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## **National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\***

### **France**

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## **I. Introduction and methodology for the preparation of the report**

1. Human rights are of special historical importance for France, which has endeavoured to promote them since the Declaration of the Rights of Man and Citizens of 26 August 1789. France is closely involved in the protection and promotion of all human rights at national, regional and international level.

2. France supported the creation of the universal periodic review mechanism from the outset of negotiations which led to the establishment of the Human Rights Council, and it participated actively in the reform of the Council, having called throughout the negotiations for a demanding procedure which would allow a review of the human rights situation in the countries examined that is as strict and specific as possible. France is convinced that this mechanism can play a vital role in the universal improvement of the human rights situation. Aware of the permanent nature of the review, in 2010 France submitted at its own initiative an interim report on the effective implementation of the recommendations addressed to it in 2008.

3. The Ministry of Foreign Affairs was tasked with supervising the elaboration of the present report, which was produced in accordance with the guidelines adopted by the Human Rights Council. The presentation of the national human rights situation set out in the report is the outcome of consultations with the relevant national ministries, independent administrative authorities responsible for the protection of human rights, the national human rights institution (CNCDH) and non-governmental organizations.

## **II. Improvement of the legal and structural framework for the protection of human rights**

### **A. International conventions signed and ratified by France**

4. France will sign the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights in the very near future.

5. In accordance with its commitments, in September 2008 France ratified the International Convention for the Protection of All Persons from Enforced Disappearance, and the Government has embarked on a process of bringing domestic law into line with the provisions of the Convention.

6. In keeping with the commitment made in 2008, in December 2009 France also ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol. These instruments entered into force in France on 20 March 2010, and the obligations contained therein were incorporated into the Act of 11 February 2005. Pursuant to the Convention, which envisages the implementation of a national plan of action, the Act provides for the holding of a national conference on disabilities every three years.

7. France ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in November 2008. Its immediate entry into force was made possible, *inter alia*, by the fact that a national preventive mechanism within the meaning of the Protocol had been set up in 2007 under the Act establishing the post of Controller-General for Places of Deprivation of Liberty.

8. France has signed the Council of Europe Convention on preventing and combating violence against women and domestic violence. A bill is being elaborated to authorize its

ratification by the French authorities, and it is expected that the instruments of ratification will be deposited by the end of 2012.

9. Since the submission of France's interim report in 2010, an Act has come into force on adapting domestic criminal law to take into account the creation of the International Criminal Court. France has also withdrawn its interpretative declaration relating to article 124 of the Statute of the International Criminal Court.

10. France has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. France is combating illegal immigration and illegal labour in the interest of the migrant workers themselves. It should be noted, however, that domestic provisions of French law already protect the rights of migrant workers. Persons lawfully present in the country thus enjoy protection similar to that provided under the Convention. Moreover, the fundamental rights of illegal migrant workers are guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms, to which France is a party. France conducts an ongoing and constructive dialogue on this topic with the States and organizations concerned, in particular with the International Organization for Migration (OIM) and within the world forum on migrants and the Global Forum on Migration and Development. It is also a party to the ILO Convention on migrant workers.

11. France intends to maintain its reservations to articles 9 and 14 of the International Covenant on Civil and Political Rights, on the right to liberty and security of person and the right to an independent and impartial tribunal, because of the rules governing the disciplinary regime applicable to members of the armed forces. The interpretative declaration on article 13, concerning the expulsion of aliens in the national territory, is motivated by applicable domestic law, which allows for the implementation of an expulsion measure without a prior administrative procedure, in particular in cases of the utmost urgency. However, the Government points out that in this area, any administrative expulsion decision may be appealed in the domestic courts and is thus subject to an effective judicial review.

## **B. Establishment of the institution of Defender of Rights**

12. A new institution, the Defender of Rights, was introduced into the Constitution and was put into place in March 2011. This independent entity subsumes and reaffirms the functions of the National Ombudsman, the Children's Ombudsman, the High Authority to Combat Discrimination and Promote Equality (HALDE) and the National Commission on Security Ethics (CNDS). The Defender of Rights works to safeguard individual rights and liberties in the framework of relations with government bodies, protect and promote the best interests and rights of the child, combat discrimination, uphold equality and ensure that persons providing security services respect professional ethics. Through this reform, the institution acquires constitutional status, its competence and powers of investigation are strengthened, and individuals can bring matters to its attention under an enhanced, consolidated and simplified procedure.

## **C. Establishment of the possibility of challenging the constitutionality of a legislative provision as a matter of priority**

13. The constitutional reform of 23 July 2008 introduced the possibility for an individual to raise a question of constitutionality as a matter of priority, i.e. to assert in court proceedings that an existing legislative provision infringes the rights and freedoms guaranteed under the Constitution.

14. This a posteriori review of the law enables individuals to ensure greater protection of their rights and freedoms, because a legislative provision declared unconstitutional can no longer be applied and is abrogated. Legislative provisions which have been declared unconstitutional include the regulations on police custody and on committal *proprio motu*. Following those decisions, new texts were adopted which provided greater protection of rights and freedoms, for example the Police Custody Act, which broadens the right to legal counsel, and the Act on the rights and protection of persons under psychiatric care.

15. As of early October 2012, 287 such challenges had been submitted to the Constitutional Council by the Council of State and the Court of Cassation, and 242 decisions had been rendered.

#### **D. The establishment of the Ministry of Women's Rights**

16. The Ministry of Women's Rights was established on 24 May 2012 on the occasion of the formation of a new Government following the presidential elections of May 2012. The Ministry prepares and carries out government policy on women's rights, parity and gender equality at the workplace. It is responsible for promoting measures to enforce women's rights in society, eliminate gender discrimination and enhance guarantees of equality in the political, economic, occupational, educational, social, health and cultural spheres, areas in which, together with other competent ministries, it elaborates measures to ensure respect for women's rights and the effective protection of female victims of violence and to combat harassment.

17. The Minister of Women's Rights intends to launch an interministerial plan of action on gender equality in the civil service, which will be presented on 24 October 2012.

