



**International Convention on  
the Elimination  
of All Forms of  
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION  
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9  
OF THE CONVENTION**

**Seventeenth, eighteenth and nineteenth periodic reports  
of States parties due in 2008\***

**France\*\* , \*\*\***

[11 March 2009]

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\* The present document constitutes the seventeenth, eighteenth and nineteenth reports of France, which were due on 27 August 2008. For the fifteenth and sixteenth periodic reports (CERD/C/430/Add.4) and summary records of the meetings at which they were considered by the Committee, see documents CERD/C/430/Add.4 and CERD/C/SR.1675, 1676. The Committee's concluding observations were published in document CERD/C/FRA/CO/16.

\*\* 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.

\*\*\* The annexes may be consulted in the archives of the secretariat of the Committee on the Elimination of Racial Discrimination.

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## INTRODUCTION

1. On 28 July 1971, France ratified the International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter “the Convention”), which the United Nations General Assembly adopted in 1965.
2. In accordance with the Guiding Principles, and as recommended by the Committee on the Elimination of Racial Discrimination (hereinafter “the Committee”), the aim of the seventeenth, eighteenth and nineteenth reports, which have been combined in this report, is not to revisit all the information already provided, but to describe developments in domestic law and practice since the last periodic report and update the data previously supplied. On 13 February 2007, France provided an additional report containing information on the implementation of several recommendations made by the Committee when considering France’s fifteenth and sixteenth reports. This report supplements the information already supplied and responds to the Committee’s observations and recommendations.
3. This report brings together contributions from the ministries concerned with the application of the Convention. The Government has also taken account of observations from the National Consultative Commission for Human Rights (CNCDH) and the High Authority to Combat Discrimination and Promote Equality (HALDE). A meeting was also held directly with the NGOs before the report was drafted.

## **PART ONE: GENERAL OBSERVATIONS**

### **A. Demographic information**

#### **1. Composition of the population**

##### **(a) Census**

4. According to the National Institute for Statistics and Economic Studies (INSEE), on 1 January 2008, the total population of France was 64.5 million people, that is to say 61.875 million inhabitants of metropolitan France, 1.878 million inhabitants in the overseas *départements* (Guadeloupe, Martinique, French Guiana and Réunion) and approximately 720,000 inhabitants in the Overseas Collectivities (French Polynesia, New Caledonia, Mayotte, Saint-Pierre and Miquelon and the Wallis and Futuna Islands).

5. In mid-2004, nearly 5 million immigrants were resident in metropolitan France, including 1.97 million French citizens born abroad. Of the 3.5 million foreigners living in France at that date, slightly fewer than 3 million were born abroad, while 550,000 were born in France. Of the latter, 450,000 were children and young people whose parents were foreigners born abroad.<sup>1</sup>

##### **(b) Foreigners holding a residence permit**

6. As regards foreigners who hold a residence permit, the French Government points out that only foreigners aged at least 18 (or 16 if they are in employment) are required to have a residence permit. Consequently, the figures that follow do not include minors, for whom no definite figure exists, or foreigners illegally present in France. Furthermore, since 2004, citizens of the “Community” countries have not been required to have a residence permit. This affects 21 countries: the 15 countries of the European Union (EU) prior to enlargement, plus Malta and Cyprus, as well as Switzerland and the three countries of the European Free Trade Association (EFTA) which are not part of the EU, namely Iceland, Norway and Liechtenstein.

7. Nationals of the European Union’s 10 new Member States are subject to transitional provisions and, depending on the form their immigration takes, partially exempt from the residence permit requirement. This affects the significance that can be attributed to the statistics concerning foreigners in possession of a residence permit: currently, only the statistics on permits held by nationals of “countries outside the EU of 27” are representative of the number of residents in France, and then solely in regard to those countries. The same applies if the numbers are compared over time. For example, the number of residence permits for all nationalities has been in gradual decline since 2004: an inevitable consequence of the fact that, allowing for exceptions, “Community citizens” no longer apply for new residence permits or do not renew them when they expire, resulting in a gradual fall in their numbers. In contrast, the figures for “third countries” continue to rise.

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<sup>1</sup> Immigration statistics for France may be found at:

<http://www.ladocumentationfrancaise.fr/dossiers/immigration/chiffres.shtml>.

**Trends in the number of foreigners holding a valid residence permit or residence document  
between 2000 and 2007 (data for metropolitan France only)**

	Sex	Year							
		2000	2001	2002	2003	2004	2005	2006	2007
"Community citizens" (nationalities not requiring a residence permit)	F	571,847	565,737	564,608	566,517	510,889	441,783	369,444	307,274
	M	652,314	644,783	642,670	644,570	584,770	507,823	425,037	354,795
Total number of "Community citizens"		1 224,161	1,210,520	1,207,278	1,211,087	1,095,659	949,606	794,481	662,069
10 New Member States (transitional provisions)	F	30,352	32,126	33,990	35,863	34,214	34,439	35,084	33,085
	M	19,507	20,359	21,423	21,987	20,995	21,509	22,339	24,842
Total for 10 new Member States		49,859	52,485	55,413	57,850	55,209	55,948	57,423	57,927
"Third countries" (nationalities requiring a residence permit)	F	830,570	852,874	890,008	926,774	952,796	972,231	990,004	1,021,579
	M	1,137,777	1,153,734	1,197,209	1,227,952	1,235,216	1,236,997	1,240,950	1,261,049
Total for "Third countries"		1 968,347	2,006,608	2,087,217	2,154,726	2,188,012	2,209,228	2,230,954	2,282,628
<b>Total</b>		<b>3,242,367</b>	<b>3,269,613</b>	<b>3,349,908</b>	<b>3,423,663</b>	<b>3,338,880</b>	<b>3,214,782</b>	<b>3,082,858</b>	<b>3,002,624</b>

8. If only "third countries" are taken into account, and based on the number of residence permits, the population of foreign nationals residing in France, at 31 December 2007, mainly consisted of 294,309 persons from francophone Africa and 1,214,981 persons from the Maghreb countries, accounting for two-thirds of "third country" nationals overall. It should be noted that, if all nationalities are taken into account, the list of the 10 main nationalities still includes Portuguese, Italian and Spanish citizens.

**Breakdown of residence permits for the biggest nationality groups (statistics as at  
31/12/2007, metropolitan France only, "third countries")**

Nationality	2007
Algerian	576,807
Moroccan	465,713
Turkish	188,051
Tunisian	172,461
Chinese	65,686
Senegalese	52,366
Malian	48,554
Dem. Rep. of the Congo	41,182
Serbia Montenegro	40,737
Cameroonian	35,888

Source: Ministry of Immigration, Integration, National Identity and Mutually-Supportive Development, Strategy Service, Department of Statistics, Research and Documentation.

## **2. Minorities and statistics on ethnic groups**

9. France does not recognize the existence within its territory of minorities with a legal status as such, and takes the view that the application of human rights to all of a State's citizens, on the basis of equality and non-discrimination, normally provides them with the full and complete protection to which they are entitled, whatever their situation.

10. France's traditional view of minorities flows from principles rooted in its history and fixed by the Constitution. This view is founded on two basic concepts: citizens have equal rights, which imply non-discrimination, and the nation is united and indivisible, in terms of both territory and the population. The 1958 Constitution reaffirmed these principles.

11. Far from being set in stone, this approach is based on an ongoing national debate, and the most recent significant development here was the submission, on 17 December 2008, of the conclusions of a committee tasked with reviewing the Preamble to the Constitution (the "Veil Committee"). The Committee was mandated by the President of the Republic to consider "whether and to what extent the fundamental rights recognized by the Constitution need to be supplemented with new principles", including a new approach to the principle of equality that would permit differentiated policies based on ethnic origin.

12. On that question, the Veil Committee noted, among other things, that "(...) the current constitutional framework cannot be regarded as an obstacle to the implementation of ambitious affirmative-action measures that could benefit, among others, people of foreign origin who are insufficiently integrated in French society".

13. In practice, the French approach therefore postulates that the affirmation of an identity is the result of a personal choice, not of a set of criteria that define, a priori, one group or another and would necessitate a separate legal regime. Such an approach protects the right of every individual to embrace a cultural, historical, religious or philosophical tradition, or to reject it. France has always stressed this point in international forums, pointing out the unintended consequences of an overly rigid approach to the protection of minorities, including any attempt to define general criteria for membership of a minority or even to compile registers of people from minorities

14. Attention should be drawn here to the constitutional position regarding statistics on ethnicity. Article 1 of the Constitution provides that the Republic "shall ensure the equality of all citizens before the law without distinction of origin, race or religion". In accordance with those provisions, the Constitutional Council (*Conseil constitutionnel*) has held that "although the processing of data necessary for carrying out studies regarding the diversity of origin of people, discrimination and integration may be done in an objective manner, such processing cannot, without infringing the principle laid down in article 1 of the Constitution, be based on ethnicity or race" (decision No. 2007-557 DC, 15 November 2007). Consequently, while the "objective data" used for the studies cannot be based on ethnicity or race, they can, for example, be based, on name, geographic origin or nationality prior to french nationality, elements that make it possible to acquire a detailed understanding of the population and its needs.

15. Looking beyond the principles that underpin it, this legislative framework seems, in France, to be an essential factor for national cohesion and the effectiveness of public policies. In



that regard, it is worth pointing out that studies utilizing the concepts of minority and community, which domestic law does not recognize, nonetheless reveal satisfactory results in relation to French society. For example, in a poll carried out by the Pew Research Center to determine how different cultural and religious groups within the population see each other, France emerged as the top country in the world for mutual acceptance and tolerance; as expressed in the study, the French Muslim population (along with that of Spain) was actually the least negative in the world in its attitude towards “Westerners”.<sup>2</sup> This national cohesion is also reflected in the high figures for mixed marriages in France.

16. The French approach derives from a legal tradition that is sustained by an ongoing debate, and seems, therefore, to provide the best protection for citizens’ rights, while respecting their diversity.

## **B. Outline of the policy followed since 2004**

### **1. Preventing and prosecuting acts of racism and xenophobia**

17. Since 2004, in accordance with the commitments it entered into on ratifying the Convention, the French Government has reinforced its policy of combating racial discrimination, on the basis of initiatives designed to buttress measures for preventing and prosecuting acts of racism and xenophobia.

#### **(a) At national level**

18. Since the last periodic report, the legislative process set under way by the Act of 3 February 2003 augmenting the penalties for offences of a racist, anti-Semitic or xenophobic nature, has continued. In an effort to tighten up the prosecution of all forms of racism or xenophobia, the legislature has, in fact, extended the application of aggravating circumstance to new offences such as threats, robberies and extortion and extended the time limit for prosecuting offences of a racist or anti-Semitic nature as regards the press (the “Perben II” Act of 9 March 2004 adapting the justice system to developments in crime).

19. The upsurge in anti-Semitism recorded between 2001 and 2004 also led to the issuance of a number of guidelines on prosecution policy, as well as the setting up of a working group and the adoption of new statistical tool.

20. The guide to anti-racist legislation published by the Ministry of Justice, and intended for both professionals in the field and the general public, was supplemented, in 2004, by a guide entitled “Provisions of the criminal law for combating, racism, anti-Semitism and discrimination” (annexed to this periodic report). The guide is a simple and accessible source of information and advocacy and draws attention to a number of legal issues relating to offences of a discriminatory, racist or anti-Semitic nature, as well as the measures taken by Ministry of Justice in these areas. It is published on the Ministry of Justice’s website.

21. In addition, another guide numbering 12 or so pages is being prepared and is largely intended for the State Prosecutor’s office and public prosecutors. It takes stock of the most

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<sup>2</sup> See the full report “*The Great Divide: How Westerners and Muslims view each other*” on the website <http://pewglobal.org/reports/display.php?ReportID=253>.

recent developments in legislation and case-law in the field, and provides some information on the action taken by the Directorate for Criminal Matters and Pardons to combat racism and anti-Semitism.

22. To improve the way in which the State Prosecutor's offices collate and circulate information on crimes committed in France, a messaging service was set up, in April 2003, on the intranet site of the Directorate for Criminal Matters and Pardons.

23. To secure more effective application of the law, a number of circulars concerning prosecution policy in regard to combating racism and anti-Semitism have been distributed to the State Prosecutor's offices. It is worth pointing out here that, in 2007, anti-discrimination units, supervised by a contact judge (*magistrat référent*) were set up within each public prosecutor's office; in addition, local networks to combat discrimination, run by public prosecutors' offices have been set up for the purpose, among others, of identifying discriminatory situations.

24. In 2005, the Commissions for the Promotion of Equal Opportunities (COPEC) replaced the Departmental Commissions for Access to Citizenship (CODAC) with the aim of implementing preventive measures on the ground to combat all forms of discrimination in various fields (justice, employment, education and so on). Citizens who have been the victim of or have witnessed discrimination of various kinds also make their comments and complaints to the COPEC secretariats. If they seem genuine and are set out in detail, the complaints received are systematically forwarded to the responsible authorities, including the State Prosecutor, who will assess what action needs to be taken.

25. The urban violence of autumn 2005 placed equality of opportunity at the core of government action and, on 22 December 2005 (Decree No. 2005-1621), the Government appointed six prefects for equal opportunities in the *départements* worst affected (Val d'Oise, Essonne, Nord, Seine Saint-Denis, Rhône and Bouches du Rhône).

26. The Equal Opportunities Act of 31 March 2006 set up the National Agency for Social Cohesion and Equality of Opportunity (ACSé), which replaced the Action and Support Fund for Integration and Combating Discrimination. The Agency's role is to improve the effectiveness of the State's urban-policy measures to help the inhabitants of designated "priority" districts, to improve the integration of immigrants and persons of immigrant origin, as well as to combat discrimination. Meantime, responsibility for the reception of immigrant population groups has been transferred to the National Agency for the Reception of Foreigners and Migration (ANAEM).

27. ACSé is also involved in urban-policy measures to help the inhabitants of priority districts. In that connection, it promotes access to knowledge and culture, and sets in place the appropriate economic development measures (Urban Free Zones). Finally, its remit includes setting up the voluntary service arrangements for young people between 16 and 25 years of age who are interested in projects of general interest. Voluntary service gives young people the opportunity of taking part, for a fixed period, in a project that benefits the community and is in the general interest.

28. In addition, Act No. 2006-396 of 31 March 2006 extended the powers of the High Authority to Combat Discrimination and Promote Equality (HALDE), created by Act

No. 2004-1486 of 30 December 2004 in response to the requirements of the European directives on preventing discrimination.

29. The twenty-first of March 2008, the International Day for the Elimination of Racial Discrimination, marked the beginning of a week of solidarity with peoples combating racism and racial discrimination and provided an opportunity to hold a national education week against racism in primary schools, middle schools (*collèges*) and *lycées*.

30. Furthermore, on 17 December 2008, when speaking about equal opportunities at the *École polytechnique*, the President of the Republic announced a raft of measures designed to improve the existing arrangements to promote diversity, as well as the creation of a post of Commissioner for Diversity and Equal Opportunities and the appointment of Mr. Yazid Sabeg. The Head of State set out a range of measures designed to promote “genuine equality of opportunity” addressed to schools, businesses, television and the political parties.

31. **In accordance with the recommendation contained in paragraph 10 of the Committee’s observations (CERD/C/FRA/CO/16)**, France has also acquired statistical tools enabling it to fine-tune its knowledge of racist incidents.

32. The judicial authorities now have two statistical tools allowing them to gauge and evaluate the effects of their prosecution policy in regard to combating racial discrimination. They have court statistics on the number of convictions for acts of racial discrimination that are recorded at the National Criminal Records Office, including both more serious and lesser offences. The information is available annually, albeit with a 9-month time-lag because of the time needed to register verdicts at the National Criminal Records Office. In addition, since 2005, there has been a system for monitoring courts’ responses to offences of racism and anti-Semitism of which public prosecutors have been informed. The system makes it possible to take into consideration not only offences involving anti-Semitism but also offences committed because of the victim’s actual or assumed membership of a race, ethnic group or nation (classified as “racism”) or religion (classified as “anti-religion”). In 2007, this method of data-collection was further refined to make it possible to identify the action taken in response to offences committed because of the victim’s actual or assumed membership of the Christian, Muslim or other religion.

33. For its part, the Ministry of Education has acquired new software to record violence in schools, called the School Security Information and Monitoring System or SIVIS, which was introduced at the beginning of the 2007-2008 school year. Definitions of the categories of offence (assault, insult and threat) specify that racism and anti-Semitism constitute aggravating circumstances.

34. During the 2007-2008 school year, incidents of a racist or anti-Semitic nature accounted for five per cent of all offences reported under the School Security Information and Monitoring System. State secondary education establishments reported an average of 11.6 serious incidents per 1,000 students. The SIVIS system distinguishes between racism, xenophobia and anti-Semitism. Since all occur infrequently, they are recorded in the tables in a single category described as “acts of a racist or anti-Semitic nature”.

35. Verbal abuse accounts for 37.5 per cent of serious incidents reported under the SIVIS system. Racism or anti-Semitism was cited as the motive behind 6.7 per cent of these incidents.

An individual student or group of students was the target of the attack in 70.8 per cent of racist or anti-Semitic incidents, whereas, for the total number of incidents reported, the figure was just 43.2 per cent.

**(b) At European level**

• **Within the framework of the Council of Europe**

36. The Council of Europe has adopted two binding instruments to combat cybercrime, more particularly the circulation of content expressing racist or xenophobic ideology via global communication networks, like the Internet. The instruments concerned are the Convention on Cybercrime of 23 November 2001, which entered into force on 1 July 2004, supplemented by the Additional Protocol to the Cybercrime Convention concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems, of 28 January 2003, which entered into force on 1 March 2006.

37. The Convention and Additional Protocol were ratified by France on 10 January 2006. Within Europe, it has thus been possible gradually to boost cooperation between police forces and courts in this field.

38. In relation to the working groups of the Council of Europe's Committee of Ministers, France has also been involved in the work of the Committee of Experts for the Development of Human rights (DH-DEV), which decided, in 2006, to target its action on "Human Rights in a Multicultural Society", setting up two working groups for that purpose, one on hate speech and the other on the wearing of religious symbols. Two university consultants, one French and the other British, Anne Weber and Malcolm D. Evans, were commissioned to draft manuals on these two issues; the manuals were published by the Council of Europe in late 2008. The DH-DEV committee has now moved on to a more general study in the form of a conference on "Human Rights in Culturally Diverse Societies, Challenges and Perspectives", held in The Hague on 12 and 13 November 2008.

39. Finally, at their 118<sup>th</sup> Ministerial Meeting (Strasbourg, 6 and 7 May 2008), the foreign ministers of the Council of Europe's 47 Member States launched the "White Paper on Intercultural Dialogue", approved by their Deputies. The White Paper sets out various guidelines for the promotion of intercultural dialogue, mutual respect and understanding, based on the organization's fundamental values. The Ministers welcomed it as a "significant pan-European contribution to an international discussion steadily gaining momentum".

• **Within the European Union**

40. Act No. 2008-496 of 27 May 2008 concerning various provisions of adjustment to Community law on the prevention of discrimination, transposed five directives on equal treatment, three of which had already given rise to implementing legislation but needed to be supplemented further:

- Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin;

- Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation;
- Directive 2002/73/EC of the European Parliament and the Council of 23 September 2002 amending Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion and working conditions.

41. These various measures to bring domestic legislation into line with Community law also make it possible to secure the transposition of some of the provisions of Directive 2006/54/EC of the European Parliament and the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, which recasts earlier directives and was to be transposed by 15 August 2008.

42. Finally, Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services required transposition.

43. Decree No. 2008-799 of 20 August 2008 on the institution of legal proceedings by associations, which has its origins in above-mentioned Act No. 2008-496 of 27 May 2008, allows associations registered with the prefecture for at least five years to institute legal proceedings on behalf of victims of discrimination, if combating discrimination is one of the stated aims in their constitution.

44. France, therefore, has not only transposed into national law, in the areas for which it provides, Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, it has also taken legislative measures to extend the prohibition of all indirect discrimination (Directive 2006/54/EC of the European Parliament and the Council of 5 July 2006) to areas not encompassed by the directive, including education, in accordance with the Committee's recommendations (see **para. 21**).

45. In the field of judicial cooperation, it should also be pointed out that the Council's Framework Decision of 13 June 2002 on the European arrest warrant was transposed into French law by article 17 of Act No. 2004-204 of 9 March 2004 adapting the justice system to developments in crime.

46. Moreover, European Union legislation on combating racial discrimination, xenophobia and intolerance was supplemented by Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, as well as by Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law.

47. In addition, by its Regulation No. 168/2007 of 15 February 2007 (in force since 1 March 2007), the Council of the European Union set up the European Union Agency for Fundamental Rights (AFR). The Agency replaces the European Monitoring Centre on Racism and Xenophobia (EMCRX), mentioned in the previous periodic report. It provides a centre of expertise in the field of human rights, and its remit, which is wider than the remit of the EMCRX, includes four main tasks: the analysis of data collected and production of reports, the

publication of conclusions and opinions, the provision of advice to the EU institutions and Member States and raising the general public's awareness of European human rights legislation.

48. The thematic areas of activity of the Agency's work include, among other fundamental rights: protection against racism, xenophobia and related intolerance, as well as discrimination based on gender, race or ethnic origin, religion or belief, disability, age, sexual orientation or membership of a minority, or a combination of these. The Multiannual Framework, established over five years, which defines the Agency's thematic areas of activity, must include combating racism, xenophobia and related intolerance.

49. Through its liaison officer, France cooperates fully with the Agency for Fundamental Rights.

50. It may finally be noted that the European Union's Charter of Fundamental Rights reaffirms the principles of equality before the law (art. 20) and non-discrimination (art. 21). Even though, as the law stands, the Charter does not have binding legal value, it should be borne in mind that these two principles are also general principles of Community law that the Court of Justice ensures are respected. On that basis, the requirements deriving from the protection of these rights in the Community legal order are also binding on the Union's Member States, including France, when acting within the framework of European Union law.

**(c) At international level**

51. Combating discrimination remains at the core of the French approach to its international commitments. Two points may be made here by way of clarification in response to the Committee's recommendations.

