

# **ODIHR Submission of Information about an OSCE participating State or Partner for Co-operation under consideration in the Universal Periodic Review Process**

## **Participating/Partner State: France**

**UPR Session and Date of Review:** 29<sup>th</sup> Session, Jan-Feb 2018

## **Background**

France has been a participating State in the former Conference for Security and Co-operation in Europe (CSCE) and the present Organization for Security and Co-operation in Europe (OSCE) since 1973 and has thus undertaken and has recently reaffirmed a wide range of political commitments in the “human dimension” of security as outlined in relevant OSCE documents.<sup>1</sup>

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) has been mandated by OSCE participating States, including France, to assist them in implementing their human dimension commitments. ODIHR assistance includes election observation and assessment activities as well as monitoring and providing assessments, advice and recommendations relating to implementation of commitments in the fields of human rights, democracy, tolerance and non-discrimination, and the situation of Roma and Sinti in the OSCE area.

The present submission provides publicly available country-specific information that may assist participants in the Universal Periodic Review process in assessing the situation in France and its implementation of past recommendations, as well as to formulate new recommendations that may be relevant to enhancing the enjoyment of human rights and fundamental freedoms in France.

## **Overview of this Submission**

ODIHR deployed an Election Expert Team (EET) to assess aspects of the 23 April 2017 presidential election and the 11 June 2017 parliamentary elections, based on the recommendation of the preceding Needs Assessment Mission (NAM). The Final Report of the EET is expected in July 2017.

The authorities in France and other sources have provided information to ODIHR most recently for its 2015 annual report on *Hate Crimes: Incidents and Responses*. Extracts from this information are included below.

The authorities and other sources also provided information on the situation of Roma and Sinti in several thematic areas. Findings and conclusions are listed below.

Finally, this submission also contains a short summary of an event on fair trial rights, including in France.

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<sup>1</sup> Compendium of OSCE Human Dimension Commitments, vol 1 and 2; Astana Commemorative Declaration, 2010.

## **Election-related activities**

From 13 to 15 March 2017, ODIHR undertook a Needs Assessment Mission to France in connection with the 23 April 2017 presidential election and the 11 June parliamentary elections. An Election Expert Team was deployed to France for the presidential election “to review the legal framework in respect of campaign finance, oversight of media regulations, as well as to observe the conduct of the campaign”. Its report is due to be published in early July 2017.

Overall, the NAM noted that “the electoral legal framework has previously been assessed by ODIHR as providing a sound basis for the conduct of democratic elections. A limited number of amendments have been adopted since the last elections in 2012 and were passed with broad parliamentary support. They address some prior ODIHR recommendations by introducing new measures to increase the transparency of party and campaign finance and broaden suffrage rights. ODIHR NAM interlocutors expressed confidence in the electoral legislation and noted the country’s long- standing tradition of holding democratic elections.”

It also highlighted that “Recent legislative amendments [on political finance] addressed certain previous ODIHR recommendations; however, some issues related to the transparency of campaign and party finance remain, including a lack of timely campaign reporting requirements. Despite limited and relatively minor loopholes in existing legal provisions, most ODIHR NAM interlocutors expressed confidence in the system of party and campaign finance regulation, including in the role of the oversight authority.” It added that “some concerns were noted with regard to complexity of regulations for electoral media coverage, which have been slightly amended since the last elections. Overall, ODIHR NAM interlocutors expressed satisfaction with media access and coverage during the elections.” The full NAM report is available here: <http://www.osce.org/odihr/elections/france/311081>

## **Legislation reviewed by ODIHR**

Upon the request by authorities of a participating State, an OSCE field operation or an OSCE institution, ODIHR reviews draft or enacted legislation of OSCE participating States on topics relating to the human dimension of security for its conformity with OSCE commitments and other international standards. The legal reviews and opinions, often produced in co-operation with the Venice Commission of the Council of Europe, are available at [www.legislationline.org](http://www.legislationline.org).

Basic information about the constitutional system and legislation of France is available on [www.legislationline.org](http://www.legislationline.org).

No requests for legislative reviews have been received from France since 2013.