18. The Ministry is also tasked with coordinating government efforts to combat violence and discrimination against homosexuals, lesbians and transsexuals; it is preparing a plan of action in this regard.

#### **E. The national plan of action to combat racism and anti-Semitism**

19. France has made public a national plan of action to combat racism and anti-Semitism (2012–2014) which reflects the Government's firm commitment to combating all forms of discrimination on grounds of origin, in conformity with its international obligations. The plan will provide for a more rigorous enforcement of France's strict criminal legislation, raise awareness of these phenomena, in particular on the Internet, and ensure that greater attention is given to such questions in social, educational, cultural and sports policies.

20. The implementation of the plan of action was entrusted to an interministerial deputy responsible for combating racism and anti-Semitism in order to coordinate anti-discrimination policy with all stakeholders concerned.

#### **F. The national Roma inclusion strategy**

21. In May 2011, the European Union adopted an EU Framework for National Roma Integration Strategies up to 2020. In this connection, the Government of France has elaborated a Roma Inclusion Strategy whose main priorities are to ensure access of Roma populations to education, employment, health care and housing. One part of the Strategy is also devoted to the protection of fundamental rights, such as combating trafficking in persons, discrimination and social inequality.

22. France also participates actively in initiatives of the Council of Europe focusing on the problem of Roma integration, including the ROMED programme, which raises the awareness of, and provides basic and advanced training for, mediators employed by the local authorities in their dialogue with Roma populations.

23. The new Government that took office following the elections of May 2012 has expressed its determination to find a humane solution to the situation of social distress that often reigns in the illegal camps. Respect for court decisions as well as security requirements which make the evacuations necessary must be reconciled with the principles of dignity and humanity. With that in mind, an interministerial circular is mobilizing State services and local stakeholders in order to ensure an upstream individualized assessment of such situations and to put into place appropriate support measures, such as school enrolment, access to care, and housing.

24. The Government has also decided to facilitate conditions for access to the employment market for Romanian and Bulgarian nationals in order to bring them closer into line with the conditions applicable to all European Union nationals.

### **G. The national plan of action “Women, peace and security”**

25. With a view to implementing United Nations Security Council resolution 1325, in October 2010 France adopted a national plan of action on the protection of women against violence and respect for their fundamental rights in conflict and post-conflict situations. The plan was put into place in close cooperation with civil society and the National Consultative Commission on Human Rights (CNCDH).

## **III. Promotion and protection of human rights**

### **A. Combating racial discrimination, xenophobia and anti-Semitism**

26. Combating racial discrimination, xenophobia and anti-Semitism is a priority of government action. An interministerial mechanism within the Interministerial Committee to Combat Racism and Anti-Semitism produces an annual progress report which it submits to the Prime Minister. France adopted a national plan of action to combat racism and anti-Semitism in February 2012 (see above), and it has appointed an interministerial deputy responsible for combating racism and anti-Semitism. The plan of action is in response to the recommendations of the Committee on the Elimination of Racial Discrimination of August 2010. The National Consultative Commission on Human Rights also produces an annual report on action taken to combat racism, anti-Semitism and xenophobia, which it submits to the Prime Minister.

#### **1. Combating discrimination in employment and at the workplace**

27. Combating discrimination in employment and ensuring equal access to employment for everyone, regardless of national origin, race, ethnic background or religion, continues to be a priority for the French authorities. The definition of discrimination has been enlarged by the Act of 27 May 2008, which establishes the concept of indirect discrimination, makes harassment a form of discrimination, lengthens the list of prohibited conduct and specifies that incitement to practise discrimination is a form of discrimination.

28. The Labour Code provides that in businesses with 50 or more employees, written information communicated by a job applicant must be examined in conditions which preserve confidentiality. The experience with the use of anonymous CVs since 2009 seems

to be positive for combating discrimination based on sex or age, but not for combating discrimination against persons of immigrant origin or who live in economically disadvantaged areas. A new phase of reflection and consultation has been started with a view to improving this instrument.

## **2. Suppression of discrimination**

29. Every prosecutor's office in the French courts has an anti-discrimination unit with competence for dealing with acts committed on grounds that the victim was a member of a particular ethnic group, nation, race or religion or because of the victim's sexual orientation. The aim is to entrust a special judge with the consideration of these offences and to encourage exchanges between prosecutor's offices, associations, in particular at local level, and representatives of religious communities.

30. The High Authority to Combat Discrimination and Promote Equality and the Defender of Rights have signed cooperation protocols with the prosecutor's offices on exchanging information, coordinating action and thus better combating all criminally punishable forms of discrimination.

31. The French authorities are very attentive to the conditions in which persons are arrested or held in police custody or any other form of deprivation of liberty, as well as during the execution of deportation orders issued against illegal aliens. Attention focuses on three important principles: absolute respect for all persons, regardless of their nationality or origin; use of force only as strictly necessary and proportional; and protection of detainees and respect for their dignity.

32. To ensure an effective implementation of these principles, the French authorities organize special training, ensure close supervision and impose heavy penalties in all cases of proven misconduct.

33. Since 2005, the Ministry of Justice has had a statistical instrument which is provided with data from the prosecutor's offices, thus enabling it to compile an inventory, updated on a monthly basis, of offences of a racist, anti-Semitic or discriminatory nature.

34. With regard to the statistics of the Ministry of the Interior on reported incidents, a new processing system has been created by decree and will receive information from the police and the gendarmerie on the basis of new and comparable statistical databases. This will make it possible to provide detailed and reliable statistical data concerning offences of a racist, xenophobic or anti-Semitic nature, including those committed on the Internet.

35. The courts of major jurisdiction are also equipped with a system which registers information concerning complaints and accusations received by the courts in the context of judicial proceedings and ensures a more precise analysis of criminal sanctions and the nature of the offence, including those linked to discrimination.

36. The French authorities are making a determined effort to combat racism and anti-Semitism on the Internet. A platform for the harmonization, analysis, comparison and classification of reported cases was created in 2009 in order to gather and process reports from Internet users and providers of illicit messages and behaviour on the Internet, whether statements of racist or negationist content, hatemongering, paedophilia or incitement to commit an offence.