**Response to the recommendations in paragraphs 25 and 27 of the Committee's observations**

52. In accordance with these recommendations, the website of the Ministry of Foreign Affairs includes a page specifically devoted to human rights, indicating, among other things, the international instruments that exist in this field. A specific page is devoted to the International Convention for the Elimination of All Forms of Racial Discrimination ([http://www.diplomatie.gouv.fr/fr/actions-france\\_830/droits-homme\\_1048/droits-civils-politiques\\_3025/cerd\\_26516.html](http://www.diplomatie.gouv.fr/fr/actions-france_830/droits-homme_1048/droits-civils-politiques_3025/cerd_26516.html)). Explanations are given and, for those wishing to access the text of the Convention, links to the United Nations website. The basic elements of the Convention are described, as well as the monitoring arrangements, for which the Committee for the Elimination of Racial Discrimination is responsible, and the fact that the Committee is able to consider individual communications. A summary of the Committee's observations on France's most recent reports is also included.

**Response to the recommendation in paragraph 28 of the Committee's observations**

53. France has undertaken to respect the Durban Declaration adopted on the occasion of the United Nations World Conference against Racism, Racial discrimination, Xenophobia and Related Intolerance, which took place in South Africa in August 2001, particularly its provisions concerning the need to honour the memory of the victims of slavery.

54. More particularly, in order to develop a genuine collective memory of the slave trade, slavery and the abolition of slavery, France is endeavouring to use recent developments in legislation to accord slavery its proper place in education, in order to preserve, demonstrate the true significance of and present to the public the legacy of the slave trade and slavery (in archives and museums, in particular).
55. Pursuant to Article 1 of Act No. 2001-434 of 21 May 2001 recognizing the slave trade and slavery as crimes against humanity, known as “Taubira’s law”, “[t]he French Republic recognizes both the transatlantic and Indian Ocean Negro slave trade, on the one hand, and slavery itself, on the other, that were practised from the 15<sup>th</sup> century, in the Americas, the Caribbean, the Indian Ocean and Europe, against African, Amerindian, Malagasy and Indian populations, as constituting crimes against humanity”.
56. Article 2 of the Act provides that “[s]chool curricula and research projects in the fields of history and the human sciences shall accord to the subjects of the Negro slave trade and history the important place they deserve. A spirit of cooperation will be encouraged and supported in order to make readily available the written archives in Europe, along with oral sources and archaeological records that have accumulated in Africa, in the Americas, in the Caribbean and in all other territories subjected to slavery”.
57. Pursuant to Decree No. 2006-388 of 31 March 2006, the abolition of slavery is commemorated annually on 10 May in metropolitan France. It is a day that meets with great success every year, particularly on the part of associations, public institutions, including educational establishments, town halls and so on. Around that time, many events take place both in metropolitan and overseas France to ensure that the shared memory of slavery becomes an integral part of the nation’s collective memory.
58. For example, the Committee for the Remembrance of Slavery, set up by Decree No. 2004-11 of 5 January 2004, pursuant to the above-mentioned law of 21 May 2001, is tasked with proposing, to the minister responsible for national education, higher education and research, measures to adjust school curricula and raise awareness in educational establishments, and with suggesting programmes of research into the slave trade or slavery in history and the other human sciences.
59. In addition, the Committee awards an annual prize for a doctoral thesis on the slave trade or slavery, and also submits to the Prime Minister an annual report on measures taken in relation to remembrance and awareness-raising. The report is published.
60. These new arrangements have enabled sites for celebration and remembrance to be identified throughout the national territory, and for measures to raise public awareness and adjust school curricula to be introduced, particularly in regard to history textbooks.

## **2. Policy on the reception, residence and integration of foreigners**

61. French policy on immigration is based on two categories of consideration: the first is linked to respect for the fundamental rights of the individual and, above all, the dignity of the human person, and is entirely consonant with the international commitments France has entered

into in relation to human rights. The second category seeks to facilitate the integration of foreigners arriving in France for the first time or allowed to take up residence.

62. The French Government would point out that the legislation applicable to the entry and residence of foreigners is based on the Order of 2 November 1945. Amended in 1993, 1997, 1998 and 2003, and codified in 2006, that Order has recently been supplemented by Act No. 2007-1631 of 20 November 2007 on the control of immigration, integration and asylum.

63. The provisions of the law of 20 November 2007 are structured around three approaches:

- The preparation of a pathway to integration in the country of residence. For example, Article 1 of the law now provides that, like the foreign spouses of French nationals, persons wishing to become established in France for the purpose of family reunification, will be required to undergo an assessment of their knowledge of the French language and the values of the Republic in their countries of residence. If it proves necessary, they will have to undergo a maximum of two months' training organized by the authorities. They will need a certificate attesting to the fact that they have attended the training in order to obtain a long-stay visa.
- The establishment of a family reception and integration contract (CAI) aimed at spouses benefiting from family reunification, if they have children, and concluded between the State and both spouses (applicant and spouse wishing to join him or her). Officials of the National Agency for the Reception of Foreigners and Migration (ANAEM) offer the contract at the induction session to which everyone person who is newly arrived or admitted for residence is invited. Under the contract, the persons concerned must attend a day's specific training on the "rights and duties of parents" which is organized around three themes: equality between men and women, parental authority, children's rights and schooling.
- Improving integration on the basis of better integration into working life. For example, the law provides for a skills assessment. Organized by ANAEM, the assessment takes a maximum of three hours and is designed to enable CAI signatories to understand and make the best use of their experience, professional skills and traineeships when seeking employment.

64. Another new measure, Article L. 321-3 of the Code on the Entry and Residence of Foreigners and the Right of Asylum, provides for a Republican identity document (TIR) to be issued to any foreign minor born in France, of foreign parents who hold a residence permit. The document enables minors to prove their identity and means that they do not require a re-entry visa if they leave French territory. Similarly, article L 321-4 provides for the issuance of a document for the movement of foreign minors (DCEM). This document is intended for foreign minors, born abroad, whose parents hold a residence permit. It enables them to prove that they are legally resident and means that they do not require a re-entry visa if they leave French territory.

65. In addition, 18 May 2007 saw the creation of the Ministry of Immigration, Integration, National Identity and Mutually-Supportive Development. The ministry is responsible for all matters concerning the integration of immigration populations in France. Combating



discrimination is vital if the general objective of integration is to be achieved. The ministry is therefore responsible for issues of discrimination directly linked to the integration of individuals, particularly in terms of their origins and equality between men and women, but also in regard to collective discrimination which affects the population groups concerned in the fields of housing, employment and education.

66. As far as the rights and freedoms accorded to foreigners are concerned, it is worth drawing attention to the influence exerted by the decisions of the Constitutional Council and the Council of State, described in the last periodic report and both founded on the general principles of French law and the rights and guarantees accorded under international agreements and conventions. The Council of State has since reaffirmed the principle of equality in its decision of 31 May 2006 (Council of State, 31 May 2006 *Groupe d'information et de soutien des travailleurs immigrés* GISTI), annulling the Decree of 27 August 2004 on the composition of chambers of workers and their election, on the ground that the provisions of the decree were incompatible with the principle of equality. The decision continues the approach taken in decisions of Constitutional Council (see Decision No. 89-269 DC of 22 January 1990 cited in the last periodic report), but also puts into effect a number of judgments of the Court of Justice of the European Communities establishing the applicability of the principle of non-discrimination in relation to the nationals of non-Member States of the European Union, on the basis of the association agreements with those States (CJEC 8 May 2003, Case C-171/01, *Wählergruppe Gemeinsam Zajedno*: an Austrian law barring Turkish workers from being eligible for a "chamber of workers", and CJEC, Case C-374/03, 7 July 2005, *Gürol*).

### **3. The right of asylum**

#### **(a) Numbers of asylum-seekers**

67. In 2007, France received 35,520 asylum-seekers, making it the European country with second largest number of asylum-seekers, after Sweden. The figure was 39,315 in 2006 and 59,221 in 2005.

68. The asylum-seekers mainly came from Serbia (Kosovo: 2,250 applications), Turkey (2,039), the Russian Federation (2,001), Sri Lanka (1,845), the Democratic Republic of the Congo (1,802), Armenia (1,495) and China (1,262). Women accounted for 36.5 per cent of applicants.

69. During 2007, 8,781 individuals were accorded refugee status or subsidiary protection (7,354 in 2006), that is to say an admission rate of 29.9 per cent, reflecting an upward trend (19.5 per cent in 2006). This figure brings the number of refugees and beneficiaries of subsidiary protection to 130,926.

#### **(b) The applicable legal regime**

70. The legal regime applicable to asylum is laid down in articles L.711-1 to L.765-1 of the Code on the Entry and Residence of Foreigners and the Right of Asylum, and has not been significantly amended since France submitted its last report in 2004.

71. Under the Code, applications for asylum are processed by an independent public body with specialist staff, the French Office for the Protection of Refugees and Stateless Persons (OFPRA), under the supervision of an administrative court that used to be called the Refugee Appeals Commission but was redesignated the National Court of Asylum when the above-mentioned law of 20 November 2007 was adopted. Since January 2008, the National Court of Asylum has been attached to the Council of State -- the final court of appeal in asylum cases -- for budgetary purposes.

72. Following the adoption of Act No. 2003-1176 of 10 December 2003, asylum has been granted to any person caught by the definition of refugee within the meaning of the Geneva Convention of July 1951, as well as any person covered by the subsidiary protection scheme. The subsidiary protection scheme covers persons considered to be at real risk of the death penalty, torture or inhuman or degrading treatment and those at serious individual risk because of widespread violence resulting from armed conflict. Refugee status and subsidiary protection are now accorded without taking account of the source of the persecution or ill-treatment. The perpetrator may not actually be a State, if the authorities refuse or are unable to provide protection.

73. All asylum-seekers have a right of residence throughout the period when their applications are being processed by OFPRA and the National Court of Asylum. That principle applies save in exceptional cases that are specifically laid down by law and based on objective circumstances. Exceptions include cases in which the person concerned comes from a country which is considered to be safe in the view of the situation pertaining there as regards rights and freedoms, or where the application is deliberately fraudulent or is made in order to thwart a removal order. In cases of that nature, the person concerned is not entitled to remain in France while his/her appeal is heard, but does enjoy all the legal guarantees attached to OFPRA's review of his/her application.

74. Asylum-seekers who are permitted to stay may be accommodated in reception centres for asylum-seekers (CADA), where they are given administrative, social and medical assistance. In recent years, there has been a major effort to improve the capacity to accommodate asylum-seekers, and the number of centres has been increased to 274 able to house 20,410 individuals (compared with 6,800 in 2002). There are also two transit centres (where asylum-seekers await transfer to a reception centre) able to accommodate 246 persons, and a reception and counselling centre for unaccompanied minors applying for asylum. If they cannot be accommodated, asylum-seekers are given temporary waiting allowance (ATA) amounting to €310.89.

75. All asylum-seekers have access to universal medical cover (CMU).

76. Recognized refugees automatically receive a 10-year renewable full residence permit, and persons benefiting from subsidiary protection a one-year renewable residence document; both documents give their holders the right to work. They benefit from the services offered under reception and integration contracts and may be given individual support for access to employment and housing. The most vulnerable refugees may be taken into temporary accommodation centres (28 centres able to accommodate a total of 1,083 persons).

(c) **Recent developments**

77. Recent developments in the field of asylum include:

- From 1 January 2008, an asylum service was set up as part of the establishment of the Ministry for Immigration, Integration, National Identity and Mutually-Supportive Development. The service is separate from the other directorates for immigration and integration and directly attached to the ministry's secretary-general, to highlight the fact that the issue of asylum is distinct from the other aspects of immigration. The service exercises responsibilities that used to be shared among a number of ministries and, by covering all the legal, social, European and international aspects of asylum, it aims to achieve a more consistent asylum policy. Diplomatic and consular posts, prefectures and associations liaise exclusively with the asylum service in all matters concerning the exercise of the right of asylum in France. On behalf of the Minister for Immigration, who is responsible for asylum, the service exercises administrative and financial supervision over the French Office for the Protection of Refugees and Stateless Persons.
- The Act of 20 November 2007 introduced the possibility of lodging an appeal that is fully suspensive of decisions to refuse admission for asylum at the frontier. This new arrangement has enabled France to comply with the case-law of the European Court of Human Rights (judgment in *Gebremedhin v. France* of 26 April 2007) and the recommendations of the United Nations Committee against Torture. A foreigner who has been refused entry for the purpose of asylum now has 48 hours in which to appeal to the administrative court to have the decision lifted, and the latter must give its ruling within 72 hours, exercising full supervisory authority. The foreigner may, of course, request the assistance of an interpreter and be aided by a lawyer, who will, if necessary, be appointed by the court. The decision to refuse entry may not be enforced before the 48 hour period has expired. If the case is referred to the administrative court, the measure of enforcement may not be implemented until the court has taken a decision. Between 1 January and 31 July 2008, 546 appeals were considered and about seven per cent of decisions annulled.
- Decree No. 2008-702 of 15 July 2008 on the right of asylum completed the transposition of Council Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status. It provides, among other things, for public funding, if an interpreter is needed when asylum-seekers are interviewed (as already happened in practice – see paras. 88 and 89 above), for the report of the interview to be forwarded to the person concerned if that person's application is rejected, and for decisions refusing asylum by the minister or OFPRA to be notified in a language that the person concerned may reasonably be assumed to understand.
- On 4 February 2008, a framework agreement was signed with the United Nations High Commissioner for Refugees (UNHCR): the agreement provides, among other things, for reinforced institutional and operational cooperation with UNHCR and for France to review annually about 100 dossiers on individuals whom UNHCR believes ought to be resettled.

78. It should be stressed that French asylum policy falls largely, and increasingly, within a European framework. In that connection, particular mention should be made of Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, and Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status.

79. Drawn up in November 2004, the Hague Programme provides for the introduction of a common European asylum system, to be put in place gradually by 2012, which will guarantee asylum-seekers a high level of protection.

80. The “European Pact on Immigration and Asylum”, adopted by the European Council, under the French presidency, includes a section entitled “[c]onstruct a Europe of asylum”, in which the European Council expresses the political will to achieve the establishment, as envisaged under the Hague Programme, of the common European asylum system, and thereby provide a higher level of protection. The European Council also emphasizes that the need to tighten controls at Europe’s external borders must not prevent persons entitled to protection from accessing the protection systems.

81. **In response to the recommendation contained in paragraph 14 of the Committee’s observations**, the French Government invites the Committee to refer to the information provided, at the Committee’s request, on 3 August 2006. However, it wishes to provide the following clarification:

82. Great attention is paid to professionally training the managers and staff assigned to keep guard over persons placed in holding centres and waiting areas, as well as to strict compliance with the code of conduct. For instance, as part of their initial and continuing training, police personnel are given specific training in holding and removing individuals, and this training incorporates the relational and psychological aspects of such activities, as well as moral obligations. The training also focuses on learning about the particular religious and socio-cultural features of the foreign communities. In addition, the Ministry of Immigration provides centre managers with ongoing legal and technical support; they also meet regularly at seminars where they are able to discuss “good practice”, among other things. Implementation of the proposal to make a directorate of the police force responsible for all centre management and training will make it easier to achieve the French authorities’ objective of professionalizing the system.

83. Since 2005, the French authorities have made substantial efforts to improve conditions in holding centres and waiting areas. For example, the Decree of 30 May 2005 provided for better standards of equipment and comfort that respect the dignity of the individual, for appropriate medical monitoring and for legal and humanitarian support for foreigners who are being held. The recommendations of the Council of Europe’s Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment were taken into account in setting these standards. Since 2005, the public authorities have engaged in an ongoing process of refurbishment and new building to bring all the holding centres into line with statutory requirements.

84. The National Commission for the Supervision of Administrative Holding Centres and Waiting Areas, set up by the Act of 26 November 2003, has been replaced by the Controller-General for Detention Centres introduced by the Act of 30 October 2007, which was adopted pursuant to the Additional Protocol to the United Nations Convention against Torture. An administrative entity whose responsibilities extend to all detention centres, the Controller-General's remit is to "monitor the conditions in which persons deprived of their liberty are held and transferred, in order to ensure that their fundamental rights are respected". The Controller-General's supervision takes the form of on-site visits which may occur at any time and be unannounced. After the visits, the Controller-General makes observations and public recommendations and may propose to the government any amendment to legislation considered relevant. The Controller-General has been in office since June 2008 and has already visited several detention sites and made a number of observations.

85. Significant progress has been made in the time taken to process applications for refugee family reunification, and, during 2007, the process took in the region of between four and six months (compared with 14 months in 2004), except in cases necessitating investigations to determine the civil status and family ties of the person concerned.

86. **At paragraph 15 of its observations**, the Committee invited France to allow asylum-seekers to be assisted by translators/interpreters whenever necessary, and/or to agree that applications for asylum may be written in the most common foreign languages.

87. It should be pointed out here that where the person concerned is a foreigner who asks for asylum at the frontier, that person is informed, in a language, which it is reasonable to assume he/she understands, of the procedure for applying for asylum and of his/her rights, as well as of the decision taken. In addition, the person concerned is automatically interviewed by OFPRA and, if the foreigner does not understand French, OFPRA will use the services of an interpreter, with the cost borne by the State.

88. If the application is made within French territory, and in accordance with the legal requirement that applicants must be given a hearing, save where the case falls within the list of specific exceptions, the person concerned is interviewed by OFPRA in the presence, if necessary, of an interpreter, the cost of whose services are also met by the State. Moreover, during the different stages in the judicial procedure (appeal to the administrative court to have the decision to refuse asylum at the frontier annulled; appearance before the National Court of Asylum in case of appeal against a decision by OFPRA rejecting the application for asylum), the person concerned is heard, if necessary or if he/she so requests, with the assistance of an interpreter.

89. The form requesting asylum must be completed in the French language, like any other form for submission to a French authority. That rule was validated by the Council of State (judgments of 12 October 2005 and 12 June 2006). However, the impact of this rule should not be exaggerated. In point of fact, the application form merely provides a basis, and the applicant's arguments may be further elaborated during the interview with OFPRA, which takes place more or less automatically (in 2007, the applicant who was called to an interview was in 94 per cent of cases). In some special circumstances (foreigners making an application for asylum when in administrative detention), legal assistance is provided by an association usually linked to the State and may include help in drafting the written application.

#### 4. Policy of combating exclusion

90. Continuing economic and social problems have led to the introduction, since the 1980s, of various measures to combat exclusion, which were described in the last periodic report.

91. Despite successive measures, the proportion of the French population living below the poverty threshold is no longer in decline, and it is estimated that 7.1 million people are currently in poverty. The earned income supplement (*Revenu de Solidarité Active*, RSA), an allowance designed to replace existing statutory minimum wages (like the basic guaranteed income [*Revenu minimum d'insertion*, RMI]) and replace measures to encourage return to work (such as the back-to-work allowance), was devised in response to this situation. The RSA provides households that lack any form of resource with a minimum income and supplements the earned income of recipients whose income is insufficient to enable them to escape poverty or who are at the bottom of the wage ladder. The RSA makes it possible to ensure that returning to work provides additional income and is a powerful instrument for combating poverty. The new measure has been tested in 34 *départements*. A bill designed to introduce it more generally was submitted to the Council of Ministers on 3 September 2008. It provides for the RSA to take effect on 1 June 2009 in metropolitan France and 1 January 2011 in the overseas *départements*.

92. In May 2008, the Ministry of Health, Young People and Sport published a guide on the Health Service Access Points (*Permanences d'Accès aux Soins de Santé – PASS*); these units provide medical care and social welfare services, and their remit is to make it easier for the destitute to access not just the hospital system but also institutional networks or associations providing care, accommodation and social support. Set out in summary table format, the guide's recommendations are intended to define examples of good practice when organizing a PASS, as pathways to providing the best service to users whose circumstances are precarious. They enable existing PASS units to evaluate themselves and future PASS units to design themselves in a manner consonant with the objectives they have been set.

93. To supplement universal medical cover (*Couverture Maladie Universelle*, CMU), France has introduced State Health Aid (*Aide Médicale de l'Etat*, AME), for persons unable to access CMU. AME is designed to provide access to care to foreigners who have been continuously resident in France for more than three months and whose situation is irregular (article L 251-1 of the Social Action and Family Code, CASF). This health cover makes it possible to meet the costs of spending on health care, hospital consultation or ambulatory care, prescriptions and in-patient charges. In addition, AME recipients do not have to make advance payments.

94. In 2004, 130,000 people had access to AME and, for 2006, the figure was 191,000, at an estimated cost of €45 million (report by the Inspectorate-General of Social Affairs of May 2007). According to a survey of AME recipients in the Île-de-France region, which accounts for 75 per cent of all recipients, carried out by the Directorate for Research, Studies, Evaluation and Statistics (DREES), the majority are women, accounting for 66 per cent of recipients. In addition, 70 per cent of AME recipients are young adults aged between 20 and 39. Fifty per cent

of recipients come from Africa, outside the Maghreb countries, 20 per cent from a Maghreb country and 17 per cent from an Asian country.<sup>3</sup>

## **5. Measures to help travellers**

### **Response to the recommendation in paragraph 16 of the Committee's observations:**

95. According to information provided by groups and associations, the Roma population in France numbers about 300,000. They are usually described as "travellers", even though only about a third of them move around the national territory. Another third is regarded as semi-sedentary. The final third has taken up settled residence.

96. This population group encounters major economic and social problems. As well as the continuing obstacles they have to contend with in relation to housing and parking their vehicles, travellers often have poor levels of qualification, making it difficult for them to enter the labour market. They also suffer from discrimination in relation to employment, housing, education, health and citizenship.

97. In accordance with the Republican model, the measures taken by the State are designed to encourage the integration of travellers into the national community, by giving them access to the fundamental rights of all citizens. These measures form part of ordinary-law policies but, are supplemented, where necessary, by specific measures.

#### **(a) Measures to guarantee travellers the exercise of full citizenship**

98. At the initiative of the Minister of Housing and Town Planning, an interministerial study was commissioned to reform the legislation on travel permits, introduced by an Act of 1969.<sup>4</sup> Itinerant traders and persons moving around France for more than six months a year with no fixed abode or residence are required to hold such permits. The legislation also lays down conditions derogating from the ordinary law relating to registration on electoral rolls. Nowadays, these legal provisions affect practically only travellers, even though it is increasingly rare for the condition concerning the period spent travelling around to be fulfilled.

