunal at Nuremberg. This offence is punishable by one year's imprisonment and/or a fine of €45,000.

293. This Act has already been applied in several cases, including:

- The judgement of the Paris Correctional Court of 27 February 1998 and the decision of the Paris Court of Appeal on 16 December 1998, which convicted Mr. Roger Garaudy of disputing crimes against humanity and racial defamation, following the publication of his book *Les mythes fondateurs de la politique israélienne* ("Fundamental Myths of Israeli Policy"), on the grounds that he had virulently and systematically disputed the very existence of the crimes against humanity committed against the Jewish community by the Nazi regime;

- The decision of the Criminal Division of the Court of Cassation on 17 June 1997 (Crim. Bull. 236), which pointed out that "while the fact of disputing the number of victims of the policy of extermination in a particular concentration camp is not [as such] covered by the provisions of article 24 bis of the Act of 29 July 1881, excessive understatement of that number is characteristic of the offence of disputing crimes against humanity, as provided for and punished by that article, when it is done in bad faith" (in this particular case, the accused had distributed stickers reading: "Auschwitz: 125,000 dead");

- The decision of the Criminal Division of the Court of Cassation on 20 December 1994 (Crim. Bull. 424), which also stated that a person accused of an offence under article 24 bis of the 1881 Act cannot plead that the prosecuting party has failed to produce the judgement of the Nuremberg International Military Tribunal of 1 October 1946 in the hearings, or that it has not been published in the *Official Gazette*, since no one can be supposed not to know what was said in that judgement which, in accordance with article 25 of the Charter of the International Military Tribunal, has been officially transcribed in French (the Criminal Division further said that the *res judicata* authority of a court decision derived from its definitive character, whether or not published).

294. It should be added that the Criminal Division of the Court of Cassation, in the above-cited decisions of 23 February 1993 (Crim. Bull. 86) and 20 December 1994 (Crim. Bull. 424), expressly stated that article 24 bis of the Press Act, concerning revisionism or negationism, was not contrary to the principle of freedom of expression as laid down in article 10 of the European Convention on Human Rights.

(e) Procedural regime of the Press Act

295. Offences under the Press Act are governed by a specific procedural regime. The purpose is to ensure, by rigourous observance of the applicable procedural rules, that a balance is struck between combating racist propaganda and safeguarding the freedom of opinion and expression embodied in numerous international instruments (International Covenant on Civil and Political Rights, European Convention on Human Rights) in accordance with general recommendation XV issued by the Committee on the Elimination of Racial Discrimination in 1993.

296. The procedural formalism of the 1881 Act is characterized notably by the shortness of the period of prescription of the public right of action, which in such instances is reduced to three months. Under article 65 of the 1881 Act, the period of prescription cannot be interrupted, prior to the commencement of proceedings, unless enquiries are ordered and specific submissions made, stating and describing the offence and citing the relevant criminal laws.

297. Other rules, relating to the content of the bill of indictment (article 50 of the 1881 Act) and to confiscations and seizures (articles 51 and 61 of the 1881 Act), likewise demonstrate the will of the French legislature to reconcile freedom of the press with efforts to combat racist and xenophobic propaganda.

298. The Ministry of Justice has several times had occasion to remind public prosecutors of the rigour needed in the institution and follow-up of proceedings brought on the basis of the 1881 Act. The most recent circular in this regard was issued on 16 July 1998: this reiterates the procedural requirements of the 1881 Act and focuses on the dissemination of racist or xenophobic pamphlets in many parts of the country, a matter that raises legal problems connected with the demonstration of an element of publicity, which is necessary in order to institute proceedings. In 2002, the Department of Criminal Affairs and Pardons at the Ministry produced a guide to criminal law on the press for public prosecutors and judges, which discusses and analyses most of the procedural rules in the light of practice and of domestic and European case law. The guide has been circulated over the Ministry's intranet site.

(f) The Press Act and respect for freedom of expression

299. In several instances, people prosecuted for and convicted of offences under the 1881 Press Act have brought complaints against France before international bodies on the basis of alleged violations of the right to freedom of expression. Two cases deserve more particular attention.

The Faurisson case before the Human Rights Committee

A university professor until 1991, when he was removed from his chair, Mr. Faurisson stated in September 1990, in a French monthly magazine *Le choc du mois* ("Shock of the Month"), that there had been no gas chambers for the extermination of the Jews in Nazi concentration camps. Following this publication, several associations brought an action against Mr. Faurisson before the criminal courts. On 18 April 1991, the Paris Correctional Court found him guilty of "disputing a crime against humanity" and fined him. The Paris Court of Appeal upheld this decision on 9 December 1992.

301. On 2 January 1995, Mr. Faurisson submitted an individual communication to the Human Rights Committee at the United Nations in which he contended that the Act of 13 July 1990, known as the "Gayssot Act", which created the offence of disputing crimes against humanity, was contrary to the principle of freedom of expression and instruction. In its views, adopted on 8 November 1996, the Human Rights Committee notes that Mr. Faurisson was sentenced for violating the rights and reputation of others; the Committee therefore took the view that the Gayssot Act, as applied to Mr. Faurisson, was compatible with the provisions of the International Covenant on Civil and Political Rights and that there had been no violation of Mr. Faurisson's right to freedom of expression.

The Marais case before the European Commission on Human Rights

302. In September 1992, Mr. Marais published an article in the magazine *Révision* casting doubt on the "alleged gassings" at the Struthof concentration camp during the German occupation and, more generally, the use of gas chambers in other concentration camps to eliminate the Jewish community. The author of the article was convicted on 10 June 1993 by the Paris Correctional Court and fined FF 10,000 on the basis of article 24 bis of the 1881 Act. The Paris Court of Appeal upheld the judgement at first instance in a decision of 2 December 1993. On 7 November 1995, the Court of Cassation rejected the application for a review entered by Mr. Marais against the decision of the Paris Court of Appeal.

303. In the case he then brought before the European Commission on Human Rights, Mr. Marais complained in particular of a violation of his right to freedom of expression, as guaranteed by article 10 of the European Convention on Human Rights. On 24 June 1996, the Commission declared the complaint of Mr. Marais to be inadmissible as being manifestly unfounded. The Commission noted in particular that the provisions of the 1881 Act and their application in the Marais case were intended to preserve peace within the French population and that the writings of Mr. Marais ran counter to the fundamental values of justice and peace. In its findings, the Commission notes that negationism, like racism, with which it is very closely related, is a factor of exclusion that may seriously damage the fabric of society and that it is therefore legitimate, in a democratic society, to employ means of combating it effectively by opposing any attempt to restore a totalitarian ideology.