## **3. The question of ethnic statistics**

37. There has been considerable debate in France on whether to introduce statistics based on notions of ethnic origin or identity. The French conception of society, based on the principles of national sovereignty exercised by the people in an indivisible Republic and "equality of all citizens before the law, without distinction as to origin, race or religion"

enshrined in the Constitution, is a hindrance to the collection of statistics disaggregated by racial or ethnic origin.

38. In a report of 15 May 2007, the National Commission for Information Technology and Civil Liberties (CNIL) expressed “strong reservations about the creation of a national classification of ‘ethno-racial’ categories”.

39. A study conducted in 2009–2010 by the Committee to Measure Diversity and Evaluate Discrimination stressed that the absence of statistics based on these criteria did not hinder a better understanding of phenomena of discrimination on the basis of other statistics.

40. The Council of State considers that surveys to assess the degree of diversity of a group of persons do not violate the constitutional principle of equality before the law, provided that two conditions are met: the organizers of the survey must guarantee effective conditions of confidentiality, and it must not be possible to use the data to target any individual in the group. The information solicited must consist of objective data and must on no account concern a person’s ethnic or racial origin.

41. The National Consultative Commission on Human Rights has issued an opinion in which it opposed the authorization of statistics based on “ethnicity”, but it was in favour of “quantitative tools being put into place to improve the implementation of the right to non-discrimination”.

42. The Defender of Rights and the National Consultative Commission on Human Rights have elaborated a guide containing reliable indicators for the purpose of helping businesses to have a better understanding of in-house discrimination, thereby enabling them to promote equality at the workplace.

#### **4. Awareness-raising efforts to combat discrimination in schools**

43. The Ministry of Education strongly encourages actions aimed at rejecting all forms of racism, anti-Semitism and xenophobia and combating discrimination; this is considered a priority objective of education. Self-respect and respect of others are part of a common bedrock of knowledge and skills. The new programmes take into account vital questions for society: racism, anti-Semitism, xenophobia, successive contributions of immigration, relations with others and an understanding of the world’s diversity.

44. A large-scale campaign against harassment at school was launched by the Ministry of Education in January 2012.

45. Efforts to combat discrimination in general and racism, anti-Semitism and xenophobia in particular are currently the subject of a specific training unit in virtually all regional school administration zones. Associations may be solicited in the framework of in-service teacher training.

46. As part of an agreement signed in 2011 with the Ministry of Education, the Holocaust Memorial created a website to teach the history of the Holocaust to primary school, middle school and secondary school teachers. A three-year agreement between the International League against Racism and Anti-Semitism (LICRA) and the Ministry of Education, Youth and Voluntary Organizations was renewed on 5 July 2011.

#### **5. The history of slavery and the duty of remembrance**

47. The purpose of the Committee for the Remembrance and History of Slavery, created pursuant to the Act of 10 May 2001, is to advise and make recommendations to the Government on questions concerning research and education on, and the conservation, dissemination and transmission of, the history and memory of the slave trade, slavery and

their abolition. Questions may be referred to it by the Prime Minister or the ministers concerned, and it can examine questions on its own initiative.

48. The Ministry of Overseas France is responsible for coordinating the work of stakeholders active in this area in order to ensure that the question is taken duly into account.

49. A National Day of Remembrance of the Slave Trade, Slavery and their Abolition has been observed throughout France on 10 May since 2006. In 2011, on the occasion of the tenth anniversary of the Act of 2001 condemning the slave trade and slavery as crimes against humanity, the President of France unveiled a monument through which France pays tribute to the slaves of the French colonies for their struggle for dignity and the ideals of liberty, equality and fraternity. On 25 March 2012, the first memorial in France dedicated to the abolition of slavery was inaugurated in Nantes.

## **6. The question of minorities**

50. French law is based on two essential principles set out in article 1 of the Constitution: the equality of citizens before the law “without distinction as to origin, race or religion”, and the unity and indivisibility of the nation. These principles have been underscored by the Council of State and the Constitutional Council, which have recognized the indivisibility of the French Republic and the impossibility of recognizing laws specific to “any section of the people”. France considers that it is in the framework of this concept, which is based on equality before the law, that the rights of the individual are best guaranteed.

51. The effect of all these principles is not to deny the cultural diversity of France in the framework of a Republic “whose organization is decentralized”. For this reason, France has adopted measures and policies which, while promoting the principle of equal treatment of persons without distinction as to origin, in practice enable everyone to exercise their rights and liberties in both the private and the public sphere.

52. In this connection, the Government is working to place the use of regional languages in an appropriate legal framework. Under the constitutional reform of 2008, the Constitution provides that “regional languages are part of France’s heritage”. The use, teaching and development of France’s regional languages is based on a number of recent texts.

53. The Government has also taken measures to support the presence of regional languages in the media. French law entrusts the public audiovisual authorities with promoting French and regional languages and enhancing the diversity of France’s cultural and linguistic heritage. Financial assistance arrangements for which the French-language print and audiovisual media are eligible are also available to regional-language media.

## **B. Promotion and protection of women’s rights**

### **1. Promotion of gender equality**

54. To give full meaning to the principle of gender equality, article 1 of the Constitution states that “the law promotes equal access for women and men to elective offices and posts as well as to professional and social positions”.

55. The Act of 27 May 2008 improves the applicable mechanism by reinforcing existing guarantees with regard to equality, access to goods and services and provision of goods and services without discrimination on the basis of gender.



56. For the first time in the history of the French Republic, the new Government which took office in May 2012 has an equal number of women and men. By restoring a fully-fledged Ministry of Women's Rights, the President reaffirmed his commitment to innovative, determined and exemplary State action in the area of gender equality.

57. To ensure that those commitments are implemented soon, the Government will step up interministerial action, and an interministerial committee on women's rights will meet under the chairmanship of the Prime Minister. To prepare it, the Minister of Women's Rights has asked other members of the Government, in the context of "equality conferences", to help elaborate a plan of action for including gender equality in all public policy. An impact study of all measures (laws and decrees) concerning women's rights will be systematically conducted.