#### **(b) Domiciliation**

99. Linked to the question of travel permits, the issue of domiciliation has also been considered by the Minister for Housing and Town Planning. For example, article 51 of the Act of 5 March 2007 on the enforceable right to housing, organizing the reform of domiciliation, provides travellers with better guarantees of access to social benefits by giving them the opportunity of acquiring domicile with an approved body (or local social welfare centre [*Centre communal d'action sociale*, CCAS]), like any person of no fixed abode. The reform must also make it

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<sup>3</sup> DREES. *Études et résultats n° 645-juillet 2008: les bénéficiaires de l'AME en contact avec le système de soins (Studies and results No. 645-July 2008: recipients of AME in contact with the health care system).*

<sup>4</sup> Act of 3 January 1969 on the pursuit of activity as an itinerant trader in France and the regime applicable to persons moving about France who have no fixed abode or residence.

possible, in particular, to remove the difficulties encountered in obtaining access to bank lending and insurance (cars, caravans, etc).

**(c) Application of the Besson Act of 5 July 2000 and providing housing for travellers**

100. To meet the problems of an itinerant lifestyle, France adopted, on 5 July 2000, a law requiring communes with more than 5,000 inhabitants to provide sites or transit sites under departmental plans, but there are problems in applying this legislation. To improve matters, State funding arrangements have been carried forward for a year, to 31 December 2008.

101. Creating sites for travellers is not the only answer. There have been significant changes in travellers' living conditions, with the result that their needs have changed. An assessment of the arrangements for receiving travellers under the law of 5 July 2000 actually confirms a trend towards demand for "anchorage" on what are described as "family sites". This form of housing combines both mobile home and permanent dwelling on private land. A study is currently under way to establish how best to respond to these new expectations, and to do so in conditions of dignity that respect the rights of those concerned. Encouraging family sites is certainly a way of facilitating better integration into the host municipalities and securing better schooling for children.

102. Moreover, like all citizens, travellers are entitled to basic housing and are able to benefit from the new laws and regulations establishing an enforceable right to housing. From 2012, this new entitlement will enable any applicant for housing to appeal to the courts, if his/her application has not met with a response that properly reflects his needs and abilities. For individuals with major housing problems, this right has existed since 1 January 2008, subject to certain conditions.

**(d) Measures to promote access to employment**

103. There is no guarantee for the future of travellers' traditional economic activities, and, consequently, many families are living on the minimum income because they are unable to engage in their traditional activities and cannot get jobs, as they lack the necessary qualifications and lead itinerant lives.

104. In the context of the Government's reforms to encourage recipients of the minimum income to return to work (the "back-to-work" law, trialling the earned income supplement, RSA), methods of access to employment or return to work that are compatible with travellers' life-styles, need to be encouraged as far as possible, taking into account their skills and expectations, particularly when setting up micro-businesses and getting access to personal credit.

**(e) Support for socio-educational measures to help travellers**

105. Every year, the Ministry of Social Affairs provide financial support for local association initiatives to promote, among other things, pre-schooling and schooling for children, access to social welfare, teacher training, mediation activities and integration into working life. In 2007, it also supported the initiative of a national association representing travellers to produce a practical guide that is eagerly anticipated by travellers themselves.



**(f) Bodies working with travellers at national and international level**

106. At national level, a national commission called the “National Consultative Commission for Travellers” was set up in 2003. It includes government representatives, elected representatives, travellers’ representatives and associations acting on their behalf, and suitably qualified individuals. Its role is to look into the specific problems of the Roma and to make proposals to the Government on how they can be better integrated into the national community. It is consulted on draft legislation and regulations and on action programmes concerning travellers.

107. At local level, in every département, a consultative commission, including representatives of the municipalities concerned, travellers’ representatives and associations acting on their behalf are involved in devising and implementing the departmental plan for travellers’ sites. The commission is jointly chaired by the State’s representatives in the *département* and by the president of the departmental council, or their representatives.

108. Every year, the departmental consultative commission draws up an assessment of the plan’s implementation. It may appoint a mediator to review the difficulties encountered in implementing the plan and propose how they may be resolved. The mediator provides the commission with an activity report.

**(g) Educating travellers’ children**

109. Circular No. 2002-101 of 25 April 2002 on “Educating the children of travellers and itinerant families”, provides that the ordinary law is, in all respects, applicable to the children of itinerant families. Pursuant to article L.111 of the Education Code, everyone is guaranteed access to education, and the Ministry of Education is working to provide travellers’ children with an education in accordance with this law.

110. As a matter of principle, these children are to be integrated into normal classes. However, in order “to guarantee equality of opportunity, appropriate provisions shall make it possible for each individual to have access to the different types or levels of education, in accordance with his or her abilities and specific needs”, as stated in article L.111-2 of the Education Code, amended in 2005 by the Act on the Orientation and Programming of the Future of Schools.

111. Measures to support the education of travellers’ children are based on mobilizing local players in conjunction with the departmental plan for the reception of travellers. Under the supervision of the chief education officer (director of the Ministry of Education’s departmental services) a coordinator liaises between the public services, the associations and the centres for the education of new arrivals in the education authority’s catchment area and traveller’s children (CASNAV). The centres provide teaching, counselling and training. They provide the reception and assessment point for newly arrived travellers’ children, enabling them to be channelled to the class best suited to them in terms of their knowledge of French and standard of education.

112. Enrolled in classes with the normal curriculum for their age and academic level, travellers’ children who do not have French as their mother tongue are also taught by teachers trained in teaching French as a second language, following the procedure specific to each level of education.

113. Two methods are used in schools:

- Introductory classes (CLIN) in which a maximum of 15 pupils come together for several hours a day and are given intensive courses in French tailored to their needs;
- Intensive courses in French (integrated remedial course, CRI) provided by a peripatetic teacher who works at the school with small groups of pupils, as needed.

114. In middle schools, *lycées* and vocational *lycées*:

- Introductory classes (CLA) are provided in some middle schools that have opted for this, in accordance with an education authority regulation that makes it possible to respond to needs; in these classes, pupils are given special teaching in French as a second language. Since 2005, the Ministry of Education has been offering, in schools, an official diploma in French as a foreign language (DELFF), an adapted version of the DELF for adults;
- Some classes include children who have not previously attended school and therefore need to be taught basic reading skills and mathematics.

115. In many education authorities, initiatives have been taken to improve the reception and education of travellers' children: the question of adapting methods to meet the various specific needs of children who have both major problems with schooling and live in poverty has, for example, been integrated into the Montpellier education authority's education action programmes.

116. Alongside the development of these specific instruments by the education authorities and CASNAVs, travellers' children continue to benefit, like other pupils, from measures under the equal opportunities policy, such as educational support and the personalized programmes for academic achievement (PPRE).

## **6. Urban policy**

117. Urban policy must help to reforge the Republican Pact and restore the role of the public service as a factor for social integration, while reaffirming the importance of citizenship as a source of rights but also of duties. Regardless of origin, place of residence or social status, every person must have a sense of belonging to the same community of life and destiny. The urban environment must provide a framework for better integration of populations of varied origins, countering the xenophobic tendencies inimical to any democracy. On 9 March 2006, the Interministerial Committee for Towns (CIV) set five priorities: access to employment and economic development, improving the environment and quality of life, educational success and equality of opportunity, citizenship and crime prevention, and access to health care. Based on those priorities, the Committee has provided for a raft of measures to improve life in districts with problems.

### **(a) Urban health workshops (ASV)**

118. Urban Health Workshops (ASV) have been set up to assess the state of health of local people and coordinate the activities of local health-care workers and health professionals to

ensure that their activities and practices facilitate preventive care and access to treatment for the residents of priority districts who live in precarious social circumstances. The whole initiative is designed to place preventive care and the promotion of health at the core of the social coherence of the regional vision: the initiative aims to improve the quality of health care provision to link in with the other public policies that help improve public health.

**(b) The “Success in Education” programme**

119. The aim of this programme is to support vulnerable children and young people, from primary school until they reach school-leaving age. The programme has two facets: the success-in-education project and the success-in-education boarding establishments.

120. The success-in-education project (PRE) consists in a programme of measures specifically earmarked for the most vulnerable children and young people and their families who live in Sensitive Urban Zones (ZUS) or are educated in Priority Education Zones (ZEP). The objective is to provide personalized support to children or young people and their families, who are identified as having difficulties.

121. The success-in-education boarding establishments (IRE) make it possible to support educational boarding projects developed by State educational establishments or legal structures. In order to be eligible, the projects must offer a stable living and working environment to children or young people who are experiencing difficulties, within the family or their environment, that are jeopardizing their chances of success.

122. At 1 September 2007, there were 456 approved success-in-education projects which had identified more than 100,000 very vulnerable children, and were taking care of 30,000 of them. On that same date, there were also 28 success-in-education boarding establishments in existence, with about 700 pupils. The objective on completion of the 2009 programme is to have set up 600 success-in-education projects, providing support for 100,000 children or young people and their families.

**(c) Access to the law through combating all discrimination**

123. Access to the law is one way of combating discrimination. Making individuals aware of their rights helps secure the effective application of the principle of equality and helps combat discrimination. The Legal Advice Centres (*Maisons de justice et du droit*, MJDs) currently in existence provide assistance in accessing the law by offering an on-call legal information and consultation service. They also help resolve conflicts through mediation and reconciliation. The Legal Advice Centres are under the supervision of the courts of first instance. There were 123 Legal Advice Centres in existence on 1 January 2009.

124. The territorial programmes to prevent and combat discrimination on the labour market were introduced in 2001 and officially approved by the Interministerial Committee on Integration on 10 April 2003. To date, 44 conurbations have embarked on the project to combat labour market discrimination, and the initiative is under way throughout France. In 2007, about 10 towns and cities expressed the wish to undertake similar initiatives. The proposals involve a number of steps:

- The first step is to make all players collectively aware of the kind of discrimination that exists locally, identifying all of the discriminatory processes in existence;
- The next step is to mobilize operators in the business world and public employment service, getting them to incorporate the prevention of discrimination into the recruitment process;
- The final step is to support victims in reporting and exposing discriminatory practices (counselling centres, legal support, and reference to HALDE) but also to give them greater support in seeking employment.

125. The Town, Life and Holiday Programme (*Ville, Vie Vacances, VVV*): this programme enables pre-teenagers and teenagers with problems to enjoy leisure activities and educational projects during the different school holiday periods. These arrangements contribute to the policies for the social integration of young people, as well as to combating exclusion. The activities on offer are linked to sport, culture, good citizenship and the organization of trips and visits. The programme helps nearly 800,000 young people annually, and most are aged between 11 and 18. Since January 2007, the National Agency for Social Cohesion and Equal Opportunities (ACSé) has been responsible for the operational implementation of the scheme in conjunction with the Interministerial Fund for Crime Prevention (FIPD).

### **C. Legal set-up of the overseas territorial collectivities**

#### **1. Reminder of the institutional framework in overseas France**

126. Under the French Constitution of 4 October 1958, the indivisibility of the Republic is sacrosanct. The Constitution recognizes a single French nationality, to which rights are attached. There is no legal discrimination between people from metropolitan France and those from overseas France. The latter vote at all elections, are represented in Parliament and have freedom of movement and establishment throughout French territory. They also have European citizenship.

127. The Constitution distinguishes between:

- The overseas *départements* and regions (art. 73 of the Constitution): for example, Guadeloupe, French Guiana, Martinique and Réunion fall within the system of identical legislative arrangements. National laws and regulations are automatically fully applicable in those overseas *départements* and regions. However, they may be adapted to take account of special features. Adjustments may be sought by Parliament or the Government, or the collectivities, if the law permits them to do so. The departmental councils or regional councils of these *départements* and regions have mandatorily to be consulted on these matters. Adjustments have been made in the economic and social field in particular (taxation system, job-creating measures, etc). Since the Constitutional Act of 28 March 2003, overseas *départements* and regions have also been able to draft regulations on certain issues of a legal nature, but not in relation to matters of State prerogative (justice, civil liberties, etc);
- The overseas collectivities under article 74 (Mayotte, Saint-Pierre and Miquelon, French Polynesia and the Wallis and Futuna Islands); their status reflects their

specific local interests within the Republic, according them more or less extensive autonomy. An organic law determines how responsibilities are divided between the French State and the collectivity. Within their area of competence, the collectivity's institutions may establish norms, including in the legal field. Some of these collectivities are governed by the legislative speciality rule: national laws and regulations do not automatically apply there, and must be the subject of explicit statements of applicability or provisions extending their application. This principle enables local features to be taken into account;

- New Caledonia (Title XIII of the Constitution), which is in a category of its own, is also governed by the legislative speciality rule. The current status of New Caledonia, under the Act of 9 March 1999, translates into law the Agreement on the Future of New Caledonia of 5 May 1998, signed by the representatives of the territory's two main political parties and the Government. The law provides for the gradual and irrevocable transfer of competences to New Caledonia, creates New Caledonian citizenship conferring the right to vote in elections for local institutions and confirms the customary civil status of the Kanaks.

128. The Constitution also permits, with the consent of the electorate, transition from the status of an overseas *département* or region to that of an overseas collectivity. On 7 December 2003, for example, the electorate of the municipalities of Saint-Barthélemy and Saint-Martin voted in favour of separation from Guadeloupe. On 15 July 2007, they became established as overseas collectivities.

129. Following the resolution by the General Council of Mayotte, the people of Mayotte will be asked to vote, on 29 March 2009, on the proposal to make Mayotte a *département* of France

130. It should be emphasized here that in the areas that fall within the remit of the Committee for the Elimination of All Forms of Racial Discrimination, which are basically matters of State prerogative, France applies a uniform legal system, which is implemented by the national public services throughout the territory of the Republic. The overseas populations enjoy the rights and freedoms set out in the Convention, which itself applies, without restriction, in all of the overseas collectivities.

## **2. Legal status of the indigenous overseas populations**

### **(a) The principle of equal rights**

131. The French Government is deeply committed to the principles of the universality, indivisibility and effectiveness of human rights, which it is responsible for promoting in all of the French overseas collectivities.

132. As mentioned above, France does not recognize the concept of “ethnic, religious or linguistic minorities”. The principles of the equality of citizens and the unicity of the “French nation”, set out in the Constitution, preclude the recognition of collective rights that are conferred on a group by reason of the community they form.

133. Although French law does not recognize the concept of specific rights accorded to indigenous and local communities, the State has nonetheless long been able to integrate the practices, customs and local knowledge of the overseas communities<sup>5</sup> in its policies for the recognition and integration of indigenous peoples. According to article 72-3 of the Constitution, for example, “[t]he Republic shall recognize the overseas populations, within the French people, in a common ideal of liberty, equality and fraternity”.

134. The French approach does not preclude the right of the indigenous peoples of overseas France to enjoy their own cultural life, in common with the other member of their group, to profess and practise their own religion or to use their own language. Specific measures and regulations have gradually been set in place for the indigenous communities, in order to take account of the geographical circumstances and customs of the French overseas collectivities.

**(b) Respect for specific local features**

135. Maintaining personal status under local law in some overseas collectivities is a constitutional requirement. The Republic has in fact used the field of human rights to recognize the indigenous overseas peoples by enshrining that recognition in the Constitution (art. 75). According to article 75, “[c]itizens of the Republic who do not have ordinary civil status, the sole status referred to in article 34, shall retain their personal status<sup>6</sup> until such time as they have renounced it”. This provision of the Constitution guarantees these collectivities respect for their traditions and customs.

136. Two kinds of personal status exist alongside one another in Mayotte and in two overseas collectivities in the Pacific (New Caledonia and the Wallis and Futuna Islands):

- Civil status under ordinary law, governed by the provisions of the Civil Code;
- Personal status under local or customary law. In Polynesia, personal status ceased to exist as a result of the Order of 24 March 1945 for the abolition of personal status in French Polynesia.

137. Respecting forms of personal status under customary law does not mean that they cannot be made consistent with the general legal principles of the constitutional State and international law. The legislature has, for example, acted to remove exceptional arrangements, based on local and customary law, such as repudiation, polygamy or the unequal treatment of children in matters of inheritance.

138. For example, a number of legislative provisions have brought the civil law of Mayotte into line with the civil law that applies in metropolitan France.

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<sup>5</sup> The indigenous peoples of overseas France are the Amerindians (French Guiana), the Polynesians (French Polynesia), the Melanesians (New Caledonia), the Mahorans (Mayotte), and the Wallisians and Futunans (Wallis and Futuna Islands).

<sup>6</sup> Personal status is a concept indicating that an individual is subject to a personal law under local law and not the ordinary law. The practical effect of this duality is that two forms of civil status exist.

139. Order No. 2000-219 of 8 March 2000 on civil status in Mayotte made it compulsory for both bride and groom to appear personally and give their free and full consent to a marriage, and for a registrar to be present when a marriage is celebrated.

140. Act No. 2001-616 of 11 July 2001 on Mayotte acknowledged the right of women with civil status under local law freely to pursue a profession as either a self-employed or an employed person, as well as the rights and duties that go hand in hand with this freedom. The Act also specified the rules governing the reconciliation of civil status under local law with civil status under ordinary law and the procedures for renouncing civil status under local law.

141. The Programming Act for overseas France of 21 July 2003 made it possible to achieve significant progress in terms of equality between men and women, by establishing monogamy and the termination of marriage by divorce, and prohibiting unilateral repudiation and discrimination between children in matters of inheritance, based on gender, legitimacy or illegitimacy.

142. Act No. 2006-911 of 24 July 2006 on immigration and integration makes it compulsory for marriages of persons with customary civil status to take place at the town hall (*mairie*), in the presence of the registrar and two witnesses. Previously the *cadi*, the customary judge under Islamic law, who officiated at religious marriages, was also a registrar, and therefore able to celebrate marriages; the 2006 reform makes it possible to ensure that the woman has given her consent, but does not exclude the option of a religious marriage after the civil ceremony.

143. France has been able to develop and adjust the system of *cadi* courts (customary courts under Islamic law), thereby guaranteeing respect for local ways of life. It will be for the courts to give full effect to the principles set out above, respecting the autonomy of local law.

144. Consequently, concerns about possible discrimination in regard to women who have personal civil status are unfounded in the light of the French constitutional legal order, which applies to all French citizens, including residents of the French overseas collectivities.

145. It should also be borne in mind that the principle of secularism is one of the constitutional principles and rules that apply throughout the territory of the Republic. Consequently, religious beliefs can have no impact on the personal civil status of women who are French citizens resident in overseas France.

146. The far-reaching changes to civil status under local law set under way by the above legislative reforms makes it possible to achieve the kind of development that is consistent with the principles of the Republic, but does not call into question the very existence of that civil status, which is guaranteed under the Constitution. Throughout the process of introducing changes to status, including the most recent developments, France has adopted a gradual approach to avoid abrupt change to ancestral customs in the overseas collectivities.

147. France intends to continue this process of bringing forms of civil status under customary law into line with the human rights requirements of a constitutional State.

**(c) Interministerial Delegation for Equality of Opportunity for Citizens of overseas France**

148. The Interministerial Delegate for Equality of Opportunity for Citizens of overseas France, Patrick Karam, was appointed by the President of the Republic, on 9 July 2007, having been proposed by the Prime Minister.

149. In line with the commitments of the President of the Republic, the Interministerial Delegate's task is to "prevent the particular difficulties that citizens of overseas France encounter in metropolitan France and facilitate their relations with their home collectivities". This involves safeguarding the interests of citizens from overseas France who are living in metropolitan France and, in particular, combating the kind of discrimination they may encounter, including in relation to urban policy and subsidies to associations, student accommodation, obtaining bank loans, payment of rent, deposits to be provided and so on.

150. To aid him in his task, the Delegate is assisted by the Consultative Council for overseas associations in metropolitan France, the Council for overseas elected representatives in metropolitan France, the Consultative Council for the overseas world of culture and the Council for overseas businessmen. In time, the four councils will be amalgamated to form a National Council for Overseas France.

151. The flagship project that will be emblematic of this mobilization of all overseas officials to promote overseas France and its peoples in metropolitan France will be the opening in Paris of an Economic and Cultural Centre: the Centre for Overseas France (*Cité des outre-mers*).

152. In addition, a programme of action comprising some 300 measures will be implemented over the next three years. The programme is based on the following four objectives:

- Improving daily life for citizens from overseas France;
- Highlighting the history and culture of overseas France;
- Promoting the conditions for genuine territorial continuity;
- [Defining] the measures to be taken in overseas France.

**(d) The electorate in New Caledonia**

153. The revision of the constitution adopted by the Congress of New Caledonia, on 19 February 2007, marks the achievement of a long-standing demand from New Caledonia's Melanesians, who see the freezing of the electorate as the cornerstone of the Nouméa Agreement of 5 May 1998. The effect of the constitutional revision is to establish a restricted electorate, as at 8 November 1998, for the territorial elections of 2009 and 2014. This "frozen" electorate is limited to persons who entered New Caledonia before 8 November 1998 and are able to prove that they have been resident in the territory for 10 years.

154. The rationale behind the Agreements was in fact to restrict participation "in the elections that will determine the future of New Caledonia", including the provincial elections, to



“populations with an interest in the future of the territory, that is to say electors present in the territory at a certain point in time and their descendants”.

**Following the revision of the constitution, the following conditions have to be met in order to take part in the elections to New Caledonia’s congress and provincial assemblies:**

The elector must fulfil one of the following conditions (art. 189 of the organic law)	Have entered New Caledonia
1. Satisfy the conditions for inclusion on the electoral rolls drawn up for the election of 8 November 1998	In 1988 at the latest
2. Be included on the annexed table and have been domiciled in New Caledonia for 10 years by the date of the election	Between 1989 and 1998
3. Have reached the age of majority after 31 October 1998 and be able to prove 10 years’ domicile in 1998	In 1988 at the latest
4. Have reached the age of majority after 31 October 1998 and have a parent who voted in 1998	In 1988 at the latest in the case of the parent
5. Have reached the age of majority after 31 October 1998 and have a parent included in the annexed table and be able to prove 10 years’ residence in New Caledonia by the date of the election	Between 1989 and 1998 in the case of the parent

**(e) Urban and social housing policy in overseas France**

155. In overseas France, urban and social housing policy are subject to specific constraints:

- Very high demand resulting from the need to make good the current shortfall and a very high rate of population growth (1.6 per cent annually), four times higher on average than in metropolitan France. The scale of population growth is resulting in the rapid, and frequently unchecked, spread of urbanization;
- Low average income levels reflecting the fact that wages generally are low, while unemployment remains high (21.3 per cent on average), particularly among young people;
- Limited availability of land linked to the natural environment (natural threats, morphology) and shortages of equipment in towns and districts;
- Local collectivities in financial difficulty;
- Housing stock that is unfit for habitation or poorly equipped, and, although the situation is improving, a very great deal remains to be done.