(g) Article 14 of the 1881 Act

304. Article 14 of the Act of 29 July 1881 allows the Minister of the Interior to prohibit the circulation, distribution and sale in France of writings and newspapers of foreign origin. Between 1998 and 2002 only one foreign publication (the Turner diaries) was banned, in 1999, for being racist and anti-Semitic.

305. Ruling on *EKIN v. France* on 17 July 2001, the European Court of Human Rights found that the language in article 14 of the Act of 29 July 1881 allowing the prefect to declare a precautionary ban on the distribution of any foreign publication was directly contrary to article 10 of the European Convention inasmuch as the ban was an outright one with too little detail given about the grounds for it: the upshot was an inadmissible difference in treatment between French and foreign publications.

306. In response, by a decision dated 6 June 2002 the Investigations Division at the Limoges Court of Appeal cancelled proceedings on a count of distributing banned newspapers since the administrative court had overturned the prefectoral decision taken on the basis of article 14 of the 1881 Act which had now been found contrary to article 10 of the European Convention.

307. In a decision dated 7 February 2003, the Council of State found that the part of the decree-law of 6 May 1939 that amended article 14 of the 1881 Act, which empowers the Minister of the Interior to "declare an absolute and outright ban, throughout the country and for an unlimited period, on the circulation, distribution or sale of any publication in a foreign language or regarded as being of foreign provenance, without indicating the grounds on which such a ban may be declared", disregarded article 10 of the European Convention on Human Rights. Various Ministries are discussing what action to take in response to these rulings.

3. Other legislative provisions to combat racist propaganda

(a) The Act of 16 July 1949, as amended by the Act of 31 December 1987, on publications intended for young people

308. Article 14 of the Act of 16 July 1949, as amended in 1987, authorizes the Minister of the Interior to prohibit publications of any kind from being offered, given or sold to persons under 18 years of age if they present a danger to young people, inter alia, because of the stress laid on racial discrimination or hatred. For such publications, the measures taken by the Minister may extend to the prohibition of their public display and of any advertising to promote them.

309. No such action was taken between 1998 and 2002.

(b) The Act of 10 January 1936

310. The Act of 10 January 1936 enables the President of the Republic to dissolve by decree any de facto associations or groupings that provoke discrimination, hatred or violence against a person or group of persons on account of their origin or their membership or non-membership of a particular ethnic group, nation, race or religion, or that propagate ideas or theories intended to justify or encourage such discrimination, hatred or violence.

311. A decree issued on these grounds on 6 August 2002 dissolved the de facto group known as *Unité radicale* ("Radical Unity") for urging discrimination against foreigners and anti-Semitism.

D. Article 5

312. Equality before the law is guaranteed by the Constitution of the Fifth Republic dated 4 October 1958, article 1 of which states that "[France] shall ensure the equality of all citizens before the law without distinction as to origin, race or religion."

313. Particular note should be taken of the absence of discrimination between metropolitan France and its overseas possessions. The legislation is identical, and French overseas citizens also have the rights proclaimed in the Convention, which is applied without restriction in the overseas departments and territories and the territorial communities of Mayotte and St. Pierre and Miquelon. The laws giving effect to these rights and freedoms are systematically extended to the overseas possessions.

314. The broad thrust of French immigration policy has been described in the first part of this report under the heading "general". As regards the rights dealt with specifically under article 5 of the Convention, the following clarifications should be added.

1. The exercise of political rights, including the rights to participate in elections, to vote and to stand as candidate

315. Under article 3 of the 1958 Constitution, only French nationals of either sex who have reached their majority and are in possession of their civil and political rights may vote and stand as candidates in political elections. This is consistent with article 1 of the Convention, paragraph 2 of which states that the Convention shall not apply to distinctions, exclusions, restrictions or preferences made by States parties between citizens and non-citizens. Pursuant to the Treaty on European Union signed in Maastricht on 7 February 1992, however, any citizen of the Union residing in a member State of which he or she is not a citizen has the rights to vote and stand as candidate in municipal elections in the State where he or she is resident.

316. To allow these provisions to take effect, a directive of the European Council dated 19 December 1994 determined the arrangements under which the rights to vote and to stand as candidate would be exercised.

317. A constitutional law dated 25 June 1992 added to the French Constitution, article 88.3 of which states that the rights to vote and to stand as a candidate in municipal elections shall be granted only to citizens of the Union residing in France, it being stipulated that such citizens cannot exercise the functions of mayor or deputy mayor or participate in the designation of Senate electors or the election of senators. Article 88.3 of the Constitution refers to an Organization Act: the Organization Act of 25 May 1998 states that the individuals concerned are to be entered on a supplementary electoral roll.

2. Other civil rights

(a) The rights to freedom of movement and to choose one's place of residence within the State

318. Aliens in France have the same liberty to come and go as French nationals and may take up residence where they wish. They are only required, pursuant to a decree dated 31 December 1947, to announce their change of permanent residence to the police station or town hall at their new place of residence. Some aliens, however, owing to their background or conduct, may not be allowed to take up residence in certain departments. Such provisions are applied only in exceptional cases and are justified by overriding considerations of public order.

319. On the subject of checks on the identity of aliens and the legality of their presence in France, it should first be stressed that the rules on identity checks, as laid down in articles 78 1 ff. of the Code of Criminal Procedure, are not discriminatory. Anyone in France may be subjected to an identity check. Checks may only be carried out, under the supervision of the judicial system which, by virtue of the Constitution, exists to uphold individual liberty, for objective reasons relating either to the behaviour of the individual concerned or to special circumstances which threaten public order. The official record of the identity check must indicate what considerations prompted it.

320. Identity checks may be carried out only for the purpose of investigating and prosecuting criminal offences (judicial checks) or to prevent infringements of public order (precautionary checks).

321. There are two kinds of judicial check. The first kind, covered by article 78-2, paragraph 1, of the Code of Criminal Procedure, may be carried out on the initiative of the judicial police authorities where there is a link between the individual to be checked and an actual, attempted or potential offence, or where the individual checked is wanted by the police or may be able to provide information of value in a criminal investigation. Such checks must therefore be grounded in concrete, objective considerations suggesting that the individual concerned is connected with a criminal offence (avoiding police officers, passing repeatedly in front of a shop or a jeweller's …). The other kind, covered by article 78-2, paragraph 2, of the Code of Criminal Procedure, may be carried out pursuant to investigations and prosecutions upon written instructions from a public prosecutor, at a particular place and at a particular time. There are important judicial safeguards attached to them, and they have been declared constitutional by the Constitutional Council (Criminal Division, 5 August 1993): they must be authorized by a magistrate (the public prosecutor) in written instructions, and take place under the supervision and responsibility of that magistrate, who must specify in the instructions the offence that is being investigated and the time and place at which the check is to take place.