58. Every minister has appointed a senior official for equality of rights to propose and follow up measures to be implemented in the ministry concerned. This entire policy of equality is conducted transparently and in cooperation with civil society.

59. The Monitoring Commission on Gender Parity will be reaffirmed in its functions and organization, and it will contribute to this follow-up.

(a) *At the workplace*

60. In view of the persistent inequality of wages between women and men, as from 1 January 2012 a fine was introduced for businesses with at least 50 employees which do not have a collective agreement or plan of action for gender equality at the workplace.

61. Legislation has been adopted to ensure a balanced representation of women and men on boards of directors and supervisory boards as well as gender equality at the workplace. The aim is to achieve a gradual increase in the number of women in leadership positions in publicly traded companies and State enterprises through the introduction of quotas.

62. The Act on access to employment and non-discrimination in the civil service has led to the adoption of a number of measures aimed at promoting the role of women. The Act refers to the framework of balanced gender representation at management level in the civil service. The Government is seeking to promote equal gender representation in posts of responsibility in the civil service. The Act is accompanied by a gradual implementation of the appointment target of 40 per cent, together with financial sanctions to ensure compliance.

(b) *In education*

63. Gender equality is also being promoted in educational policy. The principle of co-education is an integral part of the Education Code.

64. The Ministry of Education has signed agreements with several associations in order to encourage young girls to embark on scientific careers. A ministerial brochure entitled "Girls and boys on the road to equality, from school to higher education" was published on the occasion of Women's Day on 8 March 2012.

## 2. **Protection of women against violence**

65. Combating violence against women is a matter of priority for the public authorities. The Minister of Women's Rights has announced the creation of a national monitoring commission on violence against women, whose task will be not only to help detect and analyse such violence but also to work to prevent it and to protect and assist the victims.

66. French law does not have a separate, general offence of “family violence”, but the concept is covered by other offences (rape, murder, etc.). A familial or marital link between the perpetrator and the victim is regarded as an aggravating circumstance.

67. The statistics of the Ministry of Justice make it possible to determine the extent of spousal homicide and marital violence with considerable accuracy. A number of bodies collect information on violence against women.

68. Although the Government does not plan to introduce a system of automatic prosecution for all acts of marital violence, the judicial system is able to respond to the needs of the victims. A guide on marital violence, for use by the prosecution, was updated in March 2012 in order to promote and disseminate among stakeholders the principles on which action by the prosecutor’s offices is based. The prosecutor’s offices are urged not to discontinue proceedings involving marital violence, a recommendation which will make it more likely that criminal action is systematically taken.

69. An Act on violence specifically directed against women in couples and the impact of such violence on children was adopted on 9 July 2010. It ensures better protection of victims, strengthens prevention and provides for heavier penalties for perpetrators. Pursuant to the Act, an order for the protection of a victim of violence may be issued which authorizes the immediate eviction of a violent spouse and, in certain cases, imposes the use of an electronic bracelet. In addition, the Act calls for the issuance or renewal of a residence permit to women who have come to France for purposes of family reunification and concerning whom a protection order has been issued, even if they have left their spouse because of violence. It also arranges for the issuance of a temporary residence permit to illegal aliens concerning whom a protection order has been issued.

70. The Act of 6 August 2012 introduced a new, more specific and broader definition of sexual harassment into the Criminal Code, the Labour Code and the civil service statutes, together with more severe sanctions, in conformity with European law.

### **3. Measures taken specifically for the integration of immigrant women**

71. Immigrant women, who account for more than half of all foreigners, are the subject of a specific integration policy with three main pillars: the application of the principle of gender equality, the prevention and deterrence of situations of violence, and action to promote and facilitate access to employment.

72. The Reception and Integration Contracts for new arrivals makes provision for a number of information initiatives on the Republican principle of gender equality, secularism, the rights of citizenship and their enjoyment, fundamental freedoms and public safety. Throughout the integration process, the Ministry of the Interior conducts initiatives to facilitate the occupational integration of immigrant women through language classes, support for business start-ups and help with job placement, as well as through the training of the staff of associations which assist immigrant women in the employment sphere.

73. Support is also provided to associations active in the prevention of violence against women and the protection of their rights. The Agency for the Development of Intercultural Relations for Citizenship (ADRIC) has produced a guide with funding from the public authorities entitled “Addressing violence and discrimination: assisting women of immigrant origin”.

74. A working group will be set up by the Defender of Rights to elaborate criteria for analysing mechanisms of discrimination and to provide tools which enable stakeholders active in helping job-seekers find employment to identify and combat discriminatory processes.

## C. Promotion of equality and social diversity

### 1. Equality and social diversity in the civil service

75. France is committed to a policy of promoting equality and social diversity in the civil service. A Charter on the promotion of equality in the civil service was signed on 2 December 2008 enunciating the values which must guide the action of government bodies and their officials, namely equality, secularism, impartiality, neutrality and non-discrimination.

76. A “Diversity Label” created by the Government in 2008 aims to foster diversity and combat discrimination in the area of human resources management. It develops best practices in recruitment and professional advancement not only in private enterprises, but also in the civil service, the local authorities and voluntary associations active in promoting diversity.

77. As part of its initial admissions competition, in 2008 the National College of the Judiciary began offering a preparatory class as part of a policy for restoring equality of opportunity, the aim being to ensure equality of opportunity for legal trainees and diversity of backgrounds. The principle of these classes has been extended to the National College of Registrars and to competitions in the prison administration.

78. Adapted means of recruitment were introduced in 2006 under the Pathway to Careers in the Local, Regional, Hospital and State Services programme (PACTE), and in 2007 an admissions procedure without a competitive examination was set up for hiring persons with disabilities.

79. A number of initiatives have been conducted to diversify law enforcement recruitment, the aim being to assist motivated persons who possess the qualifications required to become a police officer or a gendarme but do not have the means to prepare for the competitive examination.

80. The Ministry of Defence has taken steps to meet the objective of setting aside 10 per cent of places in military schools for young persons from underprivileged areas.

