

France

Mid-term Implementation Assessment



UPR-INFO.ORG
PROMOTING AND STRENGTHENING THE UNIVERSAL PERIODIC REVIEW



Introduction

1. Purpose of the follow-up programme

The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also more specifically to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC).

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are willing to follow and implement their commitments: civil society should monitor the implementation of the recommendations that States should implement.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be affected.

The methodology used by *UPR Info* to collect data and to calculate index is described at the end of this document.

Geneva, 2 November 2011

Follow-up Outcomes

1. Sources and results

All data are available at the following address:

<http://followup.upr-info.org/index/country/france>

We invite the reader to consult that webpage since all recommendations, all stakeholders reports and the unedited comments as well can be found at that very internet address.

18 NGOs were contacted. Both the Permanent Mission to the UN in Geneva and the State were contacted. The domestic NHRI was contacted as well.

7 NGOs responded to our enquiry. The State under Review responded to our enquiry, with a mid-term report previously submitted. The domestic NHRI did not respond to our enquiry, but provided a mid-term report, outside the standard of the Programme, though.

IRI: 7 recommendations are not implemented, 9 recommendations are partially implemented, and 20 recommendations are fully implemented. No answer was received for 0 out of 36 recommendations.

2. Index

Hereby the issues which the MIA deals with:

1 Treaty bodies	page 5	fully impl.
2 Minorities	page 5	not impl.
3 Right to education, Freedom of religion and belief,	page 6	partially impl.
4 Right to education, Freedom of religion and belief,	page 7	not impl.
5 Minorities	page 8	fully impl.
6 Torture and other CID treatment, Detention conditions,	page 8	partially impl.
7 Racial discrimination, International instruments,	page 11	not impl.
8 Migrants	page 11	not impl.
9 Treaty bodies, Torture and other CID treatment,	page 11	partially impl.
10 Asylum-seekers - refugees	page 12	not impl.
11 Migrants, International instruments,	page 13	not impl.



12 Racial discrimination, Freedom of religion and belief,	page 14	partially impl.
13 ESC rights - general	page 15	partially impl.
14 Racial discrimination	page 17	fully impl.
Treaty bodies, Racial discrimination, Human rights violations by state		
15 agents,	page 18	fully impl.
16 Racial discrimination	page 18	fully impl.
17 Minorities	page 19	partially impl.
18 Minorities	page 21	fully impl.
19 Other	page 21	fully impl.
20 Torture and other CID treatment	page 22	fully impl.
21 Counter-terrorism, Special procedures,	page 23	fully impl.
22 Justice, International instruments,	page 23	fully impl.
23 Migrants	page 24	fully impl.
24 Treaty bodies, Detention conditions,	page 24	partially impl.
25 Torture and other CID treatment	page 28	fully impl.
26 International instruments, CP rights - general,	page 28	not impl.
27 Minorities	page 29	partially impl.
28 Treaty bodies, International instruments,	page 29	fully impl.
29 Women's rights, UPR process,	page 30	fully impl.
30 Women's rights, Migrants,	page 32	fully impl.
31 Detention conditions	page 24	partially impl.
32 Women's rights, Rights of the Child,	page 32	fully impl.
33 Women's rights, Special procedures,	page 34	fully impl.
34 Rights of the Child	page 35	fully impl.
35 Migrants, Human rights education and training,	page 36	fully impl.
36 Minorities	page 36	fully impl.



3. Feedbacks on recommendations

Recommendation n°1: *Complete the domestic process in order to ratify the International Convention on the Protection of All Persons from Enforced Disappearance as soon as possible. (Recommended by Albania)*

IRI: *fully implemented*

France response:

In September 2008, France deposited its instruments of ratification relating to the International Convention for the Protection of all Persons from Enforced Disappearance, in accordance with its commitments. In addition, the process to amend French legislation to bring it into full conformity was launched in November 2009, in order to reform the relevant provisions of the Criminal Code and the Code of Criminal Procedure and to integrate the requirements of the Convention. In January 2010, France also launched a diplomatic campaign in 48 States, in conjunction with other member countries of the Group of Friends of the Convention. This campaign, which is still ongoing, aims to increase international support for the Convention and to support the ongoing national ratification processes. It should contribute to the Convention's entry into force in 2010. France also supports the action of the International Coalition against Enforced Disappearances (ICAED).

Réseau d'Alerte et d'Intervention pour les Droits de l'Homme (RAIDH) response:
Signature 6 Feb 2007. Ratification 23 Sep 2008.