322. Precautionary identity checks, covered by article 78-2, paragraph 3, of the Code of Criminal Procedure, cannot, given the constitutional requirements, be carried out unless there is a risk of disturbance to public order, the authority concerned being required in every instance to document what circumstances indicative of a risk to public order led to the check being performed. Hence they cannot be carried out routinely.

323. In keeping with constitutional case law, the authorizing magistrate monitors "in particular, matters relating to the legality, reality and relevance of the grounds given for the action taken" and, to that end, "is required, where appropriate, to evaluate the conduct of the parties concerned" (Criminal Division, 5 August 1993). In so doing, he may criticize checks on the grounds that evidence of a risk to the safety of people and property was not forthcoming (Court of Cassation, 22 June 1988) or that "judicial police officers did not provide a detailed enough account of circumstances suggesting that such an infringement of such an aspect of public order ought to be prevented" (Pontoise correctional court, 23 September 1988).

324. To offset the abolition of routine border checks under the Schengen Agreement, checks may be carried out pursuant to article 78-2, paragraph 4, of the Code of Criminal Procedure near the country's borders or in areas open to international traffic, to ensure that people are complying with their obligation to be in possession of, carry about them and present the papers that the law requires. Such checks are justified, in the wording of Constitutional Court case law, inasmuch as these areas, of precisely defined characteristics and extent, present a particular risk of breaches and disturbances of public order owing to the international movement of persons within them.

325. Besides the identity checks provided for under the Code of Criminal Procedure, the ordinance of 2 November 1945 governing the entry and sojourn of aliens specifies that "persons of foreign nationality must be able to show the papers or documents authorizing their movement or sojourn within France". This cannot be considered discriminatory. It is merely the consequence of an objective difference between French nationals and aliens, the latter being subject, in full conformity with international law, to prior authorization as regards the right of sojourn, whence the need to be able to verify that papers attesting to the legality of their presence in France do exist.

326. It should be added that the Constitutional Council, in decision No. 93-325 of 13 August 1993, declared this requirement constitutional while very firmly stipulating that such identity checks should be carried out "solely on the basis of objective criteria, eschewing, with strict respect for principles and rules of constitutional rank, all discrimination of any kind among people". It adhered to case law holding that "foreign-ness" must stem from objective considerations unrelated to the physical appearance of the individual concerned, such as the fact that he or she is driving a foreign-registered vehicle or handing out tracts in a foreign language (Court of Cassation, 25 April 1985, *Bogdan and Vukovic*). Ensuring that this instruction is followed, and punishing any breaches, are matters for the courts.

(b) The right to leave any country, including one's own, and to return to one's country

327. Any alien residing in France has the right to leave the country at will in accordance with article 36 of the ordinance of 2 November 1945. The provision added in 1993 obliging certain aliens, if national security so required, to give prior notice of their departure, was done away with by the Act of 11 May 1998 and not reinstated by the Act of 26 November 2003 on immigration control, alien sojourn in France and nationality.

(c) The right to marriage and choice of spouse

328. The principle followed is of freedom to marry and, legal restrictions apart (prohibition of incest and polygamy, requirement that the spouses be of marriageable age), everyone is free to marry, to remarry after divorce or death of the spouse, and to do so at any age and with the person of his or her choice.

329. French law does not make the validity of a marriage contingent on the legality of aliens' presence in the country. It must, besides, be stressed that freedom of marriage is a principle of constitutional rank, as the Constitutional Court made plain in its decision of 13 August 1993: it is listed among the fundamental rights and freedoms of the individual, and described as a "constituent element of individual liberty". Parliament has, however, decided that something must be done about "marriages of convenience". Article 21 quater of the ordinance of 2 November 1945, which was added by the Act of 26 November 2003, therefore states that contracting a marriage solely for the purpose of obtaining a residence permit or acquiring French nationality, or enabling another to do so, is punishable by five years' imprisonment and a €15,000 fine.

(d) The right to freedom of thought, conscience and religion

330. France, a secular Republic, "shall respect all beliefs" (article 1 of the Constitution of the Fifth Republic, dated 4 October 1958). There are many illustrations of this neutrality guaranteeing respect for every individual's religious beliefs: among them may be cited article 7 of the Act of 13 July 1972 defining the legal status of members of the military, which refers to the principle of freedom of philosophical, religious and political opinions or beliefs, a principle buttressed by the principle of unrestricted freedom of worship on military sites; and the opportunity afforded to all without distinction to display distinctive signs expressing opinions, subject to respect for the secular nature of the State and for public order.

331. As regards the wearing of religious emblems in educational establishments, the principle laid down by the Council of State and taken up in ministerial circulars is, at present, to acknowledge that pupils are entitled to voice their opinions and manifest their religious beliefs in school. That freedom must, however, be exercised with due regard for pluralism and the liberties of others, and must not turn into pressuring or proselytizing, compromise teaching activities or the educational role of the teaching staff, or disrupt order within the establishment or the normal operation of public services.

332. As regards the personal photographs required for the issuance of aliens' residence permits and national identity cards, the decree of 30 June 1946 as amended, which governs the conditions under which aliens may enter and sojourn within France, and the decree of 22 October 1955 as amended which introduced the national identity card both stipulate that applicants for a residence permit or national identity card must furnish in support of their applications photographs of themselves taken full-face and bare-headed. This requirement applies to all French nationals and foreigners without distinction as to race, sex or religion.

333. The principle of State neutrality towards religion is matched by the principle that the Republic guarantees the practice of religion. Hence at the initiative of the Minister of the Interior a body representing the Muslim religion, along the lines of those representing other religions, was set up in May 2003. Until that time Islam had been the only religion not to have representative bodies of its own.

334. The French Muslim Council (CFCM) exists to uphold the dignity and interests of the Muslim religion in France, to encourage and make arrangements for the pooling of information and services among places of worship, to foster dialogue among religions and to represent Muslim places of worship before the public authorities.

335. More generally, the question of secularism is under review by a commission set up for that purpose on 3 July 2003. Consisting of some 15 experts under the chairmanship of the Ombudsman, the commission heard submissions from the political parties, religious authorities and civil society and submitted a report and related proposals to the French President on 11 December 2003. Pursuant to that report, a bill on the application of the principle of secularism in public junior and senior schools is now being drafted.