### 2. Equality and diversity in school

81. In November 2008 the French authorities launched the Cords of Success (*Les Cordées de la réussite*) label, an initiative for the creation of partnerships between higher education establishments and secondary schools in priority neighbourhoods. These partnerships promote equality of opportunity and access for young people to higher education establishments and highly qualified employment.

82. The Paris Institute for Political Studies, a *grande école* (specialized competitive-entrance higher education establishment) for the training of civil servants, has been concluding agreements with secondary schools in priority education areas since 2001. Other *grandes écoles* have introduced similar schemes.

## D. Promotion and protection of children’s rights

83. The Special Rapporteur on the sale of children, child prostitution and child pornography visited France in November 2011. She noted France’s commitment to protecting children and the mechanisms in place to assist children who are victims of such practices. She regretted, however, that childcare bodies are fragmented and overburdened, and she made recommendations to address these difficulties, which the authorities are now working to put into effect.

## **1. Protection of children against violence**

84. The protection of children against domestic violence is taken into account by the public authorities. A plan to combat violence has been elaborated pursuant to which recommendations are made to the public authorities and the professionals concerned with a view to ensuring that greater attention is given to the phenomenon of children exposed to domestic violence. The third plan to combat violence against women (2011–2013) pursues this objective by devoting a section to this particular problem. The plan makes provision for:

- Quantifying the phenomenon of children exposed to domestic violence;
- Training professionals about the risk that conjugal violence entails for children, as well as ways of recognizing such children and the need to care for them, through the creation and updating of information tools and training modules for use by child protection professionals;
- Ensuring that a child can meet safely with a violent parent at special meeting places, whose continuity and development are assured;
- Assessing the appropriateness of a requirement to contact the departmental unit responsible for the reception, processing and evaluation of information that gives cause for concern, as soon as law enforcement officials become aware of cases of domestic violence.

## **2. Social rehabilitation of juvenile delinquents**

85. France attaches particular importance to the social rehabilitation of juvenile delinquents. As part of the strategic national project 2008–2011, the Ministry of Justice has refocused the action of establishments and services on the care of minors who have committed acts of delinquency. The development of alternatives to incarceration is contributing to a decline in the number of juvenile detainees. A new strategic project has been launched for the period 2012–2014 to ensure better coordination between juvenile justice stakeholders and to consolidate the educational methods and training of personnel.

86. The Act on the participation of citizens in the functioning of the criminal justice system and the trial of minors has introduced the use of a single file for each individual. Thanks to this tool, which is the same for all juvenile justice stakeholders (judges, lawyers, educators, etc.), and bearing in mind education and the objective of preventing recidivism, judges have an immediate and comprehensive picture of the situation of the minor concerned.

87. In line with the strategic national project for 2008–2011, the development and generalization of daytime activities in all educational establishments responsible for the legal protection of young people has made it possible to ensure quality care for juveniles and has facilitated their rehabilitation.

88. For its part, the juvenile delinquency prevention plan 2010–2012 aims to identify juveniles for whom a criminal measure has ended and who require individualized assistance. To that end, the Social Integration Contract (CIVIS) for juvenile detainees is to be expanded in cooperation with the local authorities. The purpose of the Contract is to provide individualized assistance in finding employment and, where appropriate, to ensure a better preparation of release from prison and prevent recidivism among juveniles in the age group 16 to 25. The juvenile delinquency prevention plan also specifies that the judicial authority may recommend the creation of a coordinating body of judicial stakeholders to give closer attention to juvenile delinquents who are repeat offenders.

### **3. Unaccompanied minors**

89. Unaccompanied minors who arrive in France from other countries are a particularly vulnerable group and need special attention and protection, since they may be victims of exploitation or trafficking.

90. An interministerial working group on unaccompanied foreign minors has just been set up under the authority of the Ministry of Justice in order to assess the situation in France and to define appropriate protection measures.

### **4. Helping immigrant children to do well at school**

91. Although the right to education is guaranteed for all children, academic achievement may suffer from difficult living conditions or a family environment unaccustomed to the functioning of the school system. Special mechanisms for newly arrived children (reception and induction classes) have been reinforced since 2008 by a support programme which offers immigrant parents free classes in schools so that they are better able to assist their children with their schooling.

### **5. Secularism in school**

92. In France, freedom of religion and belief is enshrined in the Declaration of the Rights of Man and of the Citizen of 1789. Article 1 of the Constitution, which sets out the principle of secularism, states that the French Republic “ensures the equality of all citizens before the law, without distinction as to origin, race or religion. It respects all beliefs”.

93. In the framework of these constitutional principles, the French Republic guarantees freedom of worship without distinction. The principle of secularism aims to guarantee the neutrality of the State and to create a public space centred on the shared democratic values of freedom of conscience, opinion and expression, with due regard for pluralism and tolerance.

94. As pointed out in 2008, the Government does not plan to review the Act of 15 March 2004, which sets a framework, in application of the principle of secularism, for the wearing in State primary, middle and secondary schools of symbols or dress indicating religious affiliation.

95. The implementation of the Act, which has been in force since 2005, has not posed any problems: the regional education authorities are aware of only a few isolated cases of children who have come to school wearing a conspicuous religious symbol. The beginning of the 2008/09 and 2009/10 school years did not give rise to any disciplinary procedure, and no new litigation was reported at the start of the 2009/10 school year. This shows that the principles of the Act are well accepted by pupils and their families. An understanding of the purpose of the Act by the vast majority of pupils and their families is also attested to by the fact that the Ombudsman for the Ministry of Education has stated that he has never been asked to look into this matter.

96. No case is currently pending before the courts. The European Court of Human Rights has handed down six decisions on the prohibition of the wearing of conspicuous religious signs in French schools. It has confirmed that the restrictions under the Act of 15 March 2004 are justified by the constitutional principle of secularism, are not discriminatory and are in conformity with the European Convention for the Protection of Human Rights and Fundamental Freedoms.