156. The situation is typified by overcrowded accommodation and, more generally, the development of housing that may be described as unfit for habitation and affects 26 per cent of all housing, compared to 7.9 per cent in metropolitan France. The cost of properly equipped real estate is a major obstacle to expanding the construction of social housing in the overseas *départements*. To ease that problem, a regional land and urban development fund (FRAFU) was set up by Decree of 29 April 2002 in every overseas *département*.

157. Many urban and social housing policies have been implemented. In the overseas collectivities in the Pacific, responsibilities involving the implementation of urban policy are a matter for the collectivity (French Polynesia, the Wallis and Futuna Islands) or the provinces (New Caledonia). Nonetheless, the State is involved in funding them in these territories, on the basis of planning and development contracts, in particular, given the scale of demand and the shortfall in local resources. The amount of credits allocated to reducing the poor housing stock is constantly rising, given the increase in such housing in Mayotte, French Guiana and Guadeloupe, in particular.

158. The guidelines for the 2008 financial year are entirely dictated by the objective of the Act of 5 March 2007 establishing an enforceable right to housing. The Act makes the social cohesion plan laid down in 2005 applicable to the overseas *départements* and regions. Extending the plan to the latter was recommended in the audit report on the modernization of social housing, and had been called for by those working in the social field.

**(f) Social equality in overseas France**

159. Responsibility for health care and social welfare is shared between the State and the overseas collectivities. The statutes of Polynesia and New Caledonia accord them full responsibility for health care. Nonetheless, the State plays a part by providing significant financial support and technical assistance measures, either directly or via health care agencies and research bodies.

160. The conditions governing the award of family benefits have gradually been aligned with those that apply in metropolitan France. In the overseas *départements*, the special features of family policy have been substantially cut back, in accordance with the policy of social equality adopted in 1988:

- In 1991, family benefits were aligned with those applicable in metropolitan France;
- Benefits have been extended (home-based child care, family support, allowance for young children, parental education allowance and so on) in line with the model for metropolitan France;
- The basic guaranteed income (RMI) was aligned with the basic guaranteed income applicable in metropolitan France on 1 January 2002. In the overseas *départements* and territories, it affects 19.8 per cent of the population, whereas, in metropolitan France, 3.5 per cent receive the RMI;
- The process of aligning the guaranteed minimum wage (SMIC) of the overseas *départements* was completed on 1 January 1996. Since then the SMIC has increased in line with metropolitan France.

161. Special arrangements are in place in the overseas collectivities,: the level of minimum guaranteed interprofessional wages (SMIG) is set by the State's representative, taking into account the local standard of living (on 1 January 2007, the minimum wage in the Wallis and Futuna Islands was 451.71 CFP francs or €3.78). In French Polynesia and New Caledonia, it is no longer the State which sets the minimum wage but the local government, which is responsible

for determining its own wage policy (on 1 January 2007, the minimum wage was 810.65 CFP francs or €6.79).

162. However, this process of harmonization with metropolitan France has not led to the abolition of the specific benefits that viewed are more favourably in some quarters than is the case in metropolitan France. These include the family benefits for a single child, the family housing allowance, the school canteen allowance, and the adoption (treated as a birth) allowance provided for a single dependent child.

**(g) Health care in overseas France**

163. Structural problems are causing public health establishments to lag behind. Efforts are being made to bring them up to the standard of care provided in metropolitan France, but both infrastructure and equipment deteriorate more rapidly because of the climatic conditions. In addition, in some cases, local circumstances cause operational problems: the Mamoudzou maternity hospital in Mayotte is the biggest in France because of the high birth rate, which is largely the result of high levels of immigration (in two-thirds of births the mother is foreign). Programmes of investment, restructuring and reconstruction, as well as measures to bring facilities up to standard and purchase equipment, are under way.

164. The governments of the collectivities of French Polynesia and New Caledonia have responsibility for health care. Nonetheless, the State maintains a presence to fund special arrangements (as the territory of New Polynesia extends over an area the size of Europe, the health care map requires the use of helicopters to access treatment).

**PART TWO: SPECIFIC OBSERVATIONS CONCERNING  
ARTICLES 2 TO 7 OF THE CONVENTION**

**Article 2**

**A. Stepping up policies to combat racial discrimination**

**1. Prosecution policy**

**(a) A tougher legal framework**

165. The law of 16 November 2001 on discrimination in employment supplemented the list of forms of discrimination addressed by the Employment Code, adjusted the burden of proof and introduced the concept of indirect discrimination, and had the effect of tightening up the legal framework.

166. Act No. 2004-904 of 9 March 2004 adjusting the justice system to meet developments in crime introduced the following changes: the penalties incurred in cases of discrimination have been increased. Discrimination in the supply of goods or services, the operation of an economic activity or in the context of industrial relations is punishable by three years imprisonment and a fine of €45,000, in place of two years imprisonment and €30,000 (art. 225-2 of the Criminal Code). Discrimination on the part of persons invested with public authority is punishable by five years imprisonment and a €75,000 fine, in place of three years imprisonment and a €45,000 fine.

167. Act No. 2004-1486 of 30 December 2004 establishing the High Authority to Combat Discrimination and Promote Equality (HALDE). HALDE is an independent administrative authority able to look into discrimination of its own initiative or to have matters referred to it by any citizen or association; it has investigative powers and may take part in judicial procedures in order to provide the bench with additional and independent information.

168. The Equal Opportunities Act No. 2006-396 of 31 March 2006 and the Decree of 1 June 2006 on the settlements proposed by HALDE extended HALDE's authority, by according it powers in relation to settlement and prosecution and providing that it has an automatic right to be heard by the courts. They also extended its methods of investigation (its sworn officials may draw up reports confirming that there has been discrimination and, if authorized by the judge responsible for granting interim relief, they may carry out on-site checks).

169. Discrimination testing has also been established in law (Act No. 2006-396 of 31 March 2006 legalized the practice of testing to establish discriminatory conduct by inserting art. 255-3-1 into the Criminal Code).

170. The above-mentioned Act of 31 March 2006 also incorporated into the Employment Code the principle that *curricula vitae* should be anonymous.

171. Finally, Act No. 2008-496 of 27 May 2008 concerning various provisions of adjustment to Community law in the field of combating discrimination extends the prohibition of indirect discrimination to areas other than housing and employment, in accordance with the **recommendation contained in paragraph 21 of the Committee's observations.**

**(b) Creation of anti-discrimination units**

172. By dispatch of 11 July 2007, the Minister of Justice ordered anti-discrimination units (*pôles anti-discrimination*) to be set up within each court of regional court, headed by a contact judge (*magistrat référent*) who is responsible for taking action on the ground, in close cooperation with the various associations with expertise in the field. In addition, the Minister of Justice wanted a representative of the prosecutor specializing in combating discrimination to be appointed to each unit, where possible in consultation with local associations. Consequently, of 118 of the 176 representatives appointed (that is to say more than 67 per cent), 59 come from groups and associations, 39 were appointed in consultation with groups and associations, and 20 were appointed because their background made them particularly suited to dealing with litigation. The purpose of the units is to encourage victims to come forward with their complaints.

173. In accordance with the instructions of the Minister of Justice, several measures have already been taken by the various units, including the production of simplified complaint forms, the organization of on-call prosecution units in legal advice centres, awareness-raising in schools, use of testing and the organization of specialist training for professionals in the field, investigators and members of the judiciary.

174. In some jurisdictions, for example, discussions have been held with the directorate for employment of the *département* and also with the chamber of trade and MEDEF (Movement of Businesses in France) to make company heads aware of the need to prevent discrimination in the recruitment process, based on gender, disability or ethnicity. At the instigation of some public prosecutors' offices, the education authority has also been involved in this work. Protocols are planned or, indeed, have already been signed, between these associations and the institutional bodies (prefect, Ministry of Education) and, at the request of the prosecutors' offices, will be included in every local intercommunal security and crime prevention council. The anti-discrimination units operate alongside HALDE local contacts and work with institutional partners, such as the Commission for the Promotion of Equality of Opportunity and Citizenship (COPEC).

**2. Other measures**

175. The extent of discrimination in recruitment linked to origin is shown by the study on young people from the suburbs of the Ile-de-France, carried out, in 2007, by the Centre for Strategic Analysis, and the study carried out by the International Labour Office (ILO) in France, between late 2005 and mid-2006, in Lille, Lyon, Nantes, Marseilles, Paris and Strasbourg. Moreover, the outcome of the ILO study more or less mirrors other examples of testing carried out in six other European Union countries. In its annual report for 2007, HALDE highlights the substantial increase in the number of complaints recorded (56 per cent) compared with 2006. Employment – and career development in particular – now account for more than 50 per cent of complaints and a person's origin is the motive most frequently cited.

176. In the face of these findings, the Government is conducting a proactive policy, which has, in particular, included an expansion of the legislative arsenal (see above). It is also taking part in the EQUAL initiative for combating discrimination in employment, financed by the European Social Fund for the period 2000-2008.

177. The other strands of Government policy largely involve measures to raise awareness, training initiatives and measures to mobilize players in both the public and the private sector to prevent discrimination and promote diversity. In order to do this, the State is developing a programme of partnerships with players from the business world (recruitment agencies, local chambers of commerce, trade unions, major companies or groups of companies, trade organizations, network leaders, associations and foundations) in an effort to support the development of effective tools and action plans within their structures.

178. In the context of these partnerships, the ministry is taking the following measures:

- With the occupational groups: in January 2008, the Ministry of Immigration signed an agreement with two employers federations from the cooperative, mutual and non-profit sector (the Association of mutual insurers, GEMA, and the Association of employers in the cooperative, mutual and non-profit sector, USGERES), following on from the work done with mutual insurer MACIF and its foundation, to encourage the cooperative, mutual and non-profit sector to commit to combating discrimination and to diversity;
- With the trade unions: the Ministry of Immigration has, moreover, signed with the French Democratic Confederation of Labour (CFDT) a triennial agreement (2007-2009) designed to support its programme “1000 agreements for equality”, following on from the multi-sector agreement signed by the two sides of industry;
- With the local chambers of commerce: the Ministry of Immigration is currently negotiating agreements with these bodies which are designed to combat discrimination in access to apprenticeships and to raise awareness of issues of diversity among SMEs and the crafts sector;
- With companies: in 2006, the State undertook to support the measures taken by companies to promote equality. The Ministry of Immigration is a member of the steering committee for the Charter of Diversity which has, so far, been signed by more than 2,000 companies and other employers (local and regional authorities, public bodies and so on) and is supporting the development of mechanisms to implement the Charter. The Charter has also been adopted in Belgium and Germany and is due to be extended at European level.

179. To gauge the effectiveness of the commitments entered into by employers, the State has tasked the National Association of Directors of Human Resources (ANDRH) with devising a diversity label that will cover all forms of discrimination (except for equality between men and women, which is already covered by a specific label). The diversity label must promote equality of opportunity and diversity within companies or any other public or private sector employer and certify the process set in place. It will be accessible, with the necessary adjustments, to small and medium-sized enterprises (SMEs) and very small enterprises (VSEs). The first labels were issued in January 2009, on the recommendation of a commission comprising the State, both sides of industry and ANDRH. The priority for 2008-2010 will be to adapt the specifications to SMEs and the civil service.

## **B. Policies to promote reception and integration, as well as social and career development**

### **1. The reception and integration contract**

180. Adopted by the Interministerial Committee for Integration meeting in April 2003, the reception and integration contract (CAI) was introduced gradually, initially, on an experimental basis, in 12 *départements* as of 1 July 2003, and then in 14 others in 2004, before being extended to the whole of France (Act of 18 January 2005 on social cohesion). The aim is to facilitate the integration of foreigners who are newly arrived or have been admitted for residence. The CAI is presented to the individual in a language that he/she understands.

#### **(a) Legal framework**

181. The reception and integration contract (CAI) has been compulsory since the entry into force of the Act of 24 July 2006 on immigration and integration. The Decree of 23 December 2006 lays down the procedures for implementing the law. The Act of 24 July 2006 stipulates that the CAI is automatically to be offered to foreigners, outside the European economic area, who are admitted for the first time to reside in France or who enter France legally, between the ages of 16 and 18, and wish to remain in France, in the long term, in order to prepare for their integration into French society, in accordance with Republican principles, (art. L. 311-9 CESEDA). The contract is drawn up by the National Agency for Foreigners and Migration (ANAEM), a public body under the auspices of the Ministry of Immigration, Integration, National Identity and Mutually-Supportive Development, and signed by the prefect of the *département*. It is concluded for a period of one year and may be extended, on a proposal from ANAEM, which is responsible for monitoring and terminating CAIs, provided that the signatory has been able to renew his or her residence permit.

182. ANAEM determines, organizes and funds the benefits and training provided under the CAI. All training is free of charge and leads to the award of a certificate. When a residence permit is renewed for the first time, a foreigner's failure to respect the requirements of the CAI, as evidenced by that person's clear attitude, may be taken into account.

183. By the contract, the State undertakes to offer to signatories, free of charge, a day's training in citizenship, an information session on life in France, language training, if necessary, and social support, if justified by the signatory's personal or family situation.

184. In return, the foreigner undertakes to respect the French Constitution, the laws of the Republic and the values of French society, to attend a day's training in citizenship and an information session on "living in France", to attend a language course, if he or she does not have an adequate knowledge of French and to take an examination to obtain the initial diploma in the French language, (DILF), a diploma awarded by the Ministry of Education.

**(b) Statistics for 2007**

185. In 2007, the CAI was signed by 101,217 individuals in 95 *départements* in metropolitan France.<sup>7</sup> In 2008, it was being introduced in Haute Corse and the overseas *départements*.

186. Signatories of the CAI include more than 150 nationalities. The largest numbers come from the Maghreb countries, accounting for 43.1 per cent,<sup>8</sup> 20.8 per cent of whom are from Algeria, 15.5 per cent from Morocco and 6.8 per cent from Tunisia. Citizens of the Congo, the Democratic Republic of the Congo, Cameroon, Côte d'Ivoire, Senegal and Mali account for almost 15 per cent of all signatories. Next come citizens of Turkey (6.3 per cent), China (3.2 per cent) and the Russian Federation (2 per cent).

187. Family members of French nationals account for 48.4 per cent of signatories (48,992 persons), people benefiting from family reunification account for 11.1 per cent (11,206 persons) and refugees and the families of refugees account for 9.3 per cent (9,403 persons).

188. Women represented 46.1 per cent of CAI signatories. The proportion of women was greater among signatories from Morocco (53.5 per cent) and Algeria (50.4 per cent) than among signatories from Tunisia (45.1 per cent) or Turkey (49.1 per cent).

189. The average age of signatories is 31.2 years. A quarter are under 24 years old, 50 per cent under 29 and, in total, 75 per cent are under 35, with women being slightly younger than men (30.5 on average compared with 31.2).

190. Language training was recommended for 25.8 per cent of signatories (26,121 individuals). In 74.2 per cent of cases, signatories were acknowledged to have a standard of language equivalent to the standard certified by the Initial Diploma in the French Language (DILF) and therefore received the Ministerial Certificate of Exemption from Language Training (AMDFL).

191. Eight DILF sessions were organized in 2007. The diploma was obtained by 2,949 individuals, giving a pass rate of 92.1 per cent.

192. A total of 38.4 per cent of signatories were recommended to attend the day-long information session on "living in France"; the remaining signatories had been briefed by ANAEM during the half-day introductory session.

193. Individual social support was provided for 6.8 per cent of signatories (6,903 individuals).

**(c) Recent developments introduced by Act No. 2007-1631 of 20 November 2007 on the control of immigration, integration and asylum**

**Preparing the process of integration in the country of residence**

194. Article 1 of the Act provides that persons wishing to enter France for the purpose of family reunification, like the foreign spouses of French nationals, will now be required to undergo an assessment of their knowledge of the French language and the values of the Republic in their

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<sup>7</sup> At that point in time, the contract had still to be introduced in one *département*, Haute Corse.

<sup>8</sup> Data not included in this report.



countries of residence. If necessary, they will have to attend a maximum of two months' training organized by the authorities. They will need a certificate showing that they have undergone the training before they can obtain a long-stay visa.

### **A CAI for the family**

195. Article 6 of the Act also introduces a family reception and integration contract, to be entered into between the State and both spouses (applicant and spouse), if there are children. Like the individual CAI, the family contract will be offered by officials from the National Agency for the Reception of Foreigners and Migration (ANAEM) at the introductory session to which everyone who is newly arrived or admitted for residence is invited. Under the contract, the persons concerned must attend a day's specific training on the "rights and duties of parents" which is organized around four themes: equality between men and women, parental authority, children's rights and schooling. The module on the "rights and duties of parents" will take place over a single day and be attended by both spouses. A certificate of attendance will be issued at the end of the day.

### **Introduction of a skills assessment**

196. Finally, the law provides for a skills assessment to be drawn up. Organized by ANAEM, the assessment takes a maximum of three hours and is designed to enable CAI signatories to understand and make the best use of their experience, professional skills or traineeship in seeking employment.

## **2. Promoting social and career development**

197. The State is continuing to take further action in the following three areas:

- In regard to combating racism and discrimination, the public authorities are continuing to support the associations that combat racism and xenophobia, as well as measures to improve access to their rights for migrants or persons of immigrant origin;
- Two framework conventions have been signed to enhance the interministerial nature of the measures taken to help migrants or persons of immigrant origin: the first relates to women and the second is designed to foster academic success and promote equality of opportunity for young people;
- To make the wider public aware of and enhance the image of migrants or persons of immigrant origin, the ministry responsible for integration has, in particular, supported the launch of the National Centre for the History of Immigration (*Cité nationale de l'histoire de l'immigration*, CNHI) and the creation of the Commission on "Images of Diversity".

### **(a) Support for associations combating racism and xenophobia**

198. The Ministry for Immigration, Integration, National Identity and Mutually-Supportive Development has helped combat racism by providing financial support to associations working in this field. Triennial conventions (2006-2008) have been signed in this connection. The

measures called for mainly relate to victim support, legal assistance and raising public awareness.

**(b) Support for measures to improve access to rights**

199. The ministry responsible for integration is continuing to provide financial support to the “Info Migrant” service, set up by the “Inter-Service Migrants-Interpretation”, which provides translation, interpretation and letter-writing services, as well as legal information and advocacy services that are designed to encourage dialogue and combat racism. This service is anonymous and free of charge and provides telephone advice, throughout French territory, on the laws on foreigners in France and their implications for daily life (more than 13,000 calls a day – 55 per cent from women). Support has also been given to the AS-ISM association, which offers a translation service, with a panel of 35 languages and dialects, including “rare” languages, to avoid disadvantaging speakers of these languages when they are seeking to access their rights, as well as support to the association’s clients in dealings with the authorities.

**(c) Support for measures to help women who are immigrants or of immigrant origin**

200. A new interministerial framework agreement was signed in 2007 to continue the commitments entered into under the framework agreement of 4 December 2003. It provides for six strands of action to be implemented both at national and regional level, including measures to “ensure that women who are immigrants or of immigrant origin are portrayed in a positive light” and to “promote an active policy of access to personal and social rights” – all measures designed to help combat racism.

**(d) Establishment of a National Centre for the History of Immigration (CNHI)**

201. A forum for culture, pedagogy and citizenship, the National Centre for the History of Immigration (CNHI) is a public body that was set up by decree in 2006 and placed under the supervision of the ministries responsible for integration, culture, education and research. The CNHI’s remit is to secure recognition of the part played by immigrants in the history and construction of France and of how France has been forged and enriched by these diverse contributions. Its mandate is to “collate, safeguard, highlight and make accessible information concerning the history of immigration, particularly since the 19<sup>th</sup> century, thereby helping to achieve recognition of the process of integrating immigrant populations into French society, and developing perceptions of and attitudes to immigration in France”. The CNHI opened its doors, in Paris, on 10 October 2007. It is at once museum, documentation centre, centre for the dissemination of artistic creation, intermediary with the Ministry of Education and a body that brings together a network of local players and initiatives.

**(e) Creation of a Commission on “Images of Diversity”**

202. Under the terms of a Decree of 2007, the Commission on “Images of Diversity” was set up as part of the process of establishing a fund to support cinema and the audiovisual sector, and, more specifically, cinematographic and audiovisual productions embracing diversity and equality of opportunity.

203. The fund is administered by the National Agency for Social Cohesion (ACSé) and the National Centre for Cinematography (CNC). It supports the production of works of fiction whose narrative concerns diversity in France, as well as documentaries and programmes on the same subject, on the model of measures already implemented in France over several years now by ACSE, which will see its resources increased. The “Images of Diversity” fund has a budget of €10 million.

**(f) Support for the establishment of the integration and discrimination- prevention network**

204. The public authorities backed the launch of the “integration and discrimination- prevention network” set up by the IDEAL network in July 2007. The network’s remit is to publicize, identify and share innovative measures and “good practice”, at both national and local level, to exchange views, experiences and means of action, and share working documents, legislative texts, studies or reports (via a digital library). From the outset, the integration and discrimination-prevention network has worked with the regional and local authorities, the decentralized State services and many other bodies.

**(g) Development of measures to encourage academic success and promote equality of opportunity for young immigrants or young people of immigrant origin**

205. An interministerial framework convention (Education, Integration and Urban Development) was signed in December 2007 to encourage academic success and promote equality of opportunity for young immigrants or young people of immigrant origin. The aim of three of the six general partnership themes under the framework agreement is to “achieve a better understanding of the diversity” of French society, to “promote the process of learning to live alongside each other” and to “combat discrimination and promote equality of opportunity”.