3. Economic, social and cultural rights

(a) The right to work

336. General legal framework. The right to work applies in France to all wage earners, foreign or French, without distinction.

337. Reference could be made, for instance, to the principle of non-discrimination set forth in article L.122-45 of the Labour Code, which prohibits any difference in treatment on grounds of "origins, sex, customs, family situation, actual or supposed membership or non-membership of an ethnic group, nation or race, political opinions, physical appearance, family name, genetic characteristics, state of health or disability" in anything to do with a wage earner's career from appointment to dismissal.

338. Action to prevent concealed employment. The Act of 11 March 1997 on firmer action to combat illegal work introduces three categories of new provisions, designed to:

- Give a clearer and more precise definition of the offence of concealed employment (the term which has superseded "clandestine employment") which may be committed by concealing business activity or by concealing a paid job - in the latter case the offence is deemed to be committed if the employer fails to honour the obligation either to issue a pay slip or to give prior notice of hiring;

- Expand the list of monitoring entities (ground transport controllers, air traffic controllers) held responsible for combating illegal employment and give them greater power to take action (by transmitting documents, granting hearings to wage earners and waiving professional confidentiality requirements); and

- Step up preventive action and increase the number of punishments applicable.

339. The policy of social integration through access to employment. Action has been taken in the fields of employment and training. Initially an experiment, sponsorship has been institutionalized through the introduction of a National Sponsorship Charter (with corresponding regional charters) in 1999. It has also been extended, by the 2001 Second Plan of Action against Social Exclusion, to cover adults in 2002 and 2003. In April 2003 the Inter-Ministerial Committee on Integration set a target of 25,000 sponsorships for 2004.

340. Every year the Social Action Fund (FAS) finances language training to help immigrants acquire the basic tools of social intercourse and, thanks to their improved mastery of French, fit more easily into society. Fifty thousand people receive such training every year. Since 1995, in a bid to improve the quality of the training given and take more account of immigrant groups' needs, the Fund has been updating its arrangements. To make it easier for people arriving under the family reunification procedure to fit into society, they have since 1994 had the possibility of taking 200 hours' worth of introductory French courses, and this has recently been extended to 500 hours.

341. The Fund is also involved in all vocational training and placement activities, paying due regard to the special difficulties faced by immigrant groups, through a three-year training programme for training and job-placement personnel. Two major principles govern this training: an intercultural approach, and proficiency in the use of pedagogical tools for language teaching. Information and training sessions are also provided for those in charge of local missions and reception, information and orientation services, who often come into contact with immigrant youths with questions about staying in the country, finding work, and nationality.

(b) The right to form and join trade unions

342. French law, under which liberty is the predominant principle, is in keeping with article 5 of the Convention regarding the right to form unions. This freedom is not limited by any consideration of nationality, race, colour, or national or ethnic origin. The sole requirement imposed by article L.411-4 of the Labour Code concerns the possession of civic rights and the lack of a criminal record, as specified in articles L.5 and L.6 of the Electoral Code.

343. Likewise, there is no obstacle to the freedom to join trade unions. Article L.411-5 of the Labour Code sets forth the principle in these terms: "Any wage earner, of whatever sex, age or nationality, may freely join the occupational trade union of his or her choice."

344. Article 8 of the Act of 13 July 1983 on the rights and duties of civil servants governs trade union rights within the civil service. It states that "Civil servants are guaranteed trade union rights. Those concerned may establish and join trade union organizations and pursue mandates within them without hindrance …".

345. Article 9 of the Act lists among the basic safeguards which civil servants enjoy the fact that they can participate, through their elected representatives sitting on advisory bodies, in the organization and operation of public services, the formulation of legal regulations and the consideration of individual decisions affecting their careers.

346. Article 9 bis of the Act, and article 14 of Act No. 84-16 of 11 January 1984 on the workings of the national civil service, lay down rules on the representativeness of trade union organizations for the purpose of electing staff representatives to such advisory bodies. Regional and local civil and hospital services apply the same rules on representativeness. It should be emphasized that the International Labour Organization's Committee on Freedom of Association (CFA) found, in its recommendation of March 2003, that these rules were compatible with the principles of trade union freedom set forth in the ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87).

347. Article 6 of the 1983 Act also stipulates that "no direct or indirect distinction may be drawn between civil servants because of their political or trade union opinions …". Article 18, paragraph 2, of the Act likewise states that "no mention may be made in a civil servant's personal file or in any administrative document of that individual's political, trade union … opinions or activities".

348. Lastly, article 21 of the Act establishes the principle of a civil-service entitlement to take leave for training in the management of trade union affairs.

349. The rules specifically governing the exercise of trade union rights in the civil service and article 6 of the Act of 13 July 1983 thus guarantee the principle of trade union freedom regardless of membership or non-membership of a given ethnic group or race.

(c) The right to housing

350. To combat certain discriminatory practices in access to housing, Act No. 2002-73 of 17 January 2002 concerning social modernization amended Act No. 89-462 of 6 July 1989 on better relations between landlords and tenants. Under article 1 of this Act, no one may be refused a lease on housing because of his or her "origin, family name … or actual or supposed membership or non-membership of a given ethnic group, race, nation or religion". Furthermore, the lessor may not refuse a security deposit on the grounds that a particular individual is not of French nationality.

351. Moreover, the Act on social modernization has shifted the burden of proof in favour of those claiming to have been discriminated against. Since discrimination is hard to demonstrate, the law (article 1, paragraph 4, of the Act of 6 July 1998 as amended) states that anyone who is refused a lease on housing can put the facts suggesting direct or indirect discrimination before the courts. It is then up to the respondent, in the light of those facts, to prove that the refusal was justified. The Act on social modernization also makes it easier for victims of discrimination to go to court since, in the event of a dispute with the landlord, a tenant can now assign an association to take legal action on his or her behalf (art. 24-1).

(d) The right to health

352. The right of anyone in French territory to health is stated in the Constitution and spelt out in the law. The Constitution of the Fifth Republic, dated 4 October 1958, makes reference to the preamble to the Constitution of the Fourth Republic, dated 27 October 1946, which proclaims the principle that the nation shall guarantee health protection for all.