## **E. Human rights in places of deprivation of liberty**

### **1. Human rights training for law enforcement officials**

97. France has sought to promote human rights training for law enforcement officials in order to prevent any violation of the rights of persons held for questioning or placed in holding facilities.

98. All police and gendarme personnel are concerned, regardless of unit or rank.

99. The heads of administrative holding facilities receive training devoted specifically to regulations concerning the questioning of illegal aliens and the relevant judicial and administrative procedures, as well as respect for the fundamental rights of persons in holding facilities.

100. The Inspector-General of Places of Deprivation of Liberty (CGLPL), whose post was created in 2007, participates in professional training on the fundamental rights of detainees by speaking every year at training academies for law enforcement personnel. A training mechanism is being elaborated with the Defender of Rights, who has already been called upon to help with the initial training of police officers.

### **2. Prison regulations and monitoring**

101. The French authorities are very attentive to the conditions in which persons are arrested or held in police custody or any other form of deprivation of liberty. Prisons are among the most closely monitored institutions in France, which thus makes it possible to supervise practices and prevent violations.

102. There are several types of monitoring.

103. The judicial authority is required to visit prisons regularly to inspect general operating conditions. The first President and the public prosecutor of the relevant court of appeals report annually to the Minister of Justice on the operation of the prison establishments under their jurisdiction and the performance of their staff.

104. Parliamentarians may visit prisons whenever they wish, and a large majority of them do so. Prison legislation has extended this right to representatives of the European Parliament elected in France.

105. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment visits several French prisons on average every two years.

106. Internal mechanisms are also in place. The Prison Inspectorate conducts administrative investigations and inspections and is tasked with monitoring the effective implementation of the commitments of the Minister of Justice. Reference is made in this connection to the monitoring carried out by the Labour Inspectorate and all the ministerial inspectorates in their areas of competence. An oversight commission also makes an annual visit to each prison, which takes place under the authority of the departmental prefect.

107. The Inspector-General of Places of Deprivation of Liberty monitors, in complete independence, the situation at all detention facilities. He makes public the reports of his visits and issues recommendations for the Government on ways of improving the treatment of detainees.

108. Anyone who claims injury on account of an administrative irregularity, discrimination or a failure to respect security ethics may lodge a complaint with the Defender of Rights. Nearly 150 deputies of the Defender of Rights visit prisons to enable detainees to have access to this body.

109. All individual measures taken during detention which are likely to have injurious effects may be appealed before the administrative courts.

110. Concerning electroshock weapons, France confirms that no experiments are conducted on detainees. Electroshock pistols are assigned solely to regional intervention and security teams (ERIS) and the National School of Prison Administration in the context of initial training of ERIS personnel. Since 2006, an electroshock pistol has been used by ERIS personnel in operational conditions against only two detainees, and only in “contact mode” (direct application with neutralization through a sensation of pain). The pistol has never been used in “shooting mode” (remote propulsion, with loss of motor control).

111. In the framework of the recasting of the circular on the use of force and weapons currently under way, conditions for the use of electroshock pistols will be brought into line with new regulatory provisions specifying that prison staff must not use force against detainees except in the event of self-defence, attempted escape, or violent or passive resistance to orders, provided that such use is proportionate and strictly necessary to prevent an escape or restore order.

### **3. Improvement of conditions of detention**

112. French law and jurisprudence have evolved in order to strengthen the protection of the rights of detainees.

113. In recent years, administrative jurisprudence has considerably enhanced the protection of the rights of detainees, who must be treated “with humanity and with the respect and dignity inherent in the human person”.

114. The new Prisons Act testifies to a very significant evolution. The Act maintains the principle of accommodation in individual cells, reaffirms that the goal of the prison system is rehabilitation, broadens criteria for granting a reduction of sentence (possibility of placement under electronic surveillance), establishes at legislative level the principle of the preservation of family life and makes provision for concrete measures to that end (access to a telephone, to family apartment units and family rooms, and extended protection of the confidentiality of correspondence). The text refers to principles regarding continuity and quality of access to care, as well as to the need to take into account the psychological state of detainees. It also regulates detention and the supervision of means of coercion (disciplinary measures, searches and solitary confinement).

115. France is working to reduce prison overpopulation. The new prison legislation has reaffirmed a policy initiated earlier in favour of reductions of sentence and alternatives to imprisonment, by making it easier for such decisions to be taken and by introducing measures that enable the rest of the sentence to be served under electronic surveillance.

116. In May 2011, France launched a programme to increase the number of cells and to bring prisons into line with criteria set under new prison legislation and European prison regulations. The programme aims to make better preparation for social reintegration and to prevent recidivism. This approach is also designed to help prevent suicides.

117. Reference is made to the construction of new prisons for short sentences, which only take in persons sentenced to a total of 2 years’ imprisonment or less and who have a remaining sentence of 1 year or less.

118. Investments for building prisons will be pursued: available investment credits will be allocated as a matter of priority for the continuation of construction projects that have already begun as well as for the most urgent projects aimed at bringing buildings into conformity with standards, in particular those in worst repair. Prison policy will be revised, above all for short sentences, with a view to combating overcrowding more effectively.

#### **4. The reform of police custody**

119. A reform of police custody has entered into force in order to bring French legislation into line with its international obligations, notably vis-à-vis the European Convention on Human Rights. It introduces two major provisions: notification of the right to remain silent, and the right to legal counsel from the beginning of police custody. The law also broadens the rights of individuals in police custody, including the right to notify certain persons of the custodial measure. To prevent abuse, a medical examination conducted during police custody must take place “where it cannot be seen or heard by others” in order to respect human dignity and professional secrecy. Likewise in accordance with the need to respect human dignity, strip searches are prohibited during police custody.

### **F. Respect for human rights while combating terrorism**

120. France has given full effect to the communication of June 2008 of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and to questions concerning antiterrorist legislation.

121. In France, anyone placed in police custody, whether for acts of terrorism or for any other offence, is entitled to the rights which apply under that measure, including the right to notify a close relative, the right to see a physician, the right to remain silent and the right to legal counsel from the beginning of police custody. Under the Act of 14 April 2011, anyone placed in police custody, regardless of the offence, must be immediately assisted by a lawyer (and not after 72 hours of detention, as in the past), unless compelling reasons require otherwise.