Recommendation n°2: *Consider how best the specific needs of individuals belonging to minorities could be addressed in order to ensure their equal enjoyment of all human rights, as provided for in the Constitution. (Recommended by Austria)*

IRI: *not implemented*

France response:

The French authorities also refer to the response made to recommendations Nos. [5, 16, 26, 36].

CICNS response

[...] The sustained condemnation of spiritual research, repeatedly presented to the public through derogatory expressions such as 'sect' or 'cult', is perpetrated by some individuals and groups who are heading a crusade to entrench prejudice against freedom of spirituality as a whole. Criminal acts committed by a few individuals, along with a few tragic events around the world are used to justify an ongoing campaign of discrimination in France. CICNS members do not deny that when criminal acts are committed, they should be judged and punished according to law, when evidence provides the required proof. However such criminal acts should be treated for what they are, independent of the spiritual belief or associations of the perpetrators. [...]



[...] An intimidating arsenal has been put in place in terms of communication in the media, documentation, organization and legal provisions. Despite discourse offering emphasis on secular values and the respect of freedom of conscience, the French public authorities' actions against sectarian abuse are inadequate and irresponsible. We therefore propose a ten-point critical review [...].

7- A non contradictory approach without methodology - The testimony of 'victims' plays a major role in the policy adopted to combat sectarian abuse and cults in France. [...] In addition, it would have been necessary to apply a suitable methodology : Individually identify victims to assess their true number and thus verify whether a large scale public action was relevant; categorize these victims into 'true victims' and 'non-credible victims' ; in the case of true victims, qualify the crimes they were subjected to; evaluate crimes caused by individuals or those that could be attributed to a movement's doctrine; set up statistics to compare delinquency in the midst of spiritual, therapeutic, educational minorities and the rest of society to verify whether these movements constitute identifiable pockets of delinquency (an assertion implied by anti-cult proponents, which we consider unfounded). These basic tasks would have required the cooperation of independent experts with acknowledged credentials, in several fields [...]. The fact is, this basic methodological work, which would have arrived at a consensus amongst a cross-section of scientific disciplines, has not been done to date.

8- Stepping unwisely outside the field of penal law – Unlike the position held by the Ministry of the Interior [...] MIVILUDES, supported by a fraction of members of parliament, aims at instating a form of extreme precaution principle which leads to the pre-designation of groups suspected of sectarian abuse. This reasoning is probably explained by the small number of convictions pronounced against so called 'cults'. Stepping outside the field of penal law is in itself a problem. Nonetheless, in a context where it was appropriate, a great deal of care would be essential to ensure it does not lead to intolerance and judgment towards alternative choices of life , while pretending that freedom of conscience is respected and family and individual values reassured, as is currently the case in France.

RAIDH response

No progress on this part. A law has been adopted in 2011 forbidding the wearing of any clothes hiding the face of any individuals in the public arena. This law aims to target women wearing Niqab in France. The law defines a €150 fine for any offender.

Recommendation n°3: *Review the law which prohibits the wearing of clothing denoting religious affiliation in schools.* (Recommended by Bangladesh)

IRI: *partially implemented*

France response:

The Act of 15 March 2004, in application of the principle of secularism, [...] completes the corpus of general rules, listed below, guaranteeing respect of the principle of secularism.



- All clothing and symbols leading the person to be recognised by his or her religious affiliation are prohibited. The law does not question the right of pupils to wear discreet religious insignia.

- [...] The implementation of the law is first of all through dialogue, before taking any disciplinary action, in order to explain to the pupil and their family that respecting the law does not mean renouncing their beliefs. If the pupil deliberately refuses to comply with the law, disciplinary action is taken. If the disciplinary committee pronounces a pupil's expulsion order, the regional education authority, along with the pupil and his or her parents, looks into the conditions in which the student can pursue his or her studies.

Appraisal of the application of this law:

Since 2005, the law has been serenely applied: the education authorities have knowledge of just a few pupils coming to school with conspicuous religious symbols. There were no disciplinary procedures at start of the school year in 2008 and 2009. [...] In 2009, the European Court of Human Rights declared inadmissible the petitions in the cases Aktas against France (petition no. 43563/08), Bayrak against France (no. 14308/08), Gamaleddyn against France (no. 18527/08), Ghazal against France (no. 29134/08), J. Singh against France (no. 25463/08) and R. Singh against France (no 27561/08) concerning the expulsion of pupils from their school due to the wearing of conspicuous symbols of religious affiliation. The Court highlighted that these imperatives of protection of the rights and freedoms of others and the protection of public order determined the expulsion decision, and it was not an objection to the pupils' religious convictions. It confirmed that the restrictions provided for by the law dated 15 March 2004 were justified by the constitutional principle of secularism and in compliance with the safeguard of human rights and of fundamental freedoms. [...]