353. Since 1 January 2000, any steady legal resident has been entitled to immediate, permanent basic health coverage (free or against payment, depending on means) on the grounds of his or her residence when not already entitled by virtue of his or her professional occupation. Furthermore, persons meeting the requirement of steady, legal residence with means below a set threshold are entitled, free of charge, to supplementary medical coverage and an advance on related costs (Social Security Code, articles L.380-1 ff. and L.861-1 ff.). People illegally resident in France or able to document under three months' legal residence are entitled to means-tested medical assistance financed by the State. Article L.711-4 of the Public Health Code requires establishments providing public hospital services to guarantee equal access to all the treatment they provide. Such establishments are open to anyone requiring their services, and must be prepared to admit anyone, day or night, in an emergency or otherwise, or to arrange for their admission into another establishment subject to the public hospital service regulations. They may not discriminate in any way as regards the treatment they dispense to patients.

354. French social security legislation rules out discrimination of any kind among different categories of French national, in keeping both with France's international commitments and with the preamble to the Constitution of 27 October 1946, inasmuch as the latter may be held to acknowledge every human being's right to social security. Such complete equality of treatment for all legal nationals applies just as much to the obligation to contribute as to entitlement to social-security benefits and the provision of such benefits abroad where the regulations so provide.

355. Similarly, people legally resident in France can obtain various kinds of welfare benefits.

(e) The right to education and vocational training

356. The principle that foreign children must attend school is set out in article L.131-1 of the Education Code, which states that "schooling is mandatory for children of both sexes, French and foreign, aged between 6 and 16 years. This provision shall be without prejudice to the application of special prescriptions requiring a longer period of school attendance." This principle, which shows how deeply committed schools are to the process of social integration, manifests itself in the form of 630,000 foreign pupils attending French schools (school year 2001/02). In metropolitan France, 10 per cent of the student population is foreign. In all, 9 per cent of the school-age and student population in metropolitan France consists of foreigners.

357. Training activities laid on especially for foreign pupils will be described under article 7 of the Convention.

E. Article 6

1. The right to reparation

358. France provides particularly effective safeguards of the right to reparation for victims of racial discrimination, thanks to the rights that French criminal procedure accords to the victims of crime in general. Victims of racist crimes thus have open to them the normal courses permitted under French law: they can bring criminal proceedings directly against the perpetrators of such offences under the traditional procedures available to any victim of a crime,

which include lodging a complaint with an examining magistrate and bringing a concurrent action for criminal indemnification (*action civile*). By so doing they can both ensure that the perpetrators are brought to justice and obtain civil reparation for the injury they have suffered.

359. Reference should be made here to articles 706-3 ff. of the Code of Criminal Procedure which, in the case of injuries resulting from an offence committed in France, enable any citizen of the European Economic Community or legally present alien to obtain full reparation from a commission attached to a court of major jurisdiction. This right to full reparation is limited to serious injuries (death, permanent disability or disability lasting at least one month). A similar right exists, even if no such injury has been sustained, in the case of sexual assaults and sexual abuse of minors.

360. There also exist courses of action specifically for victims of racist offences. Article 2-1 of the Code of Criminal Procedure permits any association that has been duly declared for at least five years and whose objectives, as set forth in its statutes, include combating racism or helping the victims of nationally, ethnically, racially or religiously motivated discrimination to exercise the rights of a party bringing an *action civile*, not only for discriminatory conduct (see above under article 2 of the Convention) but also for damage to property and personal injury inflicted because of the victim's national origins or membership or non-membership of a particular ethnic group, race or religion.

361. In the case of breaches of the Press Act, article 48-1 permits associations to exercise the rights of a party bringing an *action civile* for incitement to racial discrimination, hatred or violence, defamation or public insult. When an offence is committed against persons considered individually, however, an association will be allowed to bring such an action only if it can demonstrate that it does so with the consent of the individuals concerned.

362. Act No. 2001-434 of 21 May 2001 added an extra paragraph to article 48-1, authorizing associations defending the memory of slaves and the honour of their descendants to exercise the rights of a party bringing an *action civile*, on a par with associations fighting against racism, in cases of incitement to racial hatred, defamation and racial insult.

363. Under article 48-2 of the 1881 Act, any association that has been duly declared for at least five years and whose objectives, as set forth in its statutes, include upholding the moral interests and honour of the Resistance or of deportees, may exercise the rights of a party bringing an *action civile* for the offences of disputing crimes against humanity or defending war crimes, crimes against humanity or criminal collaboration with the enemy.

364. Public prosecutors' offices are also encouraged to strengthen contacts and cooperation with anti-racist associations, whose involvement in the justice system needs to be facilitated as called for in the Code of Criminal Procedure and the 1881 Act: those most exposed to the dangers of racial discrimination or racist propaganda are not always in a position to institute legal proceedings by themselves. A Ministry of Justice circular dated 16 July 1998 invites public prosecutors' offices to increase such cooperation, because a heightened role for the anti-racist organizations may allow many incidents from daily life to be brought to light, and enable criminal proceedings to be tailored to suit. And the memo on press offences mentioned above advocates that public prosecutors should hold regular meetings with anti-racist associations to bring them up to date on pending cases.

Figures

365. In its concluding observations of 14 April 2000, the Committee asked for statistics on racist offences.

366. It must first be pointed out that the Ministry of Justice is only aware of incidents that have been reported or complained of to the police or gendarmerie, or to public prosecutors' offices.

367. It must next be explained how racist or anti-Semitic offences can be recorded by the judicial system.

Intrinsically racist offences

368. A number of legal descriptions suggest that some offences are intrinsically racist in nature.

369. The offences concerned are chiefly public racist abuse and defamation (articles 32 and 33 of the Press Act of 29 July 1881) and non-public abuse and defamation based on race (articles R624-3 and R624-4 of the Penal Code), incitement to racial hatred as covered by article 24 of the 1881 Act and revisionism as covered by article 24 bis of the same Act.

370. Articles 225-1, 225-2 and 432-7 of the Penal Code prescribe penalties for discrimination based on race, origin or nationality, but also on sex, sexual orientation and political, trade union or philosophical allegiance.

371. Some kinds of conduct that may have an anti-Semitic connotation have been legally construed as racist abuse, incitement to racial hatred or, in the case of calls for a boycott, discrimination.

Offences that are racist or anti-Semitic in context

372. These are forms of conduct which, before the Act of 3 February 2003 introducing racism, anti-Semitism or xenophobia as an aggravating circumstance, could not be classified as racist or anti-Semitic insofar as the offences prosecuted were concerned, but could be so classified given the context in which they were perpetrated, as is often the case with urban delinquency that may have racist or anti-Semitic overtones. The description thus applies to such things as violence, threats or material damage.