122. Conditions for the exercise of the rights recognized for organizations which assist victims of terrorism were further relaxed under the Act of 10 August 2011 on the participation of citizens in the functioning of the criminal justice system and the trial of minors. Whereas in the past an organization had to have been officially declared at least five years prior to the date on which the acts were committed, it is now sufficient for it to have been declared at least five years prior to the date on which civil proceedings are instituted.

### **G. Respect for the principle of non-refoulement and protection of human rights in the context of immigration and asylum**

123. The new Government which took office following the elections of spring 2012 has undertaken to conduct a new immigration policy that is responsible and humane and is based on clear, just and stable rules. Bearing in mind France’s international commitments and European Union obligations, in particular with regard to asylum, this policy combines firmness in combating illegal immigration and clandestine immigration networks, and greater security for legal immigration.

124. At the time this report was submitted, several measures had already been taken to that end: the circular of 31 May 2011 on foreign students was abrogated in May 2012 in order to make it easier for highly qualified students who wish to remain in France to obtain permission to stay; a circular of 6 July 2012 on the removal of families of illegal aliens with



children makes the allocation of a residence to such persons the rule and their placement in an administrative holding facility an exception of last resort; and a circular is being prepared which will set criteria for an exceptional regularization based on the nature of links established by foreigners with France.

125. Two bills are currently being elaborated. One would expressly introduce in positive law a jurisprudential principle that would exclude prosecution for the offence of assisting an illegal alien when such assistance is provided in a disinterested fashion. The bill would also establish greater clarity with regard to identity checks carried out on illegal aliens. The second bill would create a residence permit for foreigners that is valid for several years in order to promote their integration. Legislation on naturalization has also been given close consideration, the aim being to make naturalization a catalyst for integration, and not the outcome of an obstacle course.

**1. French immigration policy is part of a European framework that respects the rights of foreigners within the European Union**

126. The European Pact on Immigration and Asylum, adopted by the European Council in October 2008, set a number of commitments for all Member States in order to ensure that migration policies which are fully in line with the norms of international law, notably those concerning respect for human rights, are more consistent and effective. Reference is made in particular to the commitments undertaken to work towards the harmonious integration of migrants in the host countries, to take appropriate measures to combat any discrimination that migrants might encounter, to introduce a common European asylum system as well as measures of assistance and to promote a global approach to immigration by creating partnerships which combine migration policies and the development of the countries of origin. These commitments are the foundation of the policies of the Member States, and France, like its partners, must regularly report on measures taken to ensure their implementation.

**2. For France, respect for the fundamental rights of foreigners is an imperative**

127. Pursuant to a universally recognized principle of international law, States have the right to control the entry and residence of foreigners. Consequently, certain rights, such as the right to work, and certain social benefits are granted only to foreigners who are legally present in the country. However, the right to human dignity entails that fundamental rights are recognized for all persons, regardless of their status. This is the case in particular for the right to security of person and protection. Foreigners, irrespective of their status, have access in France to emergency housing and public medical assistance, which entitles them to health care.

**3. Family reunification of foreigners is a right guaranteed by law and is facilitated for foreigners who are entitled to international protection on the basis of their refugee status**

128. For foreigners covered by general regulations, the right to family reunification is subject to the criteria of duration of residence, resources and housing, which are based on the need to promote the later integration of families. Owing to their particular situation, these criteria do not apply to beneficiaries of international protection. Since 2009, a number of measures have been taken to improve the information provided to families and to simplify procedures and reduce waiting time.

#### **4. Respect for the principle of non-refoulement guaranteed by law**

129. The risks incurred by a foreigner in the event of his/her return to his/her country of origin may be taken into consideration in the course of the examination of an asylum application and during a deportation procedure. The asylum procedure guarantees an exhaustive examination of the risks, which may entail a risk to life or liberty within the meaning of the Geneva Convention relating to the Status of Refugees or the risk of incurring the death penalty or being subjected to acts of torture or inhuman or degrading treatment within the meaning of “subsidiary protection” introduced by European asylum law. The risks are examined by the French Office for the Protection of Refugees and Stateless Persons (OFPRA), which takes decisions in complete independence and is under the supervision of the National Court on the Right of Asylum (CNDA).

130. The Government will take the necessary steps in the very near future to ensure compliance with a judgement by the European Court of Human Rights which criticized the automatic nature of the fast-track procedure used to deal with asylum applications submitted by foreigners in holding facilities who are subject to a deportation order.

131. More generally, a comprehensive review of asylum policies was launched in the framework of a recasting of community asylum directives; it is expected to be completed by the end of 2012. The goal is to ensure a high level of protection and to guarantee just, equitable and swift proceedings for persons in need of protection.

132. Regardless of whether or not asylum has already been requested, any foreigner who is subject to a deportation measure may invoke risks which may be incurred in the event of return, and that circumstance may be the subject of a thorough judicial review, in which case the person concerned has a right of appeal with suspensive effect. The French authorities are very careful to ensure that no one may be returned to a country of origin in which they are at risk. Requests for interim measures submitted by the Committee against Torture are given close consideration, and the French authorities have granted such requests since 2008. France also recognizes the regional mechanism for interim measures under the European Court of Human Rights, which the Court has made mandatory. The Court issued interim measures regarding France in 123 cases in 2010 and in 116 cases in 2011. France has always complied strictly with these measures.

#### **H. The situation of human rights in French overseas collectivities**

133. In keeping with its commitment, France systematically provides information on the implementation of international conventions in its overseas collectivities in its periodic reports to the United Nations treaty bodies. France is working to include a legal presentation of the various local authorities overseas, a summary of the overseas institutional framework and an elaboration of various questions of interest to the committees. It will continue to meet its commitment in its future country reports to the treaty bodies.