Mouvement International d'Apostolat des Milieux Sociaux Indépendants (MIAMSI) response:

not done not accepted.

RAIDH response:

No progress.

Recommendation n°4: *Remove the prohibition on wearing the hijab in public schools.*
(Recommended by *Canada*)

IRI: not implemented

France response:

[See recommendation n°3]

MIAMS response:

not done not accepted.

RAIDH response:

See [recommendations n°] 2. Niqab forbidden in public space now.



Recommendation n°5: *Review its position on the recognition of the rights of minorities and that it begin collecting data on the socio-economic status of the population, disaggregated by ethnic identity, confession and gender, in order to identify social problems affecting ethnic and religious minorities. (Recommended by Canada)*

IRI: *fully implemented*

France response:

Based on observations already made in 2008, France does not plan to review its position on the legal status of minorities in France. With regard to statistics, open discussion is ongoing on the measurement of diversity, inequalities and discrimination linked to origin, without going so far as to make an ethnical interpretation of society. A committee to measure diversity and assess discrimination (COMEDD) was created in 2009. The implementation of proposals from the committee's report, submitted in February 2010, is currently being examined. These proposals aim above all:

- to mobilise public statistics bodies in order to respond to the need for information on discrimination.
- to exhaustively assess practices with regard to diversity within companies.
- to implement secured frameworks for the collection and processing of data.
- to create a national observatory on discrimination that could be based on the methods identified and the tools listed (this function would be entrusted to HALDE).

Concerning the specific issue of the status of regional languages, following the adoption of Constitutional Law no. 2008-724 of 23 July 2008, on the modernisation of the institutions of the Fifth Republic, the following article was introduced into the Constitution: "Art. 75-1 – Regional languages are part of France's heritage." The constitutional principles of indivisibility of the Republic, of equality before the law and the unity of the French people as well as article 2 of the Constitution (which sets forth that "the language of the Republic shall be French") do not however allow the ratification of the European Charter for Regional or Minority Languages (cf. the preambles of decision No. 99-412 DC of the Constitutional Council of 15 June 1999).

The French authorities also refer to the response made to recommendations [16, 26, 36].

RAIDH response:

Statistics aiming to collect information on the color or the ethnic origin are forbidden, notably according to the Constitutional Nov 15 2007 court decision.

Recommendation n°6: *Avoid experiments on detainees with electric impulsion weapons provoking acute pain, which can constitute a form of torture, in penitentiaries. (Recommended by Cote d'Ivoire)*

IRI: *partially implemented*

France response:

France recalls that no experiments are carried out on detainees ("experimental" use is not a synonym for an "experiment"). In 2006, the French prison administration



determined a regulatory framework that strictly supervises the use of electroshock weapons. These regulatory instructions impose:

- use that is proportional to the risk incurred in order to respond to a physical aggression or dangerous or threatening behaviour.
- compulsory information (by warning for example) given orally by the user of the risk incurred by being exposed to an electroshock weapon.
- use that is strictly limited to neutralising the offender in order to limit repeated electrical charges.
- systematic video recording of the sessions of use, once the electroshock weapon has been charged.

In addition, since 2008, the government has pursued its efforts concerning the training of prison staff qualified to use electroshock weapons [...].

RAIDH response:

Taser devices are still authorized for specific prison staff. Taser equipment has been enlarged from national to local police officer after publication of a new decree (first canceled by the highest administrative court, Conseil d'Etat).

Observatoire international des prisons (OIP) response:

Préambule: depuis notre rapport, en mai 2010, (voir ci-dessous) le CAT a interpellé le gouvernement, " préoccupé par l'annonce faite par l'état partie de sa volonté d'expérimenter l'usage du pistolet à impulsion électrique au sein de lieux de détention ", s'inquiétant " de ce que l'usage de ces armes peut provoquer une douleur aigue, constituant une forme de torture, et que, dans certains cas, il peut même causer la mort ", ajoutant que " le Conseil d'état, dans un arrêt du 2 septembre 2009, a annulé le décret du 22 septembre 2008 autorisant son emploi par les agents de la police municipale ". En guise de réponse, le gouvernement s'est contenté de préciser que " le pistolet à impulsion électrique n'est utilisé dans les établissements pénitentiaires qu'à titre expérimental ", que " la Direction de l'administration pénitentiaire n'entend pas généraliser cet usage sans bilan approfondi " et qu'à " ce jour, l'usage limité qui en a été fait par un nombre restreint d'agents dans un cadre très restrictif n'a donné lieu à aucune blessure ". Or nos développements ci-dessous sont toujours d'actualité.