## **Tolerance and non-discrimination issues, including incidents of and responses to hate crime**

OSCE participating States have made a number of commitments to promote tolerance and non-discrimination and specifically to combat hate crime, and ODIHR supports states in their implementation of those commitments. In this context, ODIHR reports at <http://hatecrime.osce.org/> to highlight the prevalence of hate crimes and good practices that participating States and civil society have adopted to tackle them. ODIHR’s data on hate

crime is launched online each year on 16 November, covering information from the past calendar year. ODIHR also helps participating States design and draft legislation that effectively addresses hate crimes; provides training that builds the capacity of participating States' criminal justice systems and the law-enforcement officials, prosecutors and judges that staff them; raises awareness of hate crimes among governmental officials, civil society and international organizations; and supports the efforts of civil society to monitor and report hate crimes.

Information concerning France in the most recent (2015) edition of the annual hate crimes reporting<sup>2</sup> includes the following:

- **Overview of officially reported data**

France regularly reports hate crime data to ODIHR. France's hate crime laws are a combination of general and specific penalty-enhancement provisions. Hate crime data are collected by the Ministry of Justice, the National Institution for Human Rights, police and the Gendarmerie. Hate crime data are regularly published by the National Institution for Human Rights<sup>3</sup>.

The annual 2015 figures included 1790 incidents recorded by police; data of prosecuted and sentenced cases are not available.

The figure presented above includes 244 incidents of discrimination, defamation and public insults. These categories fall outside of the OSCE concept of hate crimes and are therefore not included in the breakdown by type of crime below.

Police recorded 739 hate crimes motivated by racism and/or xenophobia, 715 anti-Semitic incidents and 336 incidents against Muslims.

Official figures recorded 739 racist hate crimes, including 69 physical assaults, three arson attacks, 31 incidents of damage to property and 249 cases of threats. These data exclude information provided by France on cases of discrimination, defamation and public insults (58 incidents).

Official figures recorded 715 anti-Semitic hate crimes, including 31 homicides, 66 physical assaults, 109 cases of damage to property, 250 incidents of vandalism and 259 cases of threats. These data exclude information provided by France on cases of discrimination, defamation and public insults (93 incidents).

Official figures recorded 336 hate crimes motivated by anti-Muslim bias, including 29 physical assaults, 18 arson attacks, 74 cases of damage to property, 175 incidents of vandalism and 40 cases of threat. These data exclude information provided by France on cases of discrimination, defamation and public insults (93 incidents).

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<sup>2</sup> Available at <http://hatecrime.osce.org/france>.

<sup>3</sup> Available at <http://www.ladocumentationfrancaise.fr/var/storage/rapports-publics/144000199/0000.pdf>.



## National development

In the framework of the “Action Plan against Racism and Anti-Semitism 2015-2017”, a circular was published on 4 December 2015. This circular instructed prosecutors to request sentences that include an educational component as part of perpetrator's sentences.

- **Overview of incidents reported to ODIHR by civil society**

Bias Motivation	Attacks Against People		Attacks Against Property
	Violent Attacks	Threats	
Racism and xenophobia	15	3	7
Anti-Semitism	90	10	371
Bias against Muslims	49	8	67
Bias against Christians and members of other religions	8	1	107
<b>Total</b>	<b>162</b>	<b>22</b>	<b>552</b>
<b>Grand Total</b>	<b>736</b>		

### The following civil society organizations reported information on incidents to ODIHR

#### *Racism and xenophobia*

- LICRA reported 14 physical assaults, including one perpetrated by a group and one that involved the use of a knife; two threats; two incidents of damage to property; one theft and three cases of vandalism. The European Centre for Democracy Development reported one physical assault. The Anti-Defamation League (ADL) reported one threat.
- The Observatory of Christianophobia (OC) and the Holy See reported one incident of vandalism on a memorial to the victims of atrocities in Armenia.

#### *Anti-Semitism*

- The ADL also reported an incident in which 14 people were poisoned after a synagogue's lock was covered with poison; eight physical assaults, including two committed during a robbery; two threats; one case of vandalism; and one incident of damage to property targeting a Jewish library.
- The European Centre for Democracy Development reported one physical assault perpetrated with a knife, one incident of the desecration of a grave and two incidents of vandalism. The ADL and Kantor Centre reported an incident of the desecration of graves.
- The European Centre for Democracy Development, the Jewish Community Protection Service (SPCJ), the Anti-Defamation League (ADL) and the Kantor Centre reported one incident in which four people were murdered and 25 held hostage in a kosher supermarket. The SPCJ and the ADL reported one physical assault, in which a man was stabbed.
- The SPCJ also reported 66 physical assaults and 359 cases of vandalism, including 250 incidents of graffiti and 259 threats. LICRA reported 10 physical assaults, including one resulting in a miscarriage; one sexual assault; one attempted physical assault; eight threats; two incidents of burglary and four incidents of vandalism.