### **C. Institutional landscape**

– **Response to the recommendation contained in paragraph 11 of the Committee’s recommendations**

206. The French Government wishes to make it clear that the various institutions cited in **paragraph 11 of the Committee’s observations** (CII, HCI, HALDE) are different in nature and have different responsibilities. The only feature they have in common is that, in differing areas of their activity, they are each capable of taking action to combat discrimination. This being the case, there can be no question of “proliferation” or “watering down”; the institutions in fact complement each other, with each helping to combat discrimination within the limits of its responsibilities and powers.

#### **1. Interministerial Committee on Integration (CII)**

207. The CII is a governmental decision-taking body. It is under the authority of the Prime Minister, and made up of the ministers concerned with integration, with the aim of coordinating a joint action programme. It should be pointed out that its remit relates to integration and not combating discrimination, although, from that perspective, combating integration may, of course,

constitute an important field of action and, indeed, a number of measures taken by the CII relate specifically to combating discrimination.

## **2. High Council on Integration (HCI)**

208. The High Council on Integration is an advisory and review body. Working in conjunction with the Prime Minister, it carries out work or makes proposals, at the Prime Minister's request or of its own initiative, on matters pertaining to the integration of immigrants or persons of immigrant origin. Clearly, the issue of integration may lead it to tackle the question of racial, ethnic or religious discrimination, since such acts of discrimination impede integration. The Government is under no obligation to refer to the HCI and remains entirely free as to the follow-up to be given to its work.

## **3. High Authority to Combat Discrimination and Promote Equality (HALDE)**

209. Set in place by Act No. 2004-1486 of 30 December 2004, HALDE is an independent administrative authority whose responsibilities extend to all direct or indirect discrimination that is prohibited by law or under an international undertaking to which France has subscribed. It is made up of a college of 11 members, assisted by an advisory committee of 18.

210. HALDE's two main functions are to deal with cases of discrimination and promote equality. It may recommend any amendment to laws or regulations and is consulted by the government on all draft legislation and all matters related to combating discrimination and promoting equality. It helps prepare and determine the position of France in international negotiations on preventing discrimination. It reports annually to the President of the Republic.

211. Since HALDE was set up, COPEC's permanent secretaries have no longer had to investigate individual complaints referred to them. They must encourage victims of discrimination to contact HALDE directly. HALDE can look into discrimination of its own initiative or be brought in by any citizen or association; for that purpose, it has investigative powers and may take part in judicial procedures in order to provide the bench with additional and independent information.

212. The Equal Opportunities Act No. 2006-396 of 31 March 2006 and the Decree of 1 June 2006 on the settlements proposed by HALDE extended HALDE's authority, by according it powers in relation to settlement and prosecution and providing that it has an automatic right to be heard by the courts. They also extended its methods of investigation (its sworn officials may draw up reports confirming that there has been discrimination and, if authorized by the judge responsible for granting interim relief, they may carry out on-site checks). Finally, HALDE has the power to impose financial penalties on those responsible for offences which it finds to have been committed and to compel them to publicize its decisions. In addition, the Act of 31 March 2006 legalized the practice of discrimination testing as a means of proving that an offence has been committed.

213. In its annual report for 2007,<sup>9</sup> HALDE highlights the substantial increase in the number of complaints recorded (a 56 per cent rise) compared with 2006. Employment (and career

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<sup>9</sup> The reports, opinions and recommendations of HALDE can be accessed at: [www.halde.fr](http://www.halde.fr).

development in particular) now accounts for more than 50 per cent of complaints, and the person's origin is the motive most frequently cited.

214. Between 1 January and 31 December 2008, HALDE received 7,788 complaints compared to 6,222 in 2007, that is to say a 25 per cent increase over the previous year. The average number of complaints received monthly increased from 141 in 2005 to 649 in 2008. If complaints are broken down according to the criteria defining discrimination and areas of discrimination, a degree of continuity is apparent: origin continues to be the criterion most frequently cited by persons who consider themselves to be the victims of discrimination (29 per cent); the second criterion covers "health" and "handicap" (21 per cent). Moreover, 21,024 calls were dealt with between 1 January and 31 December 2008 (compared with 22,241 calls in 2007 and 30,954 calls in 2006) on local call rate number 08 1000 5000: callers were given advice and guidance. There were 2,633 references via a form available on the internet, introduced on 1 January 2008. The number of online referrals has increased by 2.5 since the beginning of the year. The length of the investigation depends on the complexity of the case.

215. HALDE has used the new powers accorded to it by the legislature during this year: in 2008, its college submitted observations in 64 cases before all courts. In 2008, it was involved in 42 instances of mediation, more than a third of which concerned job retention and adaptation in connection with health and disability. In 2008, HALDE trained a network of specialized mediators. The 17 prosecutions brought were in response to the refusal of access to recruitment and property. Furthermore, following the refusal of a respondent to reach a settlement, HALDE brought a private prosecution for the first time. The result was a criminal conviction for failure to recruit. Discrimination testing concerning access to private accommodation, carried out in 2008, resulted in six references to the State Prosecutor's office in early 2009. The number of complaints that were resolved in the course of investigation by HALDE, even before being submitted to its college, more than tripled in 2008 compared with 2007, confirming that HALDE's regulatory role and authority have been recognized.

#### **4. National Consultative Commission for Human Rights (CNCDH)**

216. Set up in 1947, the National Consultative Commission for Human Rights is a national institution for the promotion and protection of human rights attached to the Prime Minister's office. In regard to the Government, its role is to give advice and make proposals concerning human rights, humanitarian law and activity and respect for the fundamental guarantees accorded to citizens for the exercise of fundamental freedoms.

217. Under Act No. 2007-292 of 5 March 2007, "the Commission shall carry out its mandate in complete independence" and in compliance with the principles laid down by resolution No. 48/134 of the United Nations General Assembly of 20 December 1993.

218. Act No. 90-165 of 13 July 1990 on the prosecution of all acts of racism, anti-Semitism or xenophobia requires the National Consultative Commission for Human Rights to publish an annual report on combating racism and xenophobia in France. To date, 17 reports have been published, the latest in 2007.

219. For several years now, the Commission has been producing thematic studies. For example, it published a study entitled "Intolerance and violence against Islam in French society", as well

as a study of “Racist, xenophobic and anti-Semitic propaganda on the internet”. The Commission has also looked closely at racism in schools and colleges and sport and, more recently, it has completed a study on discrimination against migrant Roma and travellers.

220. The Commission’s opinions and studies and its annual report are available on its website: [www.cncdh.fr](http://www.cncdh.fr).

### Article 3

221. France has further developed the relations it has maintained with South Africa since the release of Nelson Mandela. As well as extensive French involvement during the period of transition, which took the form of substantial financial and technical assistance, political contacts have been strengthened in recent years, on the occasion of various meetings and on the basis of an ongoing dialogue between the French and South African public authorities.

222. French cooperation initially focused on policies to support the disadvantaged black population but has gradually broadened out to cover other areas. France’s intervention strategy is now structured around other objectives, reflecting South African Government priorities, namely to reduce inequalities and combat poverty in order to improve the living conditions of historically disadvantaged populations, as well as to develop infrastructure, particularly economic infrastructure, and environmental matters.

223. South Africa has also become a preferred partner in discussion for France in matters concerning the resolution of crises and conflicts in Africa.

### Article 4

224. It should be pointed out, by way of preliminary, that both the provisions of the Criminal Code prohibiting all propaganda involving racial discrimination and the provisions of the legislation on the freedom of the press were described in the last periodic report.

#### **A. Developments in and future plans for French legislation on press freedom**

##### **1. Legislative developments**

###### **(a) Public defamation and insult based on origin, race or religion.**

225. Decree No. 2005-284 of 25 March 2005 on the offences of non-public defamation, insult and incitement of a discriminatory nature and the jurisdiction of the district (*tribunal de police*) and community court (*jurisdiction de proximité*) amended articles R. 624-3 and R. 624-4 of the new Criminal Code by inserting a second subparagraph into each of them.

226. Consequently, article R. 624-3 provides that “non-public defamation of a person or groups of persons based on their origin or on their – actual or assumed – membership or non-membership of a specific ethnic group, nation, race or religion, shall be punishable by the fine laid down in respect category 4 offences. Non-public defamation of a person or group of persons based on gender, sexual orientation or disability shall be subject to the same penalty”.

227. Article R. 624-4 provides that “non-public insult directed towards a person or groups of persons based on their origin or on their – actual or assumed – membership or non-membership of a specific ethnic group, nation, race or religion, shall be punishable by the fine laid down in respect category 4 offences. Non-public insult directed towards a person or group of persons based on gender, sexual orientation or disability shall be subject to the same penalty”.

**(b) Disputing crimes against humanity**

228. The above-mentioned Act of 9 March 2004 adapting the justice system to developments in crime also introduced an article 65-3 into the Act of 29 July 1881. Under that article, the prescriptive period applicable to the offences of incitement to discrimination, hatred or racist or religious violence, disputing crimes against humanity, defamation of a racist nature and insult of a racist nature is one year instead of three months, the time-limit laid down in respect of other press offences. The time-limit runs from the moment the offence was committed, whatever the medium used, including the internet.

**(c) Procedural arrangements under the legislation on the press**

229. Since the last periodic report, the above-mentioned Act of 9 March 2004 adapting the justice system to developments in crime has amended the prescriptive period applicable to criminal prosecution for press offences relating to racism. The time-limit used to be three months but has been extended to one year.

**(d) Article 14 of the 1881 Act**

230. Since the last periodic report, article 14 of the Act of 29 July 1881, which allowed the Minister of the Interior to prohibit the circulation, distribution and sale in France of foreign publications and newspapers, has been repealed by Decree of 4 October 2004. Moreover, an opinion of the French Council of State, of 10 January 2008, made clear that the effect of repealing article 14 was not to bring back into force the provisions of article 14 of the 1881 Act in its original version. The Council of State also took the view that to bring the original version of article 14 back into force would be incompatible with article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, since the provisions at issue establish a power of prohibition that is general and absolute and fail to specify the grounds on which that power may be exercised.

**2. Future plans for legislation**

231. **In response to Recommendation 20 of the Committee** on follow-up to the last report, the French Government did not oppose extending the crime of revisionism, provided for in article 24*bis* of the Act of 29 July 1881 on the freedom of the press, to cover all crimes against humanity, as defined by the provisions of the Criminal Code, and not just crimes against humanity committed during the Second World War, provided such crimes have been confirmed by final judgment of an international court.

232. The declaration made by France when it adopted the framework decision “Racism and xenophobia”, in November 2008, stipulates that France will penalize the denial or gross

trivialization of crimes that have been the subject of a final judgment of the International Criminal Court and will have to amend its domestic law in order to do this.

## **B. Other legislation on combating racist propaganda**

### **1. The Act of 10 January 1936**

233. The provisions of the Act of 10 January 1936 allow the President of the Republic to order the dissolution, by decree, of associations or de facto groups that are either alleged to have incited discrimination, hatred or violence against a persons or groups of persons, based on their origin or on their membership or non-membership of a specific ethnic group, nation, race or religion, or are alleged to have disseminated ideas or theories tending to justify such discrimination, hatred or violence.

234. Since 2000, three groups have been dissolved by decree for inciting discrimination and anti-Semitism: “*Unité radicale*” (6 August 2002), “*Elsass Korps*” (19 May 2005) and “*Tribu Ka*” (28 July 2006).

### **2. The Act of 16 July 1949**

235. Article 14 of the Act of 16 July 1949, amended by the 31 December 1987 Act, on publications intended for young people, 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 they contain racial discrimination or hatred. The measures taken by the Minister of the Interior in regard to such publications may extend to banning them from public display and from being advertised. No measure of this nature has been taken since 2000.

## **Article 5**

### **A. The right to security of person**

#### **1. Combating racist, anti-Semitic and xenophobic acts**

236. **In response to the recommendation contained in paragraph 17 of the Committee’s observations** on the increase in the number of racist, anti-Semitic and xenophobic acts, it should be pointed out, by way of preliminary, that 2007 saw a clear drop in the number of racist, xenophobic and anti-Semitic acts. The number of racist, anti-Semitic and xenophobic acts identified was 707, compared with 923 in 2006, that is to say a drop of 23.5 per cent. In addition, the greatest reduction was in relation to anti-Semitic violence and threats, with 386 acts identified in 2007, compared with 571 in 2006, that is a fall of 32.5 per cent (see the CNCDH report for 2007).

237. Nonetheless, the French authorities remain vigilant, as any news event may, at any moment, trigger a chain reaction leading to an upsurge in violence. The available statistics for the first three quarters of 2008 showed a 25 per cent increase in racist acts in which a perpetrator was identified. The available statistics for the whole of 2008 reveal an 11 per cent increase in racist acts and a 9.8 per cent rise in racist acts in which the perpetrator was identified. It should nonetheless be pointed out that for all racist, anti-Semitic and anti-religious offences, the



prosecution rate was 78 per cent in 2008, compared with 77 per cent in 2007 and 2006. These percentages seem to demonstrate the Government is certainly not easing back but is actually pressing forward.

**(a) Legislative developments**

238. Among the most recent legislation, Act No. 2003-88 of 3 February 2003 on augmented penalties for offences of a racist, anti-Semitic or xenophobic nature, known as the “LELLOUCHE” Act, has enabled the perpetrator’s racist, anti-Semitic or xenophobic motive to be regarded as an aggravating circumstance in the context of some crimes and offences such as murder, rape and acts of violence. The effect is to increase the penalty incurred or aggravate the nature of the offence. For instance, the offence of criminal damage to private property becomes a crime where an aggravating circumstance is established.

239. By Act No. 2004-204 of 9 March 2004 adapting the justice system to developments in crime, known as the “PERBEN II” Act, the aggravating circumstance provided for under the LELLOUCHE Act was extended to new offences such as threats, theft and extortion. The prescriptive period applicable to racist or anti-Semitic offences as regards the press has been extended (from three months to one year) to facilitate prosecution.

240. Apart from offences relating to tombs, tombstones and war memorials specifically, since the entry into force of Act No. 2003-83 of 3 February 2003 (“LELLOUCHE” Act), the offence of destroying or damaging another’s property, provided for in article 322-1, first paragraph, of the Criminal Code, is deemed to have been aggravated by the following two circumstances, in particular:

- If the acts were committed against a place of worship (art. 322-3 of the Criminal Code; five years imprisonment and a fine of €75,000);
- If the acts were committed because of – actual or assumed – membership or non-membership of a specific ethnic group, nation, race or religion (art. 322-2, final paragraph, of the Criminal Code; three years imprisonment and a fine of €45,000).

241. Articles 322-1, 322-2 and 322-3 of the Criminal Code are therefore intended to apply where the property that has been damaged is not a tomb, tombstone or war memorial but, let us say, a cemetery wall. In regard to all the above offences, re-offending results in a doubling of the maximum penalties, in accordance with the provisions of article 132-10 of the Criminal Code.

242. By dispatch of 13 August 2004, the Minister of Justice drew attention to these factors and set out the procedural methods to be used where the perpetrators were identified. Prosecutors were also called upon to enter robust sentencing pleas at hearings.

243. According to the statistical methodology implemented by the Ministry of Justice’s Directorate for Criminal Matters and Pardons in relation to racism, anti-Semitism and discrimination, 38 cases of desecration were reported in 2007 and 21 perpetrators identified. The prosecution rate was 81 per cent, whether or not the offence was aggravated by a religious

motive. In cases where an aggravating circumstance could be established, the prosecution rate was 100 per cent.

**(b) Action by the Ministry of Justice**

244. From late 2001 to late 2004, France experienced an upsurge in anti-Semitism, recorded by both the services of the Ministry of the Interior and the judicial authority. This rise, fuelled, more particularly, by exploiting international conflicts, was a matter of concern and led to the drafting of a number of prosecution guidelines, the establishment of a working group and the adoption of a statistical tool.

• **Prosecution guidelines**

245. The dispatch-circular of 2 April 2002 on judicial procedures relating to acts of violence or urban crime committed since the autumn of 2001 and likely to have a racist or anti-Semitic connotation stipulates the following:

- The Ministry of Justice is to be informed of the judicial action taken in response to any act likely to have a racist or anti-Semitic connotation by means of a report form;
- If the perpetrators are identified, prosecution must be swift and robust;
- Victims of offences of a racist nature must be kept informed, including by linking up with victim support associations;
- Meetings are to be held periodically with the anti-racist associations and Jewish movements and institutions to inform them of the judicial process in criminal proceedings with a racist or anti-Semitic connotation;
- In consultation with the prefecture, local arrangements are to be set in place to make it possible to prevent any disruption of public order and, if necessary, guarantee the protection of buildings or places that have been subjected to serious and repeated damage.

246. The dispatch-circular of 18 April 2002 on judicial responses to acts of a racist or anti-Semitic nature confirms the prosecution guidelines that have been set and provides for the organization of weekly meetings between public prosecutors and prefects and representatives of the Jewish community.

247. The dispatch of 21 March 2003 on judicial responses to acts of a racist, anti-Semitic or xenophobic nature provides for the earlier guidelines to remain in force (systematic provision of information, robust approach to prosecution) and draws attention to the entry into force of the Act of 3 February 2003 augmenting the penalties applicable to certain offences involving attacks on persons or property if they have a racist, anti-Semitic or xenophobic connotation.

248. The dispatch of 18 November 2003 concerning judicial responses to acts of an anti-Semitic nature confirms the prosecution guidelines previously laid down (swift and robust prosecution – immediate court appearance and pre-trial detention). It also provides for the Directorate for Criminal Matters and Pardons (DACG) to be informed in real time of any offence of an anti-

Semitic nature and for the appointment, within public prosecutors' offices, of a contact judge (*magistrat référent*) with responsibility for combating anti-Semitism. The remit of these contact judges has in fact been extended to cover all forms of racism. The initiatives and measures which the contact judges take to combat racism and anti-Semitism fall into four main categories:

- Follow-up of the criminal prosecutions brought by prosecutors and coordination of the prosecution policy applicable to combating racism and anti-Semitism;
- Exchanging information between public prosecutors' offices, State Prosecutor's offices, prefectures, police forces and education officials;
- Dialogue with the representatives of cultural and religious communities (in this respect, the organization of the Jewish religion into consistories has made contacts easier, as judges have institutional contacts);
- Training and the organization of joint discussions.

249. Following a wave of offences of an anti-Semitic nature in late 2008, the dispatch was updated on 8 January 2009. The aim is to ensure prosecution policy is robust and stringent when the perpetrators of anti-Semitic acts are taken in for questioning. For example, prosecutors have been asked to initiate proceedings as soon as possible and to do so under most serious category of offence, citing, where possible, the aggravating circumstance of a racist, xenophobic or anti-Semitic motive.

- **Working Group**

250. On 29 January 2004, contacted by LICRA (International League against Racism), CRIF (Representative Council of Jewish Institutions in France) and the association of Jewish lawyers, the Minister of Justice decided to set up a working group under the auspices of the DACG within the ministry. Initially made up of representatives of the Paris, Lyon, Strasbourg and Marseilles public prosecutors' offices, the ministry and movements from within the Jewish community (CRIF, LICRA and the association of Jewish lawyers), the group has been extended to include representatives of the ministries of the interior and defence and the association of internet service providers. The issues it has tackled include:

- The state of the legislation in force in the wake of the Acts of 3 February 2003 and 9 March 2004;
- Statistics concerning anti-Semitic acts;
- Review of local decisions regarding the judicial response to such acts;
- The action of the contact judges (*magistrats référents*);
- The presentation of a training programme;
- The distribution of an updated guide to the criminal-law provisions on preventing racism, anti-Semitism and xenophobia.

251. The specific issue of disseminating anti-Semitism via the internet justified setting up, after the Working Group's second meeting, an operational sub-group on that issue: it met for the first time, on 2 July 2004, to consider how to deal with reports from internet professionals. Revived in June 2006, the group meets quarterly in restricted format.

- **Statistical tool**

252. Since the above-mentioned circular of 2 April 2002, the Directorate for Criminal Matters and Pardons had been recording manually both the anti-Semitic acts brought to its attention and the judicial response. By dispatch of 8 February 2005, the statistical tool was computerized and expanded: based on responses from the prosecutors' offices, it makes it possible to provide, on a monthly basis, an overview of judicial responses not just to anti-Semitism but also to racist offences and offences committed because the victim belonged to a different religion.

- **Raising the awareness of the judiciary**

253. When legal trainees are undergoing their initial training, the Legal Service Training College (ENM) implements many training measures that involve – directly or indirectly – combating racism and anti-Semitism: placements dealing with urban policy, internships with associations involved in integration, conferences, talks by members of the National Consultative Commission for Human Rights, groups conducting in-depth reviews of the most targeted issues... All of these measures were continued in the training programme for the class of 2007.

254. In addition, in connection with the ongoing training measures envisaged for 2007, the ENM is offering a number of training sessions designed to raise judges' awareness of racism and anti-Semitism and improve their knowledge of foreign cultures.

255. Meantime, the Directorate for Criminal Matters and Pardons distributed, in April 2004, and updated, in 2008, a practical guide to the criminal-law provisions on combating racism, anti-Semitism and discrimination. An updated version is available to public prosecutors' offices.

256. A methodological guide to "cybercrime", setting out developments in combating racism and anti-Semitism, has also been available since July 2006.

**(c) Measures taken by the Ministry of the Interior and the Ministry of Defence**

257. Continuing with the substantive measures that have been under way for several years now, in 2007, the national police force made a strong commitment to combating all forms of racism, anti-Semitism and discrimination. It does this within a framework of partnership and interministerial action, with the ongoing objective of training police personnel to deal with discrimination cases and improve the quality of victim support, while more effectively combating all forms of crime.

258. Specific arrangements have been set in place, recommending that police officers exercise vigilance, particularly where a community is subject to sporadic attack. Static or dynamic surveillance techniques are, for example, put into effect. The arrangements are set in place depending on:

- The position of individuals who are likely to be at risk because of their nationality or religion;
- The nature of the site (consulate or private residence, synagogue, mosque, educational institution, hostel or community centre, and so on). As a result, buildings belonging to the Jewish community and likely to be targeted at the time of religious festivals (synagogues, diplomatic and consular premises) are provided with mobile surveillance units. These arrangements were reinforced at the various places of worship as part of the *Vigipirate rouge* (security alert level 3) plan, by increasing the number of static surveillance measures and mounting an increased police presence during religious services. In addition, dynamic surveillance measures have been implemented, involving establishing contacts with community leaders and mounting patrols around cultural centres and buildings considered to be at the highest risk;
- The position of legal entities (airlines, commercial undertakings);
- Socio-cultural, religious and commercial events (festival of Eid, Yom Kippur, fairs and exhibitions, and so on).