Dans le cadre d'une politique sécuritaire accrue, les dotations en armement du personnel pénitentiaire se développent [...] la loi pénitentiaire n'a pas encadré strictement le recours à la force par l'utilisation d'une arme à feu.

Selon une note publiée par le ministère de la Justice en février 2009, " les moyens destinés à éviter les évasions sont de plus en plus lourds [...], engendrent peur et paranoïa dans l'ensemble des relations." Autre fait nouveau : dans le cadre des nouvelles fonctions assumées par l'administration pénitentiaire au sein des Unités Hospitalières Sécurisées Interrégionales (UHSI), les personnels pénitentiaires sont autorisés à porter des armes létales pendant les déplacements. [...] des agents en postes à l'UHSI de Toulouse ont déploré " le décalage entre un temps nécessairement long pour l'intégration de réflexes adéquats au principe de légitime défense et le temps très court de formation dont ils ont bénéficié " [...].



[...] les prisons sont de plus en plus équipées d'armes, notamment celles qualifiées de " non létales ". [...] En 2006, deux établissements pénitentiaires ont également été choisis pour expérimenter le pistolet à impulsions électriques (PIE) de marque Taser. Informé de cela lors sa visite en France en 2006, le Comité européen de prévention de la torture (CPT) a indiqué être " plus que réticent à l'introduction d'une telle arme en détention, vu la nature particulière des fonctions assumées par le personnel pénitentiaire ". [...] L'expérimentation a pourtant ultérieurement été étendue, officiellement à deux autres établissements. L'arme est en outre en dotation au sein des Equipes régionales d'intervention et de sécurité. Au mois de mai 2006, l'ERIS de Bordeaux l'a utilisée sur un détenu de la maison d'arrêt de Mont-de-Marsan, en l'absence de tout risque pour sécurité des personnes, alors qu'elle avait été appelée parce qu'une dizaine d'occupants d'un dortoir démontraient le mobilier et les fenêtres et refusaient d'obtempérer aux personnels. [...]

L'administration invoque l'effet dissuasif qu'aurait un tel équipement. Cet argument est cependant battu en brèche par un rapport d'étude publié en 2008 par l'école nationale de l'administration pénitentiaire (ENAP) elle-même. Cette enquête conclut qu'une telle course à l'armement risque d'entraîner " une extension du champ d'application et une intensification de l'usage de la force en favorisant l'utilisation d'armes pour obtenir l'obéissance et non pas simplement pour se protéger " et " un accroissement du niveau de la violence pénitentiaire aussi bien pour les détenus que pour les personnels ". L'étude souligne que l'intervention de personnels constamment armés, comme c'est le cas des ERIS ou encore des surveillants des Unités hospitalières sécurisées " modifient le rapport du personnel de surveillance avec les armes et le cadre de leur utilisation ", entraînant " l'introduction progressive, voire la normalisation, d'une certaine culture des armes "létales et non létales" dans une profession qui ne possédait pas une telle culture " [...] Or, " le développement des outils techniques de maîtrise physique pourrait contribuer à perturber cet équilibre [...] parce que, du fait même de leur caractère visible et dissuasif, " un arsenal de neutralisation ne peut qu'accentuer l'aspect asymétrique du rapport avec les détenus au détriment de sa réciprocité ". [...]

Les dérives sont d'autant plus à craindre que le cadre légal réglementant l'utilisation de la force et des moyens de contrainte s'avère imprécis au point, selon l'enquête précitée, de justifier l'usage des "armes non létales" " à des fins de maintien de l'ordre même en l'absence du moindre danger. " La loi pénitentiaire n'a pas remédié à cette carence normative. Son article 12 énonce ainsi que les personnels " ne doivent utiliser la force, le cas échéant en faisant usage d'une arme à feu, qu'en cas de légitime défense, de tentative d'évasion ou de résistance par la violence ou par inertie physique aux ordres donnés. [...] La très large latitude laissée aux personnels ne peut être regardée comme le résultat d'une maladresse rédactionnelle mais s'avère au contraire délibérée, le gouvernement s'étant opposé à une série d'amendements tendant à définir des critères précis de l'utilisation de la force et des modalités concrètes de celle-ci.