373. Before 3 February 2003, French positive law did not take account of the racist or anti-Semitic nature of an act as a component part of an offence under ordinary law or as an aggravating circumstance.

374. It was not, therefore, possible to obtain judicial statistics on such conduct, as with intrinsically racist offences, but this does not mean that it was not taken into account in prosecuting offences. It was up to public prosecutors to determine, by means of various criteria (offence charged, nature of the victim, site targeted, words used by the perpetrator to justify his actions …) whether an act was racist or anti-Semitic in nature.

375. It should, furthermore, be explained that in assessing the seriousness of an offence and deciding on the severity of the punishment, the courts that are called upon to pronounce on such incidents will, besides the offence with which a suspect is charged, take into consideration the setting in which the incident occurred and the perpetrator's motives.

376. Statistics on intrinsically racist offences, as shown in court records, are provided in an annex to this report.

377. Two or three years from now, the statistics will also show other racist offences (violence, material damage …) where the trial court, and thus the court records, have taken racism into account as an aggravating circumstance.

378. It should be added that in the case of violations of the law on freedom of the press, victims have a right of reply, i.e. the right to issue a rejoinder free of charge if discriminatory information or statements about them have been published or broadcast. This is a right that can be exercised by victims, but also by victims' associations. The right of reply applies to radio and television as well as to the written word.

379. On the subject of civil reparations, it must be stressed that even if objectionable behaviour or language does not amount to a criminal offence, the victim can, on the strength of the perpetrator's misconduct and documentary evidence of the harm done, obtain damages.

380. A number of ministerial departments provide substantial financial assistance to anti-racist and human rights organizations. This supports, in particular, the legal aid that such associations provide for persons of foreign origin, and a few particularly notable anti-racism projects.

2. Effective access to the courts

381. The right to reparation for victims of racist and xenophobic acts would be a mere fiction were it not accompanied by an effective legal aid system. The Act of 10 July 1991 reforming the legal aid system has opened legal aid up to persons of foreign nationality. Nationals of the European Community and aliens legally and habitually resident in France are now assimilated to French nationals. The requirement of legal and habitual residence is waived when the applicant for aid is a minor, is involved in legal proceedings, or is covered by one of the procedures laid down in articles 18 bis, 22 bis, 24, 35 bis or 35 quater of the ordinance dated 2 November 1945 governing the entry and sojourn of aliens.

382. Exceptionally, legal aid may be granted to people who, although unable to satisfy the requirement of legal and habitual residence, find themselves in circumstances that seem "particularly worthy of interest given the subject of the dispute and the likely costs of the proceedings". Lastly, legal aid has been extended to aliens who, when they appear before the Refugee Appeals Commission, have entered France legally and are habitually resident there or possess a residence permit valid for at least one year.

383. The Act of 10 July 1991 applies without prejudice to any international conventions to which France is party that may set aside the requirement of legal and habitual residence in the case of nationals of certain countries.

384. The Department of Civil Affairs and Justice is currently finalizing legislation which, like that governing access to rented housing (see above), will shift the burden of proof in favour of people claiming to have been discriminated against on account of their race.

F. Article 7

385. Bringing the problem of racial discrimination to the attention of schoolchildren is a matter both of educational curricula and, long before any teacher addresses a roomful of children, of providing the teachers with initial training in human rights as called for in article 7 of the Convention. The resources committed to providing foreign pupils with schooling also attest to the involvement of schools in the social integration process.

1. Action to combat sectarianism

386. To combat the sectarian displays that may disrupt normal life at a number of primary and secondary schools, a unit has been set up within the ministry responsible for youth affairs and national education to keep track of incidents related to sectarian conflicts and, in particular, racist and anti-Semitic behaviour. There are corresponding units in each educational authority (region).

387. Among the things at these units' disposal is a communication tool enabling them to intervene in schools directly and swiftly; the units also circulate information widely under the "Republican values" section of the "EduSCOL" Internet site run by the department of schoolteaching.

388. Head teachers and college principals are asked to take immediate action in response to such situations:

- Keep a tally of all incidents so as to react proportionately;
- Apply stiffer penalties for racist and anti-Semitic acts and remarks.

389. Each junior, middle and high school also has a handbook on making the republican ideal a reality and keeping it up to date, a collection of reference texts, and a practical guide suggesting appropriate specific responses in the event of conflict.

2. Teaching guidelines and the prevention of racial discrimination

(a) Educational curricula

390. Curriculum content at every level of schooling helps to teach the values and principles on which the French Republic was founded, and to combat xenophobia and racism.

391. Primary education. The curricula that came into effect at the beginning of the school year in 2002 have a stronger civics component, thus enabling teachers to draw pupils' attention to the values underpinning democracy. From the first year of infant school, children become aware "of their duty to respect others and the right to be respected themselves - their identities, personalities, physical integrity, property, and ways of expressing what they think". Subsequent years are intended to impart "a sense of justice, the dignity of the human person, respect for

physical integrity, the Declaration of the Rights of Man and of the Citizen, social welfare and solidarity, a sense of personal and collective responsibility vis-à-vis problems relating to human rights and attacks on them (in particular, violence and discrimination)".

392. Schools can take part in activities and special events organized by a variety of institutions. A national week against racism is organized each March by the League for Human Rights, S.O.S. racisme, the Movement against Racism and for Friendship among Peoples, the International League Against Racism and Antisemitism, and UNESCO clubs: children take part in the demonstrations which these organizations arrange.

393. As part of the partnership in education between North and South, educational and development activities may be scheduled between October and June; they bear witness to the importance that the youth of France attach to solidarity with young people in the countries of the South. The aim of Development Cooperation Day is to make children aware, in a development education setting, of the economic, social and cultural realities of life in developing countries, the interdependence of all regions of the globe and the objective solidarity that exists between peoples.

394. Secondary education. At middle school (*collège*), civic studies are taught for an hour a week. Three points are central:

(a) Civics is taught by the entire teaching staff. Civics, and more broadly preparation for citizenship, is not limited to the conveying of legal and political knowledge; it must be experienced by children in their daily lives at the school;

(b) The curriculum is designed to show what civics means in practice, and is constructed, as far as possible, around case studies. The new curriculum for the first year of middle school, which states in its introduction that civics is training for the adult and the citizen, provides teachers with a perfect setting for raising questions about racial discrimination: the aim is to instruct children in human rights and citizenship, teach them the principles and values on which democracy and the Republic are founded, introduce them to institutions and laws, and help them understand the rules of social and political life. The second-year curriculum must include four hours of teaching on rejecting discrimination and three to four hours on the dignity of the individual. In the third year, five to seven hours are spent on studying human rights in Europe (common values, national identities and European citizenship). This curriculum came into effect for second-year pupils in the academic year 1997/98; it has applied to third-year pupils since 1998/99;

(c) The study of seminal texts. The material used to teach civics in the second and third years includes the Universal Declaration of Human Rights and the Convention on the Rights of the Child.