259. To supplement these measures, there are regular contacts between the police services and the different representatives of the affected communities, to enable them to get to know each other.

260. Moreover, as regards the measures taken to combat racist and anti-Semitic violence in schools, in accordance with the guidelines laid down in the interministerial circular of 13 September 2004, the police have put a great deal of effort into implementing measures designed to prevent and report acts of a racist or anti-Semitic nature in schools. The relevant central and local authorities work closely together, for example, and measures to raise awareness among young people are organized on a joint basis in educational establishments. The annual report on public safety measures lists the acts of a racist or anti-Semitic nature committed in educational establishments against teachers and students. The figures for 2006 are: 38 acts recorded, five of which were of an anti-Semitic nature and directed against staff, with 23 incidents cleared up, and 138 acts recorded, 46 of them of an anti-Semitic nature directed against students, with 69 incidents cleared up.

261. The Directorate-General of the National Gendarmerie (DGGN) has drawn up a methodological guide for all its local and regional and research units. Entitled “*Sanctionnez les discriminations!*” (“Don’t let discrimination go unpunished!”), the guide explains to investigators how to detect and characterize discrimination. It is available on the Gendarmerie’s Intranet site. The guide also covers the offences of racism, anti-Semitism and xenophobia, as well as offences relating to the legislation on the press. In addition, on 21 December 2007, the Director-General of the National Gendarmerie signed an agreement with HALDE on joint training measures to combat discrimination, and also to promote diversity within the Gendarmerie, particularly in relation to recruitment.

## 2. Incidents of a racist nature involving members of the security forces

(a) **In response to recommendation 19 of the Committee**, recommending that the State party should take the necessary preventive measures to halt racist incidents involving members of the security forces; ensure that impartial investigations are carried out into all complaints; and, where necessary, ensure that any punishments imposed are proportionate to the gravity of the acts committed, the French Government wishes to provide the following information.

### (a) Preventive measures

(b) The French authorities take very seriously the treatment that should be accorded to persons on arrest, when in police custody or when subject to any other measure of detention, as well as when the security forces, namely the police and gendarmerie, are implementing any removal order issued in regard to a foreigner. Very great attention is paid, in particular, to three major principles, set out in the police code of conduct of 16 March 1986 and described in the practical guide to conduct revised in 2001: absolute respect for persons, whatever their nationality or origin; force to be used only where strictly necessary and in a proportionate manner; persons arrested are to be protected and their dignity respected. For members of the gendarmerie, these principles and rules of conduct are contained, in particular, in Act No. 2005-270 of 24 March 2005 on the service regulations for members of the military and Decree No. 2005-796 on general military discipline.

(c) Recently, the need to comply with these principles has again been stressed in the Minister of the Interior's circular of 11 March 2003 on the dignity of persons placed in police custody and the circular of 22 February 2006 on the conduct to be adopted in regard to minors, which apply to both police officers and gendarmes, as well as the new general service regulations for the police service of 6 June 2006 and the 2008-2012 police service development plan.

(d) With this in mind, the French authorities endeavour to organize appropriate training, provide vigilant monitoring and severely punish any established breach of conduct. The aspect of training relating to professional ethics has been reinforced since 1999, and particular stress is placed on the principle of respecting the dignity of all persons and the prohibition of ill-treatment.

(e) Training modules involve the National Commission for a Security Code of Conduct (CNDS) and the High Authority to Combat Discrimination and Promote Equality (HALDE). Case studies and life-situation analyses are also organized to help remind police personnel of the principles they must observe in carrying out their duties. The practical applications of the principles contained in the code of conduct are illustrated in the course of various specific forms of training, particularly exercises simulating difficult situations. It should be pointed out here that training modules on stress management are offered to police personnel at all levels. Specific training sessions may also be organized. For instance, a training session was held on the subject of "police officers dealing with difference" ("*le policier face aux différences*"), to enable people to be taken better into account as individuals, respecting cultural or religious differences in particular. Similarly,

during 2007, 241 individuals were given training in exercising judgment, and they were then tasked with passing the training on to a wider audience using a film entitled “exercising judgment to achieve better results” “*discerner pour mieux agir*”; the aim was to incorporate the concept of exercising proper judgment as a way of guaranteeing that police action is effective, appropriate and proportionate. In parallel with training, there has been a focus on supervision. In this connection, the circular of 11 March 2003 introduced a “custody officer” responsible for monitoring, the conditions in which people are being held, on a daily basis, particularly in terms of respect for the dignity of persons. Moreover, the directive on the exercise of line authority of 28 July 2006 stressed the need for personal involvement on the part of line management and for responsibility to be assumed at all levels.

**(b) Investigations**

(f) In common with all procedures, criminal investigations into acts of discrimination carried out by representatives of the security forces, which are defined and made punishable under article 432-7 of the Criminal Code, are conducted under the supervision of the public prosecutor who ensures that the proper procedure has been followed and that all of the necessary investigations have been carried out to establish the truth. Once the investigation has been concluded, it is for the public prosecutor to decide whether it is appropriate to prosecute, in accordance with article 40 of the Code of Criminal Procedure. The principle of discretionary prosecution also applies to acts of torture. It does not seem appropriate to call into question this general principle of French criminal procedure which is an element the process of determining the judicial treatment to be accorded in individual cases, does not harm the interests of victims and provides all of the guarantees needed to secure proper justice. Indeed, victims are able to lodge appeals against decisions to discontinue proceedings with the relevant public prosecutor, pursuant to article 40-3 of the Code of Criminal Procedure. Victims can also bring proceedings directly by bringing a private prosecution before the court with jurisdiction or by bringing a civil action before the senior investigating judge.

(g) In greater Paris and the major French cities, the duty rostering system for police superintendents and officers has been consolidated to improve the supervision and command of officers in the field.

(h) Finally, many supervisory mechanisms have been introduced to ensure that the above-mentioned rules of conduct are observed by the security forces. Consequently, the police services and gendarmerie units are principally subject to supervision by:

- Their respective line managements;
- The General Inspectorate of the Police Service (IGPN) or the Inspectorate-General of the National Gendarmerie (technical inspectorate of the gendarmerie), who carry out audits and administrative reviews or investigations into alleged breaches of discipline, but also judicial investigations on referral from judges. The IGPN has recently piloted arrangements to carry out unannounced checks within police units, with a

view, more particularly, to ascertaining the conditions in which individuals are being detained and assessing the treatment accorded to complainants;

- The judiciary, which monitors the procedures carried out by the police services or gendarmerie units and brings criminal prosecutions where police officers or gendarmes have committed criminal offences;
- The independent administrative authorities, such as the National Commission for a Security Code of Conduct (CNDS), the High Authority to Combat Discrimination and Promote Equality (HALDE) and the Controller-General of Detention Centres;
- Members of parliament, who are able to monitor police activity through parliamentary committees of inquiry. They are also able to visit administrative detention centres, waiting zones or custody cells at any time.

(i) Between 1 February and 31 December 2007, the CNDS, an independent body, dealt with 117 referrals transmitted during 2005, 2006 and 2007. Of these 117 cases, 73 concerned the police service, 21 the gendarmerie and 14 the prison service. They resulted in 86 opinions (50 accompanied by recommendations) and 31 decisions of inadmissibility (discontinuance of proceedings, proceedings out of time or outside the Commission's jurisdiction).

(j) In 42 of the 86 above-mentioned cases in which it issued an opinion, the CNDS concluded that there had been no breach of conduct. In five cases, it forwarded its opinion to the public prosecutor.

(k) Finally, the status of members of the State Prosecutor's office, who are judges (*magistrats*) and not civil servants, constitutes a guarantee that they will perform their duties objectively.

(l) Furthermore, where the actions of police officers or gendarmes constitute criminal offences, the matter may be referred by the judicial or administrative authority to the inspectorate of police or gendarmerie for investigation. Under article 15-2 of the Code of Criminal Procedure, furthermore, in the context of an administrative investigation, officials of the Inspectorate-General for Judicial Services may work with the above-mentioned inspection services, where a complaint has been made concerning the conduct of a police officer or officer of the criminal police (*police judiciaire*) in the exercise of his or her duty. Finally, in accordance with its role of supervising the criminal police under article 13 of the Code of Criminal Procedure, the State Prosecutor's office may take all appropriate action in response to the commission of criminal offences or breaches of conduct, by suspending or withdrawing the authority of police personnel under its jurisdiction.

### (c) Penalties

(m) Any police officer who fails to comply with the law or code of conduct is liable to a twofold criminal and disciplinary punishment. Thus, in 2007, 3,318 disciplinary penalties were imposed on police officers, including 108 dismissals and 20 compulsory retirements. During the same year, 1,428 cases (a five per cent fall compared with 2006) were referred



to the IGPN, including 682 allegations of assault. More than 88 per cent related to minor assault. Those figures should be viewed in the context of the 4 million interventions by police annually.

(n) In French law, the commission of acts of discrimination by a person exercising official authority constitutes an aggravating circumstance. Official authority is exercised by law enforcement officers but also by other persons exercising public service prerogatives (ministerial officials, judges and all public servants). Consequently, the available statistics do not make it possible to identify within the category of convictions against persons exercising public authority those that relate to law enforcement officers more specifically.

## **B. Political rights**

(o) The prison authorities have taken steps to inform detainees of their rights in this field. They also took measures to make it easier to exercise these rights during the 2007 presidential and parliamentary elections. A targeted information campaign during electoral periods made it possible to alert the prison population to the various arrangements in existence, thereby making it easier for them to participate. That action on the part of the prison service is consistent with European Prison Rules (EPR) Nos. 2 and 24-11 which guarantee detainees the exercise of all rights that have not been withdrawn from them, including the right to vote.

## **C. Other civil rights**

### **1. The right to a nationality**

(p) Act No. 2003-1119 of 26 November 2003 on controlling immigration, the residence of foreigners in France and nationality, and Act No. 2006-911 of 24 July 2006 on immigration and integration introduced slight changes to the rules governing the right to French nationality.

(q) The conditions for acquiring French nationality by marriage were thus successively amended by these two Acts. In effect, the period of time that has to elapse before the foreign spouse of a French national can make a declaration for the purposes of acquiring French nationality was set first at two and then at four years from the date of the marriage, subject to certain conditions. The period required for matrimonial cohabitation is increased to five years where the foreigner is either unable to prove residence in France for an unbroken period of at least three years from the date of the marriage, or where that person is unable to furnish evidence that, during the period of their matrimonial cohabitation abroad, the French spouse was registered on the register of French nationals established outside France (art. 21-2 of the Civil Code).

(r) As regards the rules concerning the attribution of nationality to a stateless child, article 19-1 of the Civil Code, as amended by the above Act of 26 November 2003, provides that a child born in France of foreign parents has French nationality, if the foreign laws on nationality preclude that child acquiring the nationality of either of its parents (Act of 26 November 2003). However, as explained in the previous periodic report, the child

will be deemed never to have been French if, while still a minor, the foreign nationality acquired or possessed by one of its parents is transmitted to it.

(s) Moreover, the above-mentioned Act of 24 July 2006 abolished several cases of exemption from qualifying periods (length of residence in France) for the submission of an application for naturalization.

(t) The Act of 24 July 2006 also introduced a ceremony of welcome to French citizenship. It is organized within six months of the acquisition of French nationality by the State's representative in the *département* and includes all individuals who have become French, whatever the method by which they acquired French nationality (art. 21-18 of the Civil Code).

## **2. The right to marry and freely choose a spouse**

(u) In a decision of 9 November 2006, the Constitutional Council (*Conseil constitutionnel*) had occasion to point out that the freedom to marry is a constitutional principle. The freedom to marry, which is one of the fundamental rights and freedoms of the individual, is described as an “element of personal freedom”. This principle does not, however, prevent the legislature from adopting provisions to combat forced marriages and marriages of “convenience” (for instance: interview with each of the future spouses before the ceremony or the right of the public prosecutor to oppose the marriage). In that regard, article L. 623-1 of the Code governing the Entry and Residence of Foreigners and the Right of Asylum, amended by the Act of 24 July 2006, penalizes, by a penalty of five years imprisonment and a fine of €15,000, the contraction of marriage solely for the purpose of obtaining a residence permit, or securing it for another, or solely for the purpose of acquiring French nationality, or securing it for another. Where the offence is committed by an organized group, the penalties are increased to 10 years' imprisonment and a fine of €750,000.

## **3. The right to freedom of thought, conscience and religion**

### **(a) Act of 15 March 2004**

(v) **In response to the Committee's recommendation No. 18** concerning the application of Act No. 2004-228 of 15 March 2004, the French Government would like to furnish the following information.

(w) Act No. 2004-228 of 15 March 2004 amending certain provisions of the education code now prohibits “the wearing of signs or garments by which pupils conspicuously indicate a religious affiliation”. The Act is the response to the report and recommendations submitted to the President of the Republic, on 11 December 2003, by the Commission reviewing the application of the principle of secularism, whose work was cited in the previous report.

(x) The above-mentioned Act of 15 March 2004 prohibiting in primary schools, middle schools and State *lycées* “the wearing of signs or garments by which pupils conspicuously indicate a religious affiliation” is merely a reminder of the fundamental principle of secularism: secularism does not stand in the way of religions, as it is the *modus operandi*

selected by the French Republic to enable its citizens to live together, whatever their political, philosophical or religious views. Moreover, far from being confined to the religious sphere, the Act must be viewed in the light of the principle of non-discrimination between men and women.

(y) Article 4 of the Act of 15 March 2004 stipulates that it is to be subject to evaluation one year after its entry into force. Consequently, a report was submitted to the Minister of Education in July 2005 indicating that of the 639 students who arrived wearing a conspicuous religious symbol at the beginning of the 2004-2005 academic year, the vast majority (90 per cent) decided to comply with the Act after entering into the dialogue for which it provides. The dialogue enabled many of the students concerned to understand the significance of the Act and the principle of secularism.

(z) The French authorities are closely monitoring the application of the Act of 15 March 2004. Since 2005, there have been fewer than 10 cases a year of students wearing a conspicuous religious symbol. That the vast majority of families understand the reason for the Act and wish to comply with it is apparent from the fact that the ombudsman for the Ministry of Education has never been seized of such cases. In addition, the figures for enrolment with the National Distance-Learning Centre (CNED) have remained constant since 2005.

**(b) Detainees**

(aa) European Prison Rule 29.1 establishes the right to freedom of thought, conscience and religion for detainees, in accordance with article 9 of the European Convention on Human Rights. Respect for beliefs and the right to engage in worship are guaranteed and organized by articles D 432 to D 439 of the Code of Criminal Procedure. Detainees must, as far as possible, be provided with places of worship and assembly in every prison, and religious services are provided for the different religions by chaplains appointed for the purpose.

**D. Economic, social and cultural rights**

**1. The right to work**

**(a) General legal framework**

(bb) The employment law in force in France applies to all employees, whether foreign or French, without distinction.

(cc) The new Employment Code entered into force on 1 May 2008. It involves the recodification of settled law and does not alter the main principles set out in relation to discrimination, although the numbering is different.

**(b) The policy of integration through access to employment**

(dd) Currently, the National Agency for Social Cohesion and Equality of Opportunity (formerly the Social Welfare Fund) meets the language-learning needs of migrants established in France. Its activity is part of a process of social and professional integration.

The Employment Code provides for language-learning for migrants in the context of lifelong vocational training.

**(c) Compliance with Community law**

(ee) This is achieved by Act No. 2008-496 of 27 May 2008 concerning various provisions of adjustment to Community law for the prevention of discrimination.

(ff) All of these new provisions apply to all public corporations or private bodies, including those engaged in self-employed activity. Consequently, all of these articles of law apply to persons in paid employment and the self-employed, as well as to public servants covered by the provisions of Act No. 83-634 of 13 July 1983 on the rights and obligations of public servants and unestablished public servants.

(gg) The Act confirms the prohibition of gender-based discrimination in relation to matters of employment and goods and services. It lays down the prohibition of discrimination on the ground of actual or assumed membership or non-membership of a race or ethnic group in regard to matters of employment, social welfare, health care, social benefits and education. It also prohibits discrimination based on religion, age, disability, beliefs and sexual orientation in matters of employment. Finally, the Act confirms a general principle prohibiting discrimination on grounds of pregnancy and maternity, including maternity leave, and refers to the possibility of adopting more favourable protective measures for pregnant women and mothers.

(hh) The Act defines the concepts of direct discrimination and indirect discrimination, as defined in the European directives.

(ii) The Act equates acts of psychological and sexual harassment with discrimination, but does not employ the terms “sexual harassment” and “psychological harassment”. In point of fact, it condemns “any conduct” linked to actual or assumed membership or non-membership of an ethnic group or race, gender, religion or beliefs, disability, age or sexual orientation, as well as any conduct with a sexual connotation directed towards an individual and intended to undermine that person’s dignity or create a hostile, degrading, humiliating or offensive environment.

(jj) The Act thus gives a broader definition of sexual harassment and psychological harassment linked to the criteria of discrimination, adopting the terminology of the directives. There is, for instance, no reference to recurring conduct; a single act therefore constitutes harassment. Harassment is defined in general terms, within and outside the working context, regardless of the person concerned – employee, public servant or other.

(kk) It should be noted that two definitions exist:

- The traditional definition under the Employment Code, which described as explicit and distinguishes between psychological and sexual harassment.

262. As regards psychological harassment, no employee should have to endure repeated conduct involving psychological harassment which is intended to and has the effect of eroding his working conditions in a manner likely to undermine his rights and dignity, affect his physical or

mental health or jeopardize his professional future (art. L. 1152-1 of the Employment Code). Under article 222-33-2 of the Criminal Code, such conduct is punishable by a year's imprisonment and a fine of €15,000.

263. As regards sexual harassment, conduct involving the harassment of any person with a view to obtaining favours of a sexual nature, for one's own benefit or that of another, is prohibited (art. L. 1153-1 of the Employment Code). Based on these definitions, harassment therefore presupposes conduct that is repeated, and it is not equated with a form of discrimination. Article 222-33 of the Criminal Code provides that the act of harassing another with the aim of obtaining favours of a sexual nature is punishable by a year's imprisonment and a fine of €15,000, the same, in other words, as the penalties laid down for psychological harassment.

264. The new definition is far broader, particularly because it refers to "any conduct", thereby accepting that an isolated act may constitute harassment.

(ll) However, "conduct" under this new definition is not addressed by the Criminal Code. Consequently, there is no criminal sanction available on this basis, but it is possible to bring an action for damages (damages and interest). Consequently, proving offences of psychological or sexual harassment is more difficult for a victim wishing to bring a criminal action than for a victim wishing to bring a civil action. In the latter case, the alleged offences are linked with a discriminatory motive that is prohibited.

(mm) In addition, the Act prohibits the ordering of discrimination, taking the view that discrimination includes the act of enjoining any person to engage in prohibited discriminatory conduct.

(nn) The Act requires that the criminal-law provisions should be displayed in the workplace, as well as in the premises in which recruitment takes place.

#### **(d) Derogations from the principle of prohibiting discrimination**

(oo) The Act establishes a general principle prohibiting discrimination in the field of employment. Consequently, as regards affiliation to or involvement in a trade union or professional organization, including the benefits it procures (access to jobs, employment, vocational training and work, as well as working conditions and career development – including self-employment), the Act prohibits discrimination based on gender, actual or assumed membership of an ethnic group or race, religion or beliefs, disability, age or sexual orientation.

(pp) It provides for just one exception to the principle of the prohibition of discrimination in the field of employment and work, by authorizing different treatment based on actual or assumed membership of an ethnic group or race, religion, disability, sexual orientation, beliefs, gender and age, where the difference in treatment reflects an essential and fundamental professional requirement, and provided that the objective is lawful and the requirement proportionate.

(qq) As regards discrimination based on gender, the Act supplements the Employment Code, which already permits where being male or female is the decisive condition

governing the pursuit of a job or professional activity, tightening up the requirements that justify such derogations: the objective must be lawful and the requirement proportionate.

(rr) Consequently, the Criminal Code has been amended to take account of the extended possibilities for differences in treatment. Discrimination based, for the purposes of recruitment, on gender, age or physical appearance, is no longer punishable where it meets an essential and fundamental professional requirement, and provided that the objective is lawful and the requirement proportionate (art. 225-3 of the amended Criminal Code). “Refusal to recruit on grounds of nationality based on the application of the statutory provisions on the civil service” is no longer regarded as subject to the penalties laid down in relation to discrimination. This addition is based on the specific features of the public service regulations in France.

**(e) Victim guarantees**

(ss) The Act extends the conditions in which adjustment of the burden of proof applies:

- In matters of work and employment, adjustment of the burden of proof will henceforth apply to self-employed persons and public officials;
- In regard to goods and services, it will apply to gender-based discrimination.

(tt) Consequently, any person who considers him- or herself to be the victim of direct or indirect discrimination may put to the relevant civil court the evidence substantiating the existence of such discrimination. In the light of this evidence, it will be for the defendant to prove that the measure at issue is justified on the basis of objective factors that do not involve discrimination. It should be borne in mind that these evidential arrangements do not apply before the criminal courts because of the presumption of innocence.

(uu) The Act also provides for a general principle of protection against retaliation, according to which no-one who has testified in good faith about a discriminatory act, or has reported such an act, may be treated unfavourably in consequence. Similarly, no decision unfavourable to an individual may be based on that person having submitted to or refused to submit to prohibited discrimination.

(vv) Finally, the Act also applies in the overseas *départements*, in New Caledonia, French Polynesia, the Wallis and Futuna Islands and the French Southern and Antarctic Lands.

## **2. The right to form and join trade unions**

(ww) Act No. 2008-496 of 27 May 2008 concerning various provisions of adjustment to Community law for the prevention of discrimination has also prohibited discrimination in relation to joining or involvement in a trade union or professional organization on grounds of gender, actual or assumed membership of an ethnic group or race, age, disability, religion or beliefs or sexual orientation, and this includes the self-employed and public servants. This therefore establishes the freedom to join a trade union and prohibits discrimination by trade unions.