#### *Bias against Muslims*

- The Association against Islamophobia in France (CCIF) and the Organization Racism Islamophobia Watch (ORIW) reported one murder, one physical assault, three arson attacks, one incident of vandalism, three cases of damage to property and one case of the desecration of graves. The CCIF and ENAR reported three additional physical assaults.
- The CCIF also reported 33 physical assaults, three attempted physical assaults, five arson attacks, two attempted arson attacks, 26 incidents of vandalism, six cases of damage to property, four threats and ten incidents of the desecration of graves.
- LICRA reported one attempted murder, four physical assaults, one threat, one incident of damage to property and one case of vandalism. The ORIW also reported three physical assaults, three threats, one incident of damage to property, four cases of vandalism, two arson attacks and one attempted arson attack.

### *Bias against Christians and members of other religions*

- Jehovah's Witnesses – France reported four physical assaults; four incidents of damage to property against places of worship; 12 incidents vandalism, including nine with graffiti; two incidents of the desecration of graves; and one threat.
- The Observatory of Christianophobia (OC) reported one physical assault and 29 thefts, nine of which were also reported by the Observatory on Intolerance and Discrimination against Christians in Europe (OIDC). The OC further reported one robbery and one attempted robbery; nine incidents of damage to property; one attempted arson attack; 22 cases of vandalism, of which two were also reported on by the OIDC; nine desecrations and 12 cases of hacking targeting the websites of dioceses, parishes and catholic associations, one of which also reported on by the OIDC.
- The OIDC reported a physical attack on Christian refugees, which was carried out by a group using a knife and resulted in the death of a victim; two thefts; four incidents of vandalism; and the desecration of a grave.

### **Roma and Sinti issues**

ODIHR has a specific mandate to assist participating States in implementing the OSCE Action Plan for Improving the Situation of Roma and Sinti within the OSCE Area. The most recent Status Report on the implementation of the Action Plan was issued by ODIHR in 2013 (Status Report).

In its response to the questionnaire related to the 2013 Status Report, France listed some specific achievements with regard the improvement of situation of Roma and Sinti including development of a National Roma Integration Strategy as a main achievement.<sup>4</sup>

Like in other EU Member States “that are the most common destinations for Roma immigrants and asylum seekers”, local authorities in France have called on the central government “to introduce measures to restrict the influx of foreign-born Roma”.<sup>5</sup>

As to hate crimes and incidents against Roma, an Amnesty International briefing reported about attacks against Roma in Western European countries, including in France.<sup>6</sup>

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<sup>4</sup> OSCE/ODIHR, *Implementation of the Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area, Status Report 2013* (Warsaw: OSCE/ODIHR, 2013), p. 19.

<sup>5</sup> *Ibid.*, p. 21.

<sup>6</sup> *Ibid.*, p. 25.

Regarding anti-Roma political discourse, mainstream parties in a number of OSCE participating States, including France, have resorted to “rhetoric against Roma immigrants, increasingly categorizing them as “public security”, “public order” or “public health” risks, or linking Roma immigration to human trafficking and exploitation, especially of women and children”.<sup>7</sup>

As to housing and living conditions, since 2009, the European Committee on Social Rights has found violations of the housing rights of Roma and Travellers in France and other European countries.<sup>8</sup>

A series of reports by intergovernmental institutions, human rights NGOs and media reported on “forced evictions of Roma immigrants from unauthorized campsites from several EU Member States”.<sup>9</sup> With regard to Travellers within the European Union, including within France, the European Union Agency for Fundamental Rights (FRA) “found a lack of halting sites available, leading to Travellers being forced to reside illegally as a last resort when seeking adequate halting places to meet their needs”.<sup>10</sup>

At the same time a positive practice has been noted in a number of participating States, including France, with some projects focusing on Traveller and/or Roma communities and including “refurbishing and creating caravan sites, providing caravan dwellers with “specific accommodation” (i.e., new caravans) or offering caravan dwellers the option of moving into permanent apartments”.<sup>11</sup> Three of these projects, reported by two countries including France, “aim to create “integrated villages” or to move camp dwellers into “integrated neighbourhoods”, and are especially important as tools against segregation”.<sup>12</sup>

In its response to the questionnaire related to the 2013 Status Report, France reported the setting up of temporary “integration villages” for a number of Romanian Roma families, in Saint Denis, Aubervilliers, Saint Ouen, Bagnolet and Montreuil. It also reported that another programme provided for 40 wooden chalets to be built in Bordeaux with ERDF funds to accommodate relocated people, including Roma.