395. At high school (*lycée*), the new history curricula place a marked focus on the human rights dimension and ethical aspects of social phenomena as pupils study questions such as the French Revolution (in the first year), the rise of totalitarian regimes and the Second World War (second year), and changes in the modern world and political and social developments in France since 1945 (final year). The first- and third-year history curricula emphasize the misdeeds of Nazism: a section is devoted to occupation and resistance in Hitler's Europe, the concentration

camp system and genocide. They address the outcome of the Second World War, including the soul-searching occasioned by having to confront the existence and consequences of deportations, and stress the founding of the United Nations and its ideals, in part through a study of the Charter and the Universal Declaration of Human Rights.

396. Civics teaching at middle schools and civics, legal and social studies courses at high schools, together with the practice of formal debating, make for a thorough grounding in civics and help to bring up self-sufficient individuals with a regard for the good of the community, able to think critically and free of the prejudices that sustain xenophobia and racism. Every member of the educational community and every subject-field can contribute towards this objective.

397. French courses provide an opportunity to discuss the idea of equality through, for example, the study of French literature and contemporary works in both French and foreign languages; they are expected to encourage curiosity and openness to other cultures among students. The philosophy course taught in the final year of school incorporates the study of issues relating to human rights and democracy.

398. At vocational college (*lycée professionel*), classes in human rights and preventing racism are an integral part of the new curricula leading to the vocational *certificat*, *brevet* and *baccalauréat*. These new curricula have been in effect for general technological studies since the beginning of the school year in 1996 for first-year students, 1997 for second-year students, and 1998 for students in their final year. In the case of vocational studies, they have applied since the beginning of the school year in 1992 for students preparing for the vocational *brevet*, and 1997 for those preparing for a baccalaureate.

399. The civics, legal and social studies course comes into effect as of the start of the new school year in 2003, in the first year of studies towards the vocational *certificat* (decree of 26 June 2002). It has been in effect since the start of the school year in 2001 in the first year of studies towards the vocational *brevet* and *baccalauréat* (decree of 20 July 2001).

(b) Initial training for teachers

400. General training. Although the details of how instruction in citizenship is imparted may differ from one university teacher training institute (IUFM) to the next, owing to their diversity of resources and characteristics, the general approach followed is the same. Most have opted to include the notion of "citizenship" and the related concerns at a variety of junctures during the training schedule, in connection with specific subjects as well as general instruction. Civics thus becomes a cause for reflection and reconsideration of course content with a view to greater integration within existing teaching courses.

401. Training for secondary-level teaching staff (philosophy, history and geography, economics and social sciences) takes account of plans to update the teaching profession and makes much of instruction in citizenship.

402. In the case of general training, activities take various forms. Given the close links between culture, language and citizenship, the teacher training institutes in Caen, Grenoble, Nancy, Nantes and Rennes tackle the question of citizenship through language in training activities focusing on "integration, exclusion and interculturality".

403. Publications. Reviews such as *ville-école-intégration-enjeux* ("Town-school-integration stakes") and *ville-école-intégration-actualité* ("Town-school-integration-current affairs") published by the Town-School-Integration Centre (VEI), and *textes et documents pour la classe* ("Texts and documents for the classroom") published by the National Centre for Teaching Documentation (CNDP) provide teachers with valuable information on how foreign pupils are taught and on foreign cultures.

404. Training courses. To help put all these arrangements into effect, teachers are offered various training courses as part of their continuing education:

- Language courses for modern foreign-language teachers;

- Academic courses studying foreign cultures (Mediterranean countries) for teachers of literature, history, geography and the plastic arts;

- National courses for teacher-trainers, which concentrate on the present-day Maghreb and the Algerian war, and on the teaching of Arabic languages.

3. Teaching arrangements for foreign pupils: the quest for social integration

405. Linguistically, French schools do double duty in integrating foreign pupils socially and culturally, by helping them to learn French and by offering them the means of studying their mother tongues.

(a) Learning French

406. Special arrangements have been made to cater for the problems in French and other subjects that pupils born in or coming young to France may encounter on starting middle school: tutorial and individual study support sessions, and teaching hours set aside to help pupils with serious learning difficulties.

407. The special arrangements that have applied for many years to newly arrived foreign pupils learning French have just been updated by circular No. 2002-100 of 25 April 2002 on schooling arrangements or apprenticeships for pupils newly arrived in France without an adequate knowledge of French.

408. After a placement test, newly arrived pupils are registered in ordinary classes appropriate to their age and level of schooling. At the secondary level it is possible, depending on their level, to register pupils in another class provided that there is not more than two years' age difference. When there are enough pupils to warrant it, extra daily tuition in French as a second language (for education and social contact purposes, not the same as a course in French as a foreign language) will be laid on part-time in the initial class at primary schools and the introductory class at the secondary level. Initial and introductory classes are limited in size to 15 pupils.

409. The aim is to allow pupils gradually to join the normal school curriculum - within two years in the case of pupils who arrive during the course of the school year or who have had little schooling when they embark on the last two years of primary school or start at secondary school.

410. Pupils arriving in France close to the age at which compulsory education would end who have had little or no schooling in their countries of origin are registered in introductory classes for children with no previous schooling, initially to gain fluency in spoken French, then to learn the rudiments of reading and writing. They nonetheless attend normal classes in subjects for which proficiency in French is not of the essence (PE, music, art …).

411. Those already over 16 when they arrive in France can be taken up by the national education system's job-placement scheme for school leavers (MGIEN) and follow special pre-vocational preparation-for-work courses in French as a foreign language, reading and writing.

412. When there are too few pupils to constitute an introductory class, specific French instruction is provided as part of primary and secondary-level teaching.

413. Significant efforts have been made in recent years to make it easier for pupils newly arrived in France to learn French.

414. In the school year 2002/03 primary schools in all departments (metropolitan and overseas) offered a total of 1,137 initial classes; 893 had been offered in 1994/95. A real effort has been made in secondary schools: the number of introductory classes has risen from 126 at the start of the 1980/81 academic year to 464 in 1996/97 and 762 (metropolitan and overseas departments) in 2002/03. The number of teaching hours specifically allocated for French-language instruction during the current academic year is 5,131.