Recommendation n°7: *Consider the possibility of withdrawing its reservations to article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination.* (Recommended by Cuba)

IRI: *not implemented*

France response:

[...]

Although the interpretative statement of article 4 was not subject to a specific review in France's last report to the CERD Committee (CERD/C/FRA/17-19, 22 May 2009), the latter takes account of evolutions and legislative prospects in freedom of the press and legislative provisions relating to the fight against racist propaganda. [...]

MIAMSI response:

At the moment, in French prisons no discrimination (racial or any kind) is reported.

RAIDH response:

Reservation to article 4 maintained.

Recommendation n°8: *Continue its efforts to protect the rights of all migrants, regardless of their situation and status.* (Recommended by Cuba)

IRI: *not implemented*

France response:

The French authorities also refer to the response to recommendation No. [11].

RAIDH response:

No progress. Quantitative objective to expel 28 000 illegal migrants renewed by French Minister of the Interior. Quantitative objective to dismantle 300 roma camps in France.

Recommendation n°9: *Adopt further measures, with reference to the principle of non-refoulement, to ensure granting possible requests of the Committee against Torture for interim measures in individual cases aimed at preventing the breach of provisions of the Convention against Torture.* (Recommended by Czech Republic)

IRI: *partially implemented*

France response:

France has a range of legislative measures guaranteeing the respect of the principle set out in particular in article 3 of the UN Convention Against Torture, according to which no foreigner can be expelled to another State where he would be in danger of being subjected to torture. First of all, the risks incurred in the case of return can be raised as part of an examination for an asylum application.

[...] Bearing witness to this fact is in particular the number of asylum applications presented in France in 2009, i.e. 47,559, our country running for the second year in first position among European countries and in third position among industrialised countries after the US and Canada [...] the number of persons having obtained refugee or subsidiary protection status during this same year, i.e. 10,394 (almost 30% of decisions are positive), [...]



An asylum application can be lodged at the border or at any time on national territory, including when a foreign national is in the process of expulsion. All asylum applications are examined in reference to the Geneva Convention on Refugees as well as with regard to subsidiary protection, introduced into legislation by the Act of 20 November 2003 [...] Examination of the asylum application comes under the exclusive competence of OFPRA, an independent and specialised public establishment, which intervenes on a case-by-case basis. [...] If an asylum application made within French territory has been rejected by OFPRA, an appeal can be made before a specialised judicial body, the National Right of Asylum Court (CNDA) [...]. [T]he refusal decision by OFPRA does not lead to the automatic expulsion of the foreigner and that this is the result of a separate decision made by the administrative authority [...]

[...] in application of the Code on the Entry and Stay of Foreigners and the Right to Asylum (CESEDA), “A foreigner cannot be expelled to a country if he can establish that his life or freedom would be threatened there [...] or that he is in danger of being subjected to treatment that is contrary to the stipulations of article 3 of the Convention for the Safeguard of Human Rights and Fundamental Freedoms [...].

[...]

Concerning the protection of isolated minors:

While respecting the principle of non-return that is guaranteed in particular by article 3 of the Convention Against Torture, no isolated minor who requests his admission into France and for which an examination reveals that he would be exposed to treatment contrary to the aforesaid convention in the case of return to his country of origin, will be returned to that country. In this case, the minor will be directed towards a specially-dedicated shelter and no admission measures will leave him isolated and without protection on French territory. In the case where the need for protection in France is not established, the French authorities ensure that the minor is indeed recovered by his family in his country of origin, under the necessary security conditions. In this respect, we would like to specify that the border police contact the International Technical Police Cooperation Department in order to obtain authorisation from the host country and to allow for the minor to be looked after either by his family or by an institution in charge of protecting children. Verifications are carried out on the protection guarantees that will be given to the minor.

RAIDH response:

No progress indentified.

Recommendation n°10: *Execute the procedures for family reunification of recognized refugees with utmost speed to ensure the protection of family life of the persons concerned.* (Recommended by *Czech Republic*)

IRI: not implemented

France response:

[...] French authorities continue to make efforts to reduce the time frame to examine applications from refugees' family members.