(xx) It should be noted that article L. 411-5 of the Employment Code already takes account of this principle in regard to gender, age and nationality, and the authors of the new code have recently added to these grounds: religion, beliefs, disability, sexual orientation and actual or assumed membership of an ethnic group or race (art. L. 2141-1 of the new Employment Code).

### 3. The right to housing

(yy) Some regions, in particular, have high densities of population groups experiencing both economic and social difficulties in various forms of inadequate housing: housing unfit for habitation, rundown former centres, “sensitive urban zones” (ZUS), hostels for migrant workers ... There is often a predominance of foreigners, immigrants or persons of immigrant origin within these population groups.

(zz) Public measures to resolve these problems of poor housing are primarily based on “general purpose” housing policies (*logement “de droit commun”*) which are either general in terms of promoting the right to housing (increase in the construction of social housing for rent under the social cohesion plan, enforceable right to housing, etc) or relate to certain segments of the housing stock in which many foreigners or immigrants live.

(aaa) Since 1997, a plan has been under way to transform radically the immigrant hostels (FTMs) built in the 1960s and 1970s: they do not meet current housing standards, have led to a shortfall in accommodation and their residents receive little help under social welfare arrangements. Substantial work has transformed these immigrant hostels into general purpose accommodation/hostels, that is to say social housing largely comprising independent individual housing units linked up with the general services and infrastructure to meet residents’ needs. Work on more than 200 immigrant hostels has already been approved, involving a programme of work costing more than €900 million.

(bbb) The measures for preventing housing unfit for habitation in all its forms (squats, slum landlords, health hazards, danger, etc) have been reinforced on the basis of legislation and regulations, and put into effect once again, including by circular of 14 November 2007 of the Minister of Housing and Town Planning calling upon prefects to draw up an urgent action plan to prevent “slum landlords”.

(ccc) A very extensive programme of urban renewal, piloted by the National Agency for Urban Renewal (ANRU), has been under way, since 2003, in the sensitive urban zones (where there is a high density of rented social housing) and in districts with similar features. Based on a package of €12 billion in subsidies allocated by ANRU, the programme will be implemented over several years; it has already begun radically to transform the housing conditions and lives of residents of these districts.

(ddd) In response to the **recommendation in paragraph 12 of the Committee’s observations**, the bill on “mobilizing for housing and combating exclusion” debated in parliament in early 2009 and submitted to the Council of Ministers in late July 2008, creates a national programme for the refurbishment of dilapidated older districts in which, as in some sensitive urban zones, there are sometimes large numbers of foreigners or immigrants.

(eee) A circular sent to prefects on 18 June 2008 by the Minister of Immigration, Integration, National Identity and Mutually-Supportive Development and the Minister of Housing and Town Planning calls on prefects to draw up action plans to promote equality of opportunity in access to housing for population groups, in particular foreigners, who are experiencing both economic and social difficulties. The emphasis is on urban renewal policies, and there needs to be concerted action by all players to ensure there is equality of opportunity, both by reducing the large local and regional concentrations of population groups, particularly foreigners, who are experiencing a combination of difficulties, and by preventing such concentrations from developing in the first place.

(fff) Stepping up the policy of combating discrimination supplements these housing policies to ensure that they benefit all in need of them, whether or not foreigners, immigrants or of immigrant origin, including by penalizing discriminatory practices and decisions on renting, by training the staff of estate agencies in partnership with the national networks, training the staff of social housing landlords, and publishing booklets for the general public on “discrimination-free renting”.

#### 4. Foreign veterans’ pension rights

(ggg) Following the submission of France’s last report in February 2005, **the Committee said (para. 24)** that it remained “concerned at the continued differential treatment of [...] persons [of foreign nationality] as compared with veterans who are French nationals”.

There has been significant progress since then. Indeed, the 2007 Finance Act made it possible to bring to an end the difference in treatment accorded to French veterans and veterans who are nationals of States formerly under French sovereignty or trusteeship. Under French legislation, it only remains possible to treat differently French veterans and foreign veterans who are not nationals of States formerly under French sovereignty or trusteeship. In reality, such cases are extremely rare, as the legislation establishing this possibility of different treatment has not been applied to citizens of the European Union since 2003. Finally, a proposal to repeal these provisions is currently under joint consideration by the Directorate for Pension Regulations and Social Reintegration and the Legal Affairs Directorate of the Ministry of Defence.

(hhh) The right to obtain or have a military invalidity or veteran’s retirement pension is thus guaranteed to persons who have lost the status of French citizen because a formerly French territory has gained independence. Until the entry into force of the 2002 Amending Finance Act,<sup>10</sup> the Code of Military Invalidity and War Victims’ Pensions (hereafter: CPMIVG) stipulated that the right to obtain or have a military invalidity or veteran’s retirement pension could, in particular, be suspended as a result of “circumstances resulting in the loss of French status, so long as that status is withdrawn”.<sup>11</sup>

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<sup>10</sup> Art. 68, section VII, of the 2002 Amending Finance Act, No. 2002-1576, of 30 December 2002 (*Journal Officiel*, 31 December 2002).

<sup>11</sup> Arts. 107 and 259 of the Code of Military Invalidity and War Victims’ Pensions, amended by art. 5 of Act No. 53-1340 1953-12-31 (*Journal Officiel*, 5 January 1954).



(iii) The 2002 Amending Finance Act changed all that. In effect, since the Act was passed, articles L. 107 and L. 259 CPMIVG stipulate that [the right] is suspended as a result of the loss of French status “except where the loss of status occurs as a result of the accession to independence of a territory that was formerly French”.

(jjj) A Decree of 3 November 2003,<sup>12</sup> issued in implementation of the above-mentioned act, provided that, in relation to the persons affected by that amendment, invalidity and retirement pensions would be calculated at a rate that took account of purchasing power in the pension-holder’s country of residence. This is the first stage in the process of “decrystallizing” the military pensions awarded to war veterans who are nationals of States formerly under French sovereignty or trusteeship, a “freeze” on whose pensions had been declared in 1959 and 1960.<sup>13</sup>

(kkk) The 2007 Finance Act<sup>14</sup> establishes equality of treatment between French veterans and veterans who are nationals of States formerly under French sovereignty or trusteeship and brings to an end the system set in place by the above-mentioned Decree of 3 November 2003. The 2007 Finance Act now provides for full “decrystallization” of military invalidity and veterans’ retirement pensions as of 1 January 2007.

(III) The main provisions laid down by article 100 of the 2007 Finance Act are as follows:

- The point on the pension scale is aligned by reference to the point under ordinary law, and is adjusted in accordance with the provisions of article L. 8bis CPMIVG for all pensions under the Code of Military Invalidity and War Victims’ Pensions, as well as veterans’ retirement pensions. Accounts departments have aligned pensions directly, without the need for the persons concerned to make an application;
- New rights to an invalidity pension have been made available: applicants may submit a first application for an invalidity pension or, if they are already in receipt of a pension, applications in respect of a new disability, subject to the conditions of ordinary law;
- Pension rights have been made available to surviving spouses, married after the crystallization dates, subject to the conditions laid down under the ordinary law<sup>15</sup>;
- At the request of the persons concerned, pension indices<sup>16</sup> are aligned by reference to the ordinary-law indices, where they are out of step with those indices. For example, since 1988, a French war veteran with a 10 per cent disability has been in receipt of

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<sup>12</sup> Decree No. 2003-1044 2003-11-03 implementing art. 68 of the 2002 Amending Finance Act establishing arrangements to review the benefits paid to the nationals of countries formerly under French sovereignty and residing outside France.

<sup>13</sup> Order No. 58-1374 1958-12-30 on the 1959 Finance Act and Finance Act No. 59-1454 1959-12-26 for 1960.

<sup>14</sup> Art. 100 of Finance Act No. 2006-1666 2006-12-21 for 2007 (*Journal Officiel*, 27 December 2006).

<sup>15</sup> Marriages before these dates already gave pension entitlement under the previous legislative regime.

<sup>16</sup> As opposed to simply increasing the value of the point.

benefit under pension index 48, whereas a war veteran who is a citizen of an independent State receives benefit under pension index 42, the rate in force at the time of crystallization;

- The first payments at the “decrystallized” rate were made as of April 2007, retroactive to 1 January 2007.

265. Finally, and in parallel, when the authorities receive new applications for invalidity or dependents’ pensions or for pension review, they are assessed in accordance with the above rules, observing absolute equality of rights with French nationals.

266. The legislative provisions of the CPMIVG currently in force do not establish equality between French veterans and foreign veterans who are not nationals of States formerly under French sovereignty or trusteeship.

267. Articles L. 107<sup>17</sup> and L. 259<sup>18</sup> of the CPMIVG currently in force lay down a “targeted” exclusion to the suspension of payment of military invalidity and veterans’ retirement pensions as a result of the loss of French nationality. In point of fact, payment is suspended where the recipient loses French nationality “except where the loss of status occurs as a result of the accession to independence of a territory that was formerly French”.

268. Consequently, under the legislation in force, the right of veterans, who are neither French nor nationals of States formerly under French sovereignty or trusteeship, to obtain or receive a military invalidity or veteran’s retirement pension is suspended, if they lose their French citizenship. However, their right to the payment of a pension may be restored if “they lost their nationality solely as a result of acquiring a foreign nationality”.<sup>19</sup>

269. Notwithstanding this loophole, which means there is still an element of discrimination based on nationality, administrative practice has moved forward to put an end to this type of discrimination.

270. For example, data collected by the Ministry for the Budget indicate that, since 2003, the provisions of articles L. 107 and L. 259 CPMIVG, which deal with cases involving the suspension of pension rights,<sup>20</sup> have ceased to be applied to citizens of the European Union. Finally, it should be pointed out that a proposal to repeal articles L. 107 and L. 259 CPMIVG is

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<sup>17</sup> On suspension of the rights to a military pension.

<sup>18</sup> On suspension of the rights to a veteran’s pension.

<sup>19</sup> Art. L.107 CPMIVG.

<sup>20</sup> Other than the issue of the loss of French nationality (arts. L.107 and L.259 CPMIVG) :  
Arts. L.107 and L.259 CPMIVG: *"sentence to a penalty imposed for a felony (i.e. life or fixed term imprisonment coupled with civic disqualification) "* ;  
Art. L.107 CPMIVG : *"without prejudice to the application of the provisions of the codes of military justice concerning loss of pension entitlement ... "*  
Art. L.259 CPMIVG : *"sentence to be discharged in application of the provisions of the code of military or maritime justice “and “involvement in an act of hostility against France in the case of members of the military having served as foreigners”.*

currently under joint consideration by the Directorate for Pension Regulations and Social Reintegration and the Legal Affairs Directorate of the Ministry of Defence.

## **5. Developing regional languages in overseas France**

271. In 1992, French was established as the “language of the Republic” in the Constitution of 4 October 1958 (art. 2). However, in order to take account of the diversity of the French overseas collectivities, France wished to establish a policy of developing its regional languages, particularly in overseas France, on the basis of many legislative developments to facilitate the implementation of educational and cultural strategies.

272. To take an example, the General Delegation on the French Language and the “Languages of France”, set up in October 2001 and attached to the Ministry of Culture and Communication, confirmed the special position which the State accords to the languages of France in the cultural life of the French Nation.

273. In point of fact, the French educational system accords full status to the regional languages, which may be studied by students in both metropolitan and overseas France on the same basis as foreign languages.

274. The General Delegation on the French Language and the Languages of France has therefore drawn up a list of the principal regional languages of overseas France, namely:

- Caribbean area:  
Creole languages whose lexical basis is French: Guadeloupean, Guyanese, Martiniquese, Réunionnise;  
Bushinenge Creoles of French Guiana (with an Ango-Portuguese lexical basis): Saramaccan, Aluku, Ndjuka, Paramaccan;  
Amerindian languages of French Guiana: Galibi (or Kalina), Wayana, Palikur, Arawak (or Lokono), Wayampi, Emerillon; Hmong.
- New Caledonia: 28 Kanak languages  
Grande Terre: Nyelâyu, Kumak, Caac, Yuaga, Jawe, Nemi, Fwâi, Pije, Pwaamei, Pwapwa, Voh-Kone, Cemuhi, Paicî, Ajië, Arhâ, Arhö, Orowe, Neku, Zire, Tiri, Xârâcùù, Xaragure Drubea, Numee;  
Loyauté Islands: Nengone, Drehu, Iaaï, Fagauvea.
- French Polynesia: Tahitian, Marquesan, Tuamotu, Mangareva;  
Austral Island languages: Raivavae, Rapa, Ruturu.
- Wallis and Futuna Islands: Wallisian, Futunan.  
Mayotte: Mahoran, Mayottan Malagasy.

275. The regional languages and culture of overseas France are taught:

- From a very early age (the Tahitian languages in French Polynesia<sup>21</sup> and the Melanesian languages in New Caledonia<sup>22</sup> are taught in both nursery and primary schools);
- Up to university level (since 1995, the University of the Antilles-Guiana has been offering a degree in Creole and a masters in regional languages and culture);
- In French Guiana, teaching aids have been developed (multi-annual action plan entitled “Linguistic practices in French Guiana”, introductory courses in the Amerindian languages, etc) to extend knowledge of the Amerindian languages. It should be noted that the education authority constantly monitors the school populations along the rivers and in the remote areas where the Amerindian and Bushinenge peoples live. Education action programmes have been set in place (distance-learning programmes).

276. Adjusting the teaching of history and geography to the circumstances of overseas France is also based on recognizing regional identities. Since the “Deixonne” Act of 11 January 1951 came into effect, responsibility for this falls either to the State in the *lycées* and universities, or to the local authorities. And so the agreements between State and regional and local authorities enable the latter to support both the extension of the teaching of regional languages and culture and to adjust school curricula, scientific research, university teaching and teacher training in accordance with local cultural and linguistic circumstances. In addition, in the general and technological series of the baccalaureate, compulsory or optional examinations may be taken in the Creole languages, Tahitian and the Melanesian languages.

277. In those collectivities in which the majority of population do not yet speak French, the promotion of regional languages and culture is tailored to the particular local circumstances:

- On Mayotte, almost the whole of the population use the two local languages (Shimaoré and Kibushi), and there are high levels of illiteracy and failure to master the French language. The creation of the Institute for Learning French (IAF), in

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<sup>21</sup> In French Polynesia, art. 57 of Organic Law No. 2004-192 of 27 February 2004 on the autonomous status of French Polynesia stipulates that, alongside French “the official language of French Polynesia”, “*the Tahitian language is an essential factor in cultural identity: cementing social cohesion and the language of daily communication, it is recognized and must be preserved, like the other Polynesian languages, alongside the language of the Republic, in order to guarantee the cultural diversity that gives French Polynesia its special assets. French, Tahitian, Marquesan, Tuamotu and Mangareva are the languages of French Polynesia*”.

<sup>22</sup> In New Caledonia, French is the official language, alongside 28 vernaculars in the “*oral tradition*”, all very different from one another and spoken in clearly defined geographical regions (linguistic areas). Organic Law No. 99-209 of 19 March 1999 recognizes the “*Kanak languages*” as “*teaching and cultural languages*” (art. 215). According to statistics from the 1996 census, the most significant languages are: Drehu spoken in Lifou (11,338 speakers), Nengone spoken in Maré (6,377 speakers), Paicî spoken in Poindimié, Ponérihouen and Koné (5,498 speakers), Ajië spoken in Houailou (4,044 speakers) and Xârâcùù spoken in Canala and Thio (3,784 speakers). The rarest languages are Arhö (Poya/Houailou, 62 speakers), Arhâ (Poya/Houailou, 35 speakers) and Pwapwâ (Gomen, 16 speakers). Sishö (Bourail region) is barely used (four speakers at the 1996 census) and Wâmwang (Koné) has practically disappeared.

1997, has made it possible to carry out linguistic research into Shimaoré and Kibushi and to develop methods of learning French that take account of the collectivity's cultural features;

- In the Wallis and Futuna Islands, French is spoken almost exclusively in schools: it is currently a teaching language. Pupils whose parents so request are initially taught in the local language. Teaching in French is introduced only gradually. The local language is then offered as part of the modern language teaching syllabus.

## **Article 6**

### **A. The right to reparation**

278. The French Government wishes to point out that the right of victims of acts of racial discrimination to reparation is particularly effectively guaranteed in France, on the basis of the rights which the Code of Criminal Procedure generally accords to the victims of crime. Consequently, the victims of racial crimes have access to the general procedures under French legislation, but also to specific procedures for the victims of racist crime, which were set out in the last report.

279. The last report explained, in particular, that measures had been taken to make it easier for anti-racist associations to intervene in the judicial process, and also to improve cooperation and communication between these associations and the State Prosecutor's office. This approach was given fresh impetus as a result of the signing by the Minister of Justice, on 14 December 2007, of two framework-agreements (one with the International League against Racism and anti-Semitism [LICRA] and the other with *SOS Racisme*) designed to step up the process of combating discrimination. The aim of the agreements is twofold: both to mobilize the associations' local committees to encourage them to help identify discriminatory practices, and to organize specialist training for professionals in the field, judges and investigators.

### **B. Effective access to the courts: legal aid**

280. Since the last periodic report, legal aid is also accorded, without being conditional on lawful and habitual residence, if the person of foreign nationality is the subject of one of the procedures laid down in articles L. 222-1 to L. 222-6 (extension of the period the person is held in the waiting zone), L. 312-2 (referral of residence permit to the commission by the administrative authority), L. 511-1 and L. 512-1 to L. 512-4 (appeals relating to residence permits accompanied by the obligation to leave French territory and appeals relating to escort to the border), L. 522-1 and L. 522-2 (referral to the deportation commission by the administrative authority), L. 552-1 to L. 552-10 (extension of the period of administrative detention in premises not under prison service management) of the Code on the Entry and Residence of Foreigners and the Right of Asylum (CESEDA). Moreover, since 1 December 2008, in proceedings before the National Court of Asylum, lawful entry and residence has ceased to be a prerequisite for applying for legal aid.

281. In order to improve access to justice in civil or commercial cross-border cases, in 2005, France transposed into national law Council Directive 2000/3/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules

relating to legal aid for such disputes. Consequently, regardless of their nationality, natural persons who are lawfully and habitually resident, or domiciled, in a Member State of the European Union, except Denmark, may be granted legal aid in France.

282. Furthermore, since September 2002, in order to improve access to justice for the victims of the most serious crimes and their dependents, means-testing has not been required in relation to serious crimes and crimes deliberately committed against life and limb. This arrangement enables victims to benefit immediately from legal aid to bring civil actions for damages to compensate for the harm caused by such crimes. The offences targeted include: murder, acts of torture and barbarism, deliberate assault resulting in death without premeditation, mutilation or permanent disability, which may be aggravated by the fact that they were committed “because of the victim’s – actual or assumed – membership or non-membership of a specific ethnic group, nation, race or religion”.

283. Finally, **in response to recommendation No. 22 of the Committee**, as regards access to the law and to justice, the Departmental Councils for Access to the Law (CDADs) and court presidents attend to the problem of a lack of familiarity with the French language in regard to some overseas population groups.

284. In all of the structures open to the public (Legal Advice Centres [MJDs]; Justice Outreach Units [*antennes de justice*]; or legal access points), which are set up as close as possible to the people who need to use them, staff are in a position to receive and inform each and every person who consults them. For instance, at the Legal Advice Centre at Saint-Laurent-du-Maroni in French Guiana, an official able to speak the different local dialects is attached to the registrar.

### C. Statistics

285. According to the figures provided by the Ministry of Justice (Directorate for Criminal Matters and Pardons), prosecution rates in cases involving racism are as follows:

- Insult to dignity: 82.4 per cent in 2007 and 69.2 per cent in 2008;
- Attack against property: 82.8 per cent in 2007 and 87.2 per cent in 2008;
- Attack against the person: 79.0 per cent in 2007 and 76.8 per cent in 2008;
- Discrimination: 76.7 per cent in 2007 and 78.8 per cent in 2008;
- Insult and defamation: 77.6 per cent in 2007 and 78.5 per cent in 2008.

### Article 7

286. Following up on the last report, **in paragraph 17 of its observations**, the Committee asked France to step up its efforts in the field of education and the training of teachers in tolerance and cultural diversity.

287. According to the Framework and Planning Act on the Future of Education of 23 April 2005, “in addition to imparting knowledge, the Nation shall set schools the prime task of ensuring that pupils share the values of the Republic”.

288. School is where knowledge and skills are acquired, and it helps to shape future citizens on the basis of shared values, including the rejection of all forms of discrimination, something that

requires respect for oneself and for others and openness to the world's diversity. The common foundation of learning and skills that determines the knowledge, skills and attitudes which all students must acquire before they reach school-leaving age, defines this approach to education. It is structured around seven pillars which play an important part in learning about life within society, Republican values, as well as recognition of the world's diversity and the universal nature of human rights. That students must be open to the world's diversity is specifically laid down in the pillar that deals with humanist culture: in terms of its historic, geographical, artistic and civic aspects, this opens students' minds to the development of civilizations, societies, religions and the arts, thereby helping to shape the individual and the citizen. Education in human rights is a horizontal element, but particular emphasis attaches to it in Pillar 6 entitled "Social and civic responsibilities", which aims to enable students to live a successful life within society, be fully responsible, independent and open to initiative, and to be "fully aware of the rights of other and reject violence".

289. The Ministry of Education is continuing its efforts to combat effectively all racist, anti-Semitic and xenophobic prejudice. The circular on the start of the 2008-2009 school year (*Bulletin officiel de l'Éducation nationale* No. 15 of 10 April 2008) includes combating all forms of discrimination in the 10 most important priorities of ministry policy: "Within schools and colleges, particular importance will have to be attached to measures designed to prevent attacks on the physical integrity and dignity of the individual: racist and anti-Semitic violence, violence against girls and violence of a sexual nature, including homophobia."

290. This campaign is conducted on the basis of institutional measures, but also by taking these matters more effectively into account in the new curricula; focusing afresh on the integration of newly-arrived immigrants and being determined to achieve genuine equality of opportunity, by providing individual support to students with learning problems, or assisting regions that have to contend with a range of problems.

#### **A. Institutional arrangements for preventing and monitoring racist acts**

291. Within the Ministry of Education, the "Secularism and Integration" unit, which maintains contacts with a network of academic partners to manage incidents of a racist nature, is the point of contact for associations about these problems. The unit maintains the page on Republican values on the ministry's educational website. One of the main items on the page is entitled "Saying no to racism" (*Agir contre le racismisme*).