415. The total number of young people in initial and introductory classes or the MGIEN scheme or receiving French-language courses in 2002/03 is nearly 34,350. In 2001/02 there were 27,535.

416. The Ministry of Education has produced a paper for middle-school teachers entitled "French as a second language", which was published by the National Centre for Teaching Documentation in the last quarter of 2000. A paper on teaching French as a second language in primary schools is in preparation.

417. The Town-School-Integration Centre has just published a survey of methods of teaching French as a second language.

418. The teaching corps is urged to establish a dialogue with foreign families in order to explain the rules governing the French school system, how to obtain guidance and the fact that they are entitled to attend school councils and take part in various activities. Schools are urged to provide information through interpreters or by means of a hand-out describing the school in the families' first language accompanied by a French translation.

419. Schools can also use a presentation intended both for families and for teachers and local-level partners of the national education system, entitled "The school at the heart of life" (available on paper or audio and video cassette), which was published in 1996 by the National Information Office on Teaching and Careers (ONISEP) and is available in French, English, Arabic, Tamil, Turkish and Sonike.

(b) Native language instruction

420. Instruction in pupils' native languages may be offered under the heading of modern languages (which includes linguistic and cultural objectives) or the original language and cultural activities option offered at schools and vocational colleges.

421. Fifteen modern languages can be studied at the secondary level. These include the languages of the principal foreign communities that have settled in France (written Arabic, Chinese, Spanish, Italian, Polish, Portuguese, Russian and Turkish). As taught subjects, these languages can be offered in national examinations.

422. A service note dated 16 October 1996 establishes that Armenian, Cambodian, Farsi and Vietnamese can also be offered in the set papers leading to the general and technical baccalaureates.

423. The rules governing the optional written papers for the general and technical baccalaureates also make provision for numerous African, Asian and Central European languages. Under this heading, students can offer Albanian, Amharic, demotic Arabic, Armenian, Bambara, Berber, Bulgarian, Cambodian, Croatian, Czech, Farsi, Hungarian, Indonesian-Malaysian, Korean, Lao, Macedonian, Malagasy, Peul, Romanian, Serbian, Slovak, Slovene, Swahili, Tamil, Turkish and Vietnamese.

424. Courses in native languages and cultures (ELCOs) governed by bilateral agreements with the Maghreb countries, Spain, Italy, Portugal, Serbia and Montenegro and Turkey are available for young people from those countries attending school in France. These courses, which are optional, are given by foreign teaching staff made available and paid by their countries of origin. About 60,300 primary-school and 9,100 secondary-school pupils were taking such courses in the academic year 2002/03. Efforts are being made in conjunction with foreign countries to introduce these languages gradually into primary schools as part of the modern languages curriculum; Italian and Portuguese have been introduced so far.

425. The following such courses were arranged under the bilateral agreements mentioned above in 2002/2003:

Academic year 2002/03

Algeria					
Spain					
Italy					
Morocco					
Portugal					
Tunisia					
Turkey					
Serbia and Montenegro					
Total					

Notes

[1] Article 17 prevents people from interpreting the European Convention for the Protection of Human Rights and Fundamental Freedoms as implying the right to engage in activities aimed at the destruction of the rights and freedoms which the Convention sets out.

[2] Document COM (2001) 664 final.

[3] Council framework decision 2002/584/JAI.

[4] Other offences listed include terrorism, trafficking in human beings, homicide, rape, corruption and membership of a criminal organization.

[5] Act No. 2003-1176 of 10 December 2003.

List of Annexes

European Council directive 2000/43 of 29 June 2000

Ordinance No. 45-2658 dated 2 November 1945 governing the entry and sojourn of aliens, as amended by the Act of 26 November 2003

Act of 10 January 1936 on combat units and private militias

Act No. 49-956 of 16 July 1949 on publications intended for young people

Act No. 83-634 of 13 July 1983 concerning the rights and obligations of civil servants

Act No. 98-170 of 16 March 1998 on nationality

Institutional Act of 25 May 1998 defining the conditions under which article 88-3 of the Constitution, on exercise by citizens of the European Union resident in France other than French nationals of the right to vote and stand as candidates in municipal elections, is applicable, and incorporating Directive 94/80/CE dated 19 December 1994 [into French law] (Electoral Code, articles LO 227-1 to 227-5)

Act No. 98-657 of 29 July 1998 on social exclusion

Organization Act No. 99-209 of 19 March 1999 on New Caledonia

Act No. 99-641 of 27 July 1999 establishing the universal health insurance scheme

Act No. 2000-494 of 6 June 2000 establishing the Professional Ethics Board for the national security forces

Act No. 2001-616 of 11 July 2001 on Mayotte

Act No. 2001-1066 of 16 November 2001 concerning measures to combat discrimination

Act No. 2002-73 of 17 January 2002 concerning social modernization

Act No. 2003-88 of 3 February 2003 establishing harsher penalties for racist, anti-Semitic and xenophobic offences

Act No. 2003-239 of 18 March 2003 on domestic security (Penal Code, article 132-77)

Act No. 2003-1119 of 26 November 2003 on immigration control, alien sojourn in France and nationality

Circular dated 16 July 1998 on action against racism and xenophobia

Circular dated 18 January 1999 on the establishment of departmental Commissions on Access to Citizenship

Circular dated 26 April 2000 on the introduction of mature community-support persons ("adultes-relais")

Circular dated 2 May 2000 on access to citizenship and action to combat discrimination

Circular dated 13 October 2000 on judicial responses to acts of urban violence and racist or anti-Semitic offences linked to current developments in the Middle East

Inter-Ministerial Circular dated 28 November 2001 on action against racism

Circular from the Minister of Justice dated 2 April 2002 on judicial proceedings relating to acts of violence and urban delinquency committed since the autumn of 2001 which might have racist or anti-Semitic connotations

Circular from the Minister of Justice dated 18 April 2002 on judicial responses to racist or anti-Semitic acts

Circular No. 2002-100 of 25 April 2002 on schooling or apprenticeships for pupils newly arrived in France with an inadequate command of French

Circular from the Minister of Justice dated 21 March 2003 on judicial responses to racist, anti-Semitic or xenophobic acts

Figures on guilty verdicts in racial discrimination cases (*Source*: court records)

Guide to anti-racist legislation (Ministry of Justice)

Three most recent reports (2000, 2001, 2002) of the National Consultative Commission on Human Rights

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