The response also indicated that “France has engaged in pilot programmes, such as one in Rhône, the “Andatu Project”, to relocate Romanian immigrants”.<sup>13</sup> France also reported that since the beginning of 2012, “20 families have been assisted by an association (Forum Réfugiés) on their way to self-sustainability through access to rights and general integration”. The initiative included services related to the provision of “temporary residence permits and assistance in finding accommodation and employment”.<sup>14</sup>

Regarding access to health-care, in its response to the questionnaire related to the 2013 Status Report, France reported “supporting awareness-raising about Roma health needs through health mediation programme”.<sup>15</sup>

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<sup>7</sup> Ibid, p. 25.

<sup>8</sup> Ibid, p. 28.

<sup>9</sup> Ibid, p. 29.

<sup>10</sup> Ibid, p. 29.

<sup>11</sup> Ibid, p. 31.

<sup>12</sup> Ibid, p. 31.

<sup>13</sup> Ibid, p. 32.

<sup>14</sup> Ibid, p. 32.

<sup>15</sup> Ibid, p. 35.

When it comes to unemployment and economic problems, it was pointed out that “the employment of Roma economic migrants in Western European destination countries has been impeded by labor restrictions”.<sup>16</sup> Nevertheless, it was stressed that in France these restrictions are being “gradually lifted” and in some cases this “has been accompanied by positive measures, for example tax breaks for companies employing Roma”, allowing for “better employment opportunities for Roma immigrants.”<sup>17</sup> Yet, the FRA 2011 survey reported “important differences between the Roma and non-Roma” surveyed, among others, in France, where “only about one out of 10 Roma aged 20 to 64 is reported as being in paid employment”.<sup>18</sup>

As to improving access to education, the FRA survey pointed that in a number of countries, including France, “at least 10% of Roma children aged 7 to 15” are identified as “not attending school, meaning that they are either still in preschool, not yet in education, skipped the year, stopped school completely or are already working”.<sup>19</sup> As to “completing any type of upper-secondary general or vocational education”, the same report concludes that in five out of 11 EU Member States, including in France, “fewer than one out of 10 Roma is reported to have completed upper-secondary education”.<sup>20</sup>

Referring to programmes including Roma school mediators or assistants, in its response to the questionnaire related to the 2013 Status Report, France stressed that “Roma school mediators were either employed by education ministries or by local authorities.”<sup>21</sup> It has been further reported that “27 Roma mediators were trained in 2011 and 30 in 2012, and that they were employed by local authorities and tasked with working with marginalized communities in the areas of education, healthcare and housing”.<sup>22</sup>

In the area of enhancing participation in public and political life, following the June 2011 EU Council Decision on the Framework for Roma National Strategies, in which the EU requested the establishment of a Point of Contact in each Member State with regard to Roma Strategy implementation, some countries, including France have “not only nominated such representatives, but have also established consultation mechanisms or working groups where there previously were none”.<sup>23</sup>

Finally, as to post-crisis situations, the Status Report, referring to the repatriation of Roma, Ashkali and Egyptians from Western Europe to their places of origin, noted that several countries, among others, France, “have signed bilateral readmission agreements and started repatriating persons there”.<sup>24</sup>

## **Country-specific ODIHR monitoring, assessment, co-operation and assistance activities (other than elections)**

### **Rule of Law**

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<sup>16</sup> Ibid, p. 38.

<sup>17</sup> Ibid, p. 38.

<sup>18</sup> Ibid, p. 38.

<sup>19</sup> Ibid, p. 45.

<sup>20</sup> Ibid, p. 45.

<sup>21</sup> Ibid, p. 47.

<sup>22</sup> Ibid, p. 48.

<sup>23</sup> Ibid, p. 51.

<sup>24</sup> Ibid, p. 57.



In October 2016, ODIHR brought international experts together to discuss the situation of fair trial rights in situations of state of emergency or state of conflict. The participants reviewed and discussed the grounds and consequences of limiting fair trial rights in several OSCE participating States including France, Turkey, the United Kingdom and Ukraine. Participants agreed that a shift has taken place in the OSCE region from a situation where authorities were expected to provide security so that people could enjoy their individual rights and freedoms, to a situation where people's rights and freedoms are being curtailed so that authorities could provide security.

**Other assessments and recommendations contained in ODIHR reports on thematic human issues**

N/A