##### **1. Keeping informed**

292. Establishing an effective policy of prevention requires detailed knowledge of acts of racism, the perpetrators and the victims. To do this, the ministry has acquired new software to record violence in schools called SIVIS (School Security Information and Monitoring System), introduced at the start of the 2007-2008 school year. The definition of offences (assault, insult, threat) stipulates that racism and anti-Semitism constitute aggravating circumstances.

##### **2. Preventing violence in schools**

293. The interministerial circular issued by the Ministries of Education, the Interior and Justice, on 16 August 2006, lays down measures designed to achieve better coordination of action by the

different ministries. In 2006, two handbooks were made available to management teams and teaching staff in all educational establishments, entitled “How to deal with offences committed at school” and “Responding to violence”. Both handbooks state that racist and anti-Semitic violence constitute aggravating circumstances.

### **3. Forming partnerships**

#### **(a) Partnership with the High Authority to Combat Discrimination and Promote Equality (HALDE)**

294. There have been frequent contacts with HALDE since it was set up, and these were stepped up in 2007-2008, when the ministry was involved in the steering committee for the report HALDE had requested on the place of stereotypes in school textbooks. The Ministry of Education supports the campaign HALDE is planning to launch, at the start of the 2008-2009 school year, to raise students’ awareness of combating discrimination and promoting equality. The Ministry is also envisaging that there will be a contribution from HALDE when the National Council of *Lycée* Students next meets to raise the awareness of the students’ elected representatives about this subject.

#### **(b) Partnership with the National Centre for the History of Immigration**

295. The National Centre provides a fund of resources and memories of immigration which helps develop perspectives and attitudes to immigration in France. The Ministry of Education is the joint custodian of the Centre and sits on its management board; it provides teachers for the educational service. The partnership between the Centre and teaching staff in the education authorities of the Ile-de-France is exemplary, particularly in regard to teacher training.

#### **(c) Partnership with LICRA**

296. In December 2007, the Ministry of Education and the International League against Racism and anti-Semitism renewed the agreement between them. As far as teaching initiatives in educational establishments are concerned, the emphasis is on two themes: education in citizenship and preventing violence of a racist and anti-Semitic nature.

### **B. Teaching guidelines**

297. Schools, and the teaching they provide, are an essential factor in promoting respect for others and for difference. These issues go hand in hand with the determination to improve equality of opportunity. That is the significance of the measures taken recently by the ministry that are designed to secure a pathway to success for all students. The acquisition of knowledge, provided through teaching, forms the framework of all education in human rights. Educational initiatives are used to supplement and expand that framework.



## 1. Curricula

298. All subjects taught at school contribute to an understanding of values and culture and opinion-forming. Every course of study involves reasoned debate, depending on the course content and the manner in which it is taught.

299. New curricula, which entered into force in technological *lycées* (2007-2008 school year), and in primary and secondary schools (2008-2009 and 2009-2010), take account of the major challenges to our society: racism, anti-Semitism, xenophobia, the contribution of different forms of immigration, relationships with other people and understanding the world's diversity. They provide students with information on culture and stimulate debate, enabling them to reject all forms of racism and xenophobia. This approach may be pursued in a multi-disciplinary context, in modern languages, literature and philosophy, and history.

## 2. The teaching of civics

300. In primary schools, the teaching of civics and ethics initially involves learning the rules of life within society, respect for oneself and for others, and that it is absolutely forbidden to hurt other people.

301. In middle schools, students are taught to be independent and responsible by analysing situations that occur in daily life but also by implementing specific measures. The general topic for 12 to 13 year-olds "diversity and equality" helps students gain an understanding of human diversity, reflect on discrimination of a racist nature and appreciate the consequences for victims. For 13 to 14 year-olds, the topic "freedoms, law and justice" defines the fundamental freedoms, including freedom of religion, and helps students appreciate that the exercise of fundamental freedoms must take account of the common interest.

302. In *lycées*, lessons in civics, law and society, introduced in 2002, make it possible to discuss the concepts of human rights, freedom, equality, responsibility and legitimacy.

303. In primary schools, middle schools and *lycées*, the main texts on human rights are introduced as references sources: the Declaration of the Rights of Man and the Citizen; the Universal Declaration of Human Rights; the International Convention on the Rights of the Child and the European Convention on Human Rights and Fundamental freedoms.

## 3. Learning about genocide

304. The extermination of the Jews and Roma is included in curricula from primary school to *lycée*.

305. In primary schools, "the extermination of the Jews and Roma by the Nazis: a crime against humanity" forms part of the course on the violence in the 20<sup>th</sup> century. Telling the story of child victims is the preferred approach to the subject: children's sensitivity is taken into account by starting with the particular story of one child and the example of a family whose history is linked to the school's neighbourhood.

306. In middle schools and then *lycées*, the extermination of the Jews and Roma is studied in the context of racist ideology and totalitarian systems. Students in their last year in the literary

and economic streams of general *lycées* are asked to reflect on how to construct and develop the memory of genocide. The genocide of the Armenians is specifically included in the new history syllabuses in middle schools. In *lycées*, students in the 16 to 17 age group are taught about the First World War. Study of the Armenian genocide is included in this, and the question of the links between the violence of the period and the violence of totalitarian regimes is raised. Syllabuses in vocational *lycées* include the study of genocide in the 20<sup>th</sup> century.

307. Learning about genocide therefore takes place at all stages in education: this makes it possible to get students to think about the concepts of mass violence, totalitarianism, genocide, crimes against humanity, but also about individual and collective responsibility, about rejecting barbarism and about universal human rights. As well as providing essential teaching of history, these courses of study have a political and moral objective.

#### **4. Learning about the history of immigration**

308. The new history syllabuses present the history of immigration as an integral part of national and European history. The challenge is to construct a common space, defining national identity in all of its complexity and variety and showing how it interacts with the present. Children of immigrant origin are included in French national history.

309. In middle schools, the new syllabuses for 14 to 15 year-olds encourage students to think about the development of immigration in France in the 20<sup>th</sup> century, enabling them to appreciate how the contribution of foreign population groups has benefited France.

310. “Immigration and immigrants” is a topic that has featured in the syllabuses for students aged between 16 and 17 in the Management Sciences and Technologies (STG) stream since 2006. It includes a presentation on immigrants and how they are portrayed in literature and film.

#### **5. Learning about the slave trade**

311. Slavery and the slave trade constitute one of the historical sources of racist ideologies. This issue is covered in the new primary school syllabuses and in the teaching of 13 to 14 year-olds in middle schools.

312. The EDUSCOL educational site explains how the issue of slavery fits into curricula and provides some guidance on how to incorporate the subject in teaching.

#### **6. Understanding the diversity of civilizations and perspectives on the world**

313. Learning about religions: since 2002, education about religion has been included in the curricula for the various subjects but not treated as a subject per se. The approach to learning about religions is pluralist and strictly secular, distinguishing between beliefs and knowledge, and they are presented in their spatial, social and historical context. This enables students to acquire a cultural and historical understanding of world heritage, to appreciate the place and role of religious figures in the world today and to learn about the language of symbols. Consequently, considerable space is accorded to the study of religion from primary school level, when the subject of Islam is discussed, but above all in middle schools, where the three major monotheisms are covered in the history syllabus. The curricula for 15 to 16 year-olds in general and technological *lycées* continues the study of the monotheisms and, for 16 to 17 year-olds and

final year students in the general stream, there is more in-depth study of religious beliefs and practices since the mid-19<sup>th</sup> century. Knowledge of the different religious traditions has implications for citizenship in terms of mutual respect, as French society encompasses increasing numbers of religions.

314. Openness to civilizations outside Europe is an important element in the new history syllabuses for middle schools. To take an example, for 11 to 12 year-olds, “Looking towards distant worlds” includes lessons on China at the time of the Han Dynasty or classical India; for 12 to 13 year-olds “Looking towards Africa” describes some aspects of a civilization of sub-Saharan Africa and its artistic output. The focus is on being able to describe examples of a distant civilization on the basis of a work of art, an invention or a myth. This facilitates cross-fertilization with other subjects, including art history, and contributes to learning about history, using an intercultural approach, and to an understanding of the world’s heritage.

315. A two-way perspective: the Franco-German textbook. There are in fact two history textbooks, published in 2006 and 2007, and used to teach 16 to 18 year-olds in schools in both France and Germany. This twofold perspective on Europe and the world is designed to foster a common understanding of history on the part of young people in France and Germany, to teach them to understand each other and to combat xenophobic stereotypes.

### **C. Educational initiatives**

316. Competitions, commemorations and days of action are organized to supplement teaching, in an effort to foster a humanist culture and social and civic responsibilities, and to contribute to the process of building a common history. These initiatives enable students to take part in collective activities that encourage understanding and tolerance. Examples of such initiatives are described below.

317. The twenty-first of March, the International Day against Racism, and the national week against racism provide an opportunity of making students aware of respect for human rights, on the basis of actual situations experienced in the daily life of the class or the school, or in life outside school. Teachers encourage students to discuss education to combat racism, not only on the basis of citizenship training, but by including it in their group research projects, and as part of the extension of educational initiatives.

318. The twenty-seventh of January, the Day of Holocaust Remembrance and Prevention of Crimes against Humanity, is the date of liberation of the Auschwitz concentration camp. Germany also observes it.

319. The tenth of May and 2 December are devoted to the memory of the slave trade and its abolition. The second of December is the International Day for the Abolition of Slavery. Published in the *Bulletin officiel de l'Éducation nationale* on 17 April and 8 November 2007, the circulars on the duty to remember the slave trade and its abolition require teachers to take part in the commemorations of 2 December and 10 May, by organizing discussion of the slave trade based on reading a text. They encourage the implementation of interdisciplinary projects on the slave trade and draw attention to the possibility of identifying the best pieces of work in the context of René Cassin prize for human rights.

320. The René Cassin prize for human rights is also an educational initiative. The subject selected for the 2008 prize is: “1948-2008: the Universal Declaration of Human Rights today”. In 2007, 46,382 middle school and *lycée* students took part in the National Competition on the Resistance and Deportation (CNRD), a marked increase in numbers. In 2008, the subject of the competition was: “Coming to the aid of the people persecuted and hunted down in France during the Second World War: a form of resistance”.

## **D. Training teachers**

### **1. Initial teacher training**

321. The mission statement for training primary school teachers in teacher training institutes (IUFM) (insert in *Bulletin officiel de l'Éducation nationale* No. 1 of 4 January 2007) lists the professional skill-sets that teachers must possess. The first of these, to act as an employee of the State in an ethical and responsible manner, requires all teachers to be familiar with the most important values of the Republic, secularism, the rejection of all discrimination, co-education and equality of men and women. The future teacher must be able to take account of the diversity of students: this assumes that he or she will cultivate, in all students, the ability to view others and differences in a positive light, in compliance with ordinary law. Each teacher training institute is responsible for carrying out the mission statement in accordance with its own procedures.

### **2. The Ministry of Education's National Training Programme**

322. Since 2002, seminars have been held for school management teams on the following subjects: the relationship between history and remembering, teaching about religions, teaching “sensitive” subjects, and equality between girls and boys. A seminar on: “Taking diversity into account in schools: pooling expertise” is planned for 2009. In addition, the ministry provides teaching aids, distributed free of charge, to support teaching staff: “The Republican Guide”, “Today's Republican Idea”, offer a selection of different texts to enable teachers to tackle the questions of racism, rights and freedoms; a DVD of Claude Lanzmann's film “Shoah” was distributed to all *lycées* in 2004.

323. All of the ministry's initiatives are described in a booklet, published in December 2005, and entitled “Acting against racism and anti-Semitism” (*Agir contre le racisme et l'antisémitisme*) (an English version is enclosed). It has been sent to schools.

### **3. Further training provided within education authorities**

324. Many education authorities follow up on the ministry's concerns and provide racism-awareness training for teachers as part of their in-service training programmes. To give some examples of modules offered under the training programmes of some education authorities for 2008-2009, Créteil education authority is offering three training modules on analysing and preventing discrimination in the school context and a module entitled “Fostering the special attributes of every student to build a common culture”. Versailles education authority is offering a module called “Living together: the other challenge for schools”; a module on “[t]he values of the resistance in citizenship today”, designed to get students to revisit a principle of the Resistance which they as a group value by means of a specific long-term initiative; a module

entitled “Immigration: History, memories, representations”, under the partnership between the education authority and the National Centre for the History of Immigration, as well as a module on “Cultural diversity”.

### **E. Teaching initiatives for newly arrived students**

325. **In response to recommendation No. 13 of the Committee** following up the last report by France, it should be stressed that, in the field of education and integration, the activity of the Ministry of Education, as a public service, is of prime importance. A framework convention entitled “Fostering academic success and promoting equality of opportunity for young people” was signed on 27 December 2007 by the Ministry of Education, the Ministry of Housing and Town Planning, the Ministry of Immigration Integration, National Identity and Mutually-Supportive Development, the National Agency for Social Cohesion and Equality of Opportunity and the National Agency for the Reception of Foreigners and Migration.

326. The aim of the framework convention is to improve students’ school careers and promote better social integration and integration into working life for young immigrants or young people of immigrant origin. Two general partnership themes have been determined to improve the reception of newcomers who are non-French-speakers; to achieve a better understanding of diversity through a policy of training teachers and educational teams; and to encourage individuals to learn to “live together” based on the core values of liberty, equality, fraternity, secularism, the rejection of all forms of discrimination, equality between men and women, and helping parents support their children’s schooling.

327. Under this framework convention, a pilot measure called “Opening schools to parents to achieve integration”, targeted at the parents of foreign students or French students of immigrant origin, was launched in State education establishments at the beginning of the 2008-2009 school year, to help these parents get to know schools and learn French, thereby improving their chances of becoming integrated into working life.

#### **1. Integrating children who are newcomers to France**

328. The Ministry of Education is endeavouring to improve the integration of children who are newcomers into the school system and to develop their knowledge of French, while giving them the opportunity to maintain links with their language and culture of origin.

##### **(a) Reception procedures**

329. Students who are newly arrived in France are immediately enrolled in the normal classes corresponding to their age and standard; at the same time, they are taught by teachers trained to teach French as a second language, using methods appropriate to each academic level.

330. In schools, two forms of reception are possible and the choice is made locally, depending on teaching preferences, student numbers and distribution. Students are assessed by each school on arrival:

- The introductory classes (CLIN) are daily classes lasting several hours to give students intensive courses in French tailored to their needs (maximum of 15 pupils per group);

- Intensive courses in French (integrated remedial course, CRI) provided by a peripatetic teacher who works at the school with small groups of students, as needed.

331. Introductory classes (CLA) are provided in some middle schools that have opted for this, in accordance with an education authority regulation that makes it possible to respond to needs. They offer students special teaching in French as a second language. Some take in children who have not previously attended school and have, therefore, to be taught basic reading skills and mathematics.

332. CASNAV's assesses these students and channel them to the most appropriate class, based on their knowledge of French and academic standard. In all cases, children are returned full time to the class for their age group as soon as possible.

### (b) Numbers and classes provided

#### Educational provision for newly-arrived pupils during the last six years at primary level

	2000-2001	2001-2003	2002-2003	2003-2004	2004-2005	2005-2006	2006- 2007
Average number of newly arrived pupils	11,820	15,965	17,975	18,614	19,451	18,952	17,586
Number of CLIN and CRI structures	804	908	1,033	995	1,001	1,108	1,176

#### Educational provision for newly-arrived students during the last six years at secondary level

	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2006- 2007
Average number of newly arrived pupils	13,416	15,786	20,251	20,530	20,634	20,333	19,946
Number of CLA + modules	627	712	780	778	832	964	960

333. In 2005-2006, there were 645 (CLIN) classes at primary level (625 in 2006-2007), 463 (CRI) modules, (551 in 2006-2007), and 4,397 newly arrived students needed no special teaching. At secondary level, there were 637 (CLA) classes, (707 in 2006-2007), 71 classes for students who had not previously attended school, (76 in 2006-2007), 256 modules, (186 in 2006-2007) and 5,580 newly arrived students needed no special teaching.

## 2. Developing French language skills

334. Enabling newly arrived students to master the French language is a crucial means of securing equality of opportunity and a precondition for successful integration: communicating orally and in writing enables an individual to understand and express his or her rights and duties.

335. Consequently, since 2005, the Ministry of Education has been offering, in schools, an official diploma in French as a foreign language (DELFF), an adapted version of the DELF for adults. This diploma was piloted in three education authorities from the beginning of the 2005-2006 school year. The results have been satisfactory across the board and have had a

positive effect in motivating students for whom this was the first examination they sat in France. It also acts as an incentive for teacher training.

336. This procedure for obtaining a diploma is consistent with the principles of the Common European Framework of Reference for Languages and with the standard of language required by the new naturalization procedures. At both European and national level, therefore, the DELF is a real aid to integration.

### **3. Links with language and culture of origin**

337. Education in languages and cultures of origin (ELCO) is provided in the school context, usually after school and on an optional basis. Lessons are provided by teachers from the relevant countries, under bilateral agreements, and are supervised by the French schools inspectorate. Particularly in regard to non-European Union languages, they are an important political, cultural and economic investment: for young people of immigrant origin, being versed in two cultures is a professional asset. As far as possible, these lessons are being gradually incorporated into the academic map of modern languages.

### **4. The teaching of modern foreign languages**

338. **In response to France's last report, in its recommendation No. 23**, the Committee asked the public authorities to promote the teaching of the languages of certain ethnic groups, particularly Arabic, Amazigh or Kurdish.

339. Amazigh and Kurdish are not specifically taught, as they are not established languages and do not have official language status anywhere in the world. However, Berber dialects are offered, as an option, in the baccalaureate.

340. Students have the opportunity of offering 47 foreign languages in the baccalaureate, as a written or oral option. Of those languages, 22 may be offered for the compulsory examination, including Arabic.

341. France is one of the rare countries in the western world to have integrated the teaching of Arabic into its education system from primary school right through to university. It is offered to all students, thereby contributing to the dissemination of a major international language, as well as to cultural openness. The teaching of Arabic is provided by a corps of French teachers, recruited by competition, and, like all other subjects, is organized within a secular framework. The syllabus is based on the Common European Framework of Reference for Languages, a framework used for the main languages taught in French State schools. At secondary level, student numbers have levelled out at around 6,500.

## **F. A proactive equal opportunities policy**

### **1. Priority education**

342. The framework act on schools lays down the same goal of success and the same standards for all students in schools of the Republic. Priority education schools and educational establishments take in children living in more disadvantaged social, economic and cultural conditions than the average. They often encounter large numbers of children who have recently

arrived in France or are of immigrant origin. Significant numbers of these young people find it hard to cope with academic requirements and are at a higher risk of leaving the school system without qualifications. Therefore, the aim of priority education is to promote equality of opportunity by finding a solution to the gap in success rates that divides students in need of priority education from the remainder of the school population.

343. When priority education was last relaunched in 2006, based on more than 20 years' experience, the focus was placed on a number of principles for action: individualizing students' school careers on the basis of their needs and continuing to take care of students until they reach school-leaving age. This policy has been put into effect by setting up networks bringing the sector's schools together around a middle school, so that children can be monitored from the age of three until they reach school-leaving age at 16.

344. To ensure that students succeed, the networks primarily rely on a new form of organization. Representatives of [primary] schools and middle schools are brought together in a single body to devise a common curriculum for the whole of compulsory education. The proposal is formalized by means of a contract with the authorities of the Ministry of Education, which undertake to increase support for the teams. Two years on, it is clear that close links are being established between [primary] schools and middle schools, management is simplified and experimenting with new teaching methods is encouraged. Increasing numbers of students with difficulties are benefiting from personalized plans for success in education in which their families are directly and deeply involved. Children under the priority education scheme have priority access, at national level, to additional support measures. After school, educational support offers them help with school work, as well as sporting, artistic and cultural activities. During the school holidays, they can take part in "Operation Open School" and enjoy various activities.

## **2. An interministerial policy**

345. Supplementing and linked in with priority education, the Ministry of Education is taking part in the interministerial initiative "Hope for the suburbs" (*Espoir banlieues*), launched in February 2008, which promotes educational measures to help young people from disadvantaged districts. Indeed, the priority education networks are usually located in such districts.

346. The main objectives of the educational element in the "Hope for the suburbs" project are as follows:

- **Developing an educational mix during mandatory school age**  
As an experiment, primary school pupils are ferried from their own district to central schools to ensure there is an educational mix.  
Boarding school places are reserved for pupils from disadvantaged districts to enable them to attend the school of their choice.  
The national programme of urban renewal provides for the most dilapidated middle schools, which no longer offer their students real prospects of success, to be pulled down and rebuilt.
- **Encouraging academic success**  
Thirty *lycées*, which have become centres of excellence, are stepping up individual



support for students and developing areas of linguistic, cultural and/or artistic excellence.

Final year students from disadvantaged districts are encouraged and supported to enrol in the preparatory classes for the *Grandes Écoles*.

Educational support has been introduced, for the 2008-2009 school year, in the priority education primary schools.

– **Making access to traineeships fairer**

A reserve of traineeships for middle school and vocational *lycée* students will be set up in each education authority.

– **Preventing the phenomenon of students who drop out of school or leave without qualification**

Early identification and location of these students should make it possible to reduce the drop-out rate.

### **LIST OF ANNEXES**

- Articles 1 and 3 of the Constitution;
- Act No. 2004-204 of 9 March 2004 adapting the justice system to developments in crime;
- Act No. 2004-809 of 13 August 2004 on local freedoms;
- Act No. 2004-1486 of 30 December 2004 setting up HALDE, amended by Act No. 2006-396 of 31 March 2006;
- Act No. 2006-396 of 31 March 2006 on equal opportunities;
- Act No. 2006-872 of 13 July 2006 on a national commitment to housing;
- Act No. 2006-911 of 24 July 2006 on immigration and integration;
- Act No. 2007-290 of 5 March 2007 establishing an enforceable right to housing and concerning various measures to promote social cohesion;
- Act No. 2008-496 of 27 May 2008 concerning various provisions of adjustment to Community law on the prevention of discrimination;
- Ministry of Justice guide to anti-racist legislation.

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