134. The United Nations Special Rapporteur on the rights of indigenous peoples visited New Caledonia in order to gather information on the situation of the Kanak population. The Rapporteur made a number of recommendations concerning the system of customary justice, the broadening of the powers of the Customary Senate, the development of the Kanak languages and the implementation of the projected clean-up of the Bay of Tindu. The Government has carefully examined the short-term and medium-term feasibility of these recommendations. The Rapporteur also welcomed the conclusion of the Nouméa Accord and the steps taken to ensure its implementation.

135. In 2009, the Government organized a National Consultation for Overseas France, which lasted several months and took the form of a dialogue on important questions for the future of the overseas collectivities. All citizens could contribute to this debate in round tables and local workshops and also through an Internet platform set up for that purpose. The National Consultation was brought to a close by a national analysis organized in Paris in September 2009, from which ideas were gathered for a comprehensive plan for modernizing the overseas collectivities.

136. In voting in favour of the adoption of the United Nations Declaration on the rights of indigenous peoples in 2007, France undertook to respect its provisions throughout its territory. It thus strives to take the aspirations of indigenous populations into account, with due regard for the constitutional principle of equality of citizens. France has adopted measures for each population group, in cooperation with the representatives of these communities and as a function of local cultural, economic and social realities.

137. The Government has also defined a special language policy for overseas France which combines mastery of French and the enhancement of regional languages. In December 2011, France organized a National Consultation in Guyana on multilingualism in the overseas departments and territories. The Consultation led to the elaboration of a set of new recommendations based on principles which will take the form of a charter to improve the framework of initiatives designed to protect local languages.

138. To ensure equality for all citizens, overseas candidates may take written examinations for admission to a *grande école* and to the civil service without travelling to metropolitan France.

139. The protection of women's rights is a concern of the Government in both overseas and metropolitan France. Each overseas prefecture has a deputy for women's rights tasked with implementing government policy on gender equality at the local level.

## **I. Protection of economic, social and cultural rights**

140. France, which is a "social Republic", is strongly committed to the principles of the universality and indivisibility of human rights and recognizes the interdependence between economic, social and cultural rights and civil and political rights.

141. France has taken a number of measures to implement the right to work and to improve working conditions, for example with regard to regulations for vocational training courses, which have been broadened to include public administrations and institutions, in order to ensure that they are not used as an alternative to employment.

142. Steps have been taken to enhance the protection of health and security at the workplace. The Act to reform occupational medicine was promulgated on 20 July 2011, and the Act on the reform of social dialogue of 5 July 2010 modernized the Committees on Health, Security and Working Conditions, making health at the workplace the basis of all prevention efforts.

143. Trade union law has also evolved, in particular through the Act on the reform of social democracy and the Act on the reform of social dialogue. Collective bargaining has acquired a broader role, and the social partners are given greater legitimacy. Trade union activity and consultation are facilitated both in enterprises and within government bodies.

144. Measures have also been taken to implement the right to a decent standard of living. The Act on mobilizing for housing and combating exclusion aims to promote housing construction and combat exclusion. It forms part of a number of reforms which have modified regulations on urban planning, urban renewal, the construction of social and private housing, substandard housing and the right to housing.

145. France has also adopted an Act on the enforceable right to housing, which recognizes the right to decent and independent housing for anyone who is unable to obtain or keep such housing on their own. This right is guaranteed by the State, which is now under an obligation to achieve results and not just to use its best endeavours. It is asserted through a consensual application to a departmental mediation commission or, if necessary, through a non-consensual application to an administrative court.

146. France guarantees the right to social security, which ensures health-care protection for all. The most underprivileged persons benefit from universal medical coverage, and illegal aliens receive free State medical aid.

147. A plan to combat illiteracy, put into effect in 2012, and the opening in eight regional school administration zones of establishments to encourage persons concerned to return to school have helped ensure a better implementation of the right to free, compulsory education. Measures to protect cultural rights have also been put into place, including a government plan for the promotion of education in culture and the arts.

148. France is very committed to addressing the question of disabilities. A first national conference in 2008 led to the establishment of a new interministerial committee on disability, the launching of a plan for the employment of persons with disabilities in the civil service and the extension of the right to early retirement at 55 years of age to all employees with disabilities. At the second national conference, measures for the introduction of a new plan for the employment of persons with disabilities were adopted, including the creation of 1,000 additional posts every year for three years in protected businesses, better integration of young persons with disabilities, an increase in allocations granted for mechanisms to assist employees with disabilities, and improved training. The Government has made a financial commitment for the period 2008–2015 to implement a plan for the creation of more than 50,000 jobs in institutions and services for persons with disabilities. Businesses with more than 20 employees and public bodies must meet a six per cent disabled persons employment quota. In 2005, legislation reinforced this obligation, inter alia through heavier penalties for non-compliance.

## **J. Relations with civil society**

149. The Government attaches fundamental importance to social dialogue and regularly consults civil society.

150. The National Consultative Commission on Human Rights is competent for publicly drawing the attention of the Government and the Parliament to measures which it considers conducive to protecting and promoting human rights. It carries out its work independently and with due regard for the Paris Principles. It has a direct exchange of views with treaty bodies, and it is associated with the action taken on recommendations in the framework of an ongoing dialogue with government bodies. Since 2008, it has been systematically consulted on the country reports submitted to the treaty bodies, and it was directly involved in the preparation of the present report. The National Commission has taken the initiative of publishing a systematic compendium every two years of reports and observations concerning France under the title “*Les droits de l’homme en France, Regards portés par les instances internationales*” (Human rights in France, the view of international bodies). When the new Commission was set up, the Prime Minister reaffirmed the Government’s intention to consult it on a regular basis.

151. The Economic, Social and Environmental Council also advises the Government and participates in the elaboration of economic, social and environmental policy. In 2010, the Government enlarged the representativity of the associations within the Council, which now can also be consulted by the Parliament and can receive petitions from citizens.

152. The Ministry of Foreign Affairs regularly posts on its website recent developments relating to the United Nations treaty bodies, including their concluding observations, France's country reports, relevant questions and replies and a presentation of various international and regional mechanisms. Documents concerning France's dialogue with regional human rights protection and promotion mechanisms are also accessible there.

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