Since August 2009, reform is ongoing in this area: It concerns both simplifying the steps to be taken by refugees, improving information given to them and taking account of difficulties facing families in the country of origin, in particular in providing official documents and records relating to civil status.

[...] In the case where the issuance of a visa is refused by the consular post, a notification explaining the reason for refusal is given. This refusal can be challenged at the Recourse Committee Against Visa Refusal (CRRV).

RAIDH response:

No progress indentified.

Recommendation n°11: *Accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.* (Recommended by Egypt)

IRI: not implemented

France response:

In accordance with the commitments made, open discussions relating to possible accession to the Convention have been ongoing since 2008.

At a national level, exchanges have taken place within the National Consultative Commission on Human Rights (CNCDH), notably with the audience of the Minister for Immigration, Integration, National Identity and Mutually-Supportive Development on 19 November 2009. On this occasion, and if the Commission's consolidated position is favourable to ratification, the government could present its assessment of the obstacles - technical, legal and also of principle - to France's ratification of the Convention. The question is raised on the added value of the Convention in relation to commitments made by France concerning respect for human rights and migrants' rights, [...].

At a European level, informal exchanges have taken place, at the initiative of the European Commission (the Immigration and Asylum Committee of 16 March 2010) on the basis of its questionnaire to the Member States on the accession of EU Member States to this Convention. With the exception of one Member State, all Member States are opposed to the ratification of the Convention. [...]

[...] Nevertheless, the protections guaranteed continue to evolve: The directive of the European Parliament and of the Council of 18 June 2009 thus sets out minimum standards on sanctions and measures against employers of illegally staying third-country nationals. The bill transposing this directive, which modifies the Code on the Entry and Stay of Foreigners and the Right to Asylum as well as the Labour Code, in the part relating to illegal employment, will also increase the protection of foreigners without a residence permit by improving the information to which they are entitled and by guaranteeing their remuneration, including in the case of a forced return to their country of origin.



Défense des Enfants International (DEI) response:

DEI-France note que, si la garantie d'accès aux soins médicaux et à la scolarisation des enfants est bien inscrite dans la loi, de plus en plus de cas de refus de scolarisation ou de carence d'accès aux soins sont observés sur le terrain pour des enfants dont la situation des parents migrants est très précaire. Il s'agit notamment d'enfants des camps Roms ou d'enfants logés avec leur famille dans des « hôtels sociaux » et amenés à déménager souvent.

La remarque sur l'absence de distinction entre travailleurs migrants en situation régulière et ceux en situation irrégulière pour l'octroi de droits prouve bien une volonté de différenciation. Or s'agissant des enfants, il y a lieu de rappeler que l'article 2 de la CIDE interdit toute discrimination dans la mise en œuvre des droits fondamentaux des enfants selon la situation des parents.

En complément sur cette partie relative aux instruments juridiques des Nations Unies, on peut faire la remarque à l'Etat [...] que toute nouvelle loi votée par le parlement devrait faire l'objet d'un examen pour s'assurer de sa conformité aux traités internationaux ratifiés par la France. Plusieurs lois, notamment en matière pénale, ont récemment été promulguées alors qu'elles semblent contraires aux exigences de la CIDE.

Recommendation n°12: *Adopt a law banning incitement to religious and racial hatred.*
(Recommended by *Egypt*)

IRI: partially implemented

France response:

Today, France has a reinforced legislative framework to effectively prevent and sanction incitement to religious or racial hatred. This includes: aggravated sentences for slander and libel due to origin, or racial or religious membership [...] In this respect, France is regularly named as an example by the Organization for Security and Co-operation in Europe (OSCE) to illustrate its best practices with regard to combating hate crime, a generic term that covers racist crimes.

For additional information on the range of legislative measures and more generally on France's criminal policy on this subject, it is useful to refer to France's national report submitted to the CERD Committee in 2009 and well as the follow-up report on recommendations by the Special Rapporteur on freedom of religion or belief. [...]

CICNS response:

[...] The sustained condemnation of spiritual research, repeatedly presented to the public through derogatory expressions such as 'sect' or 'cult', is perpetrated by some individuals and groups who are heading a crusade to entrench prejudice against freedom of spirituality as a whole. Criminal acts committed by a few individuals, along with a few tragic events around the world are used to justify an ongoing campaign of discrimination in France. CICNS members do not deny that when criminal acts are committed, they should be judged and punished according to law, when evidence provides the required proof. However such criminal acts should be treated for what they are, independent of the spiritual belief or associations of the perpetrators. [...]



[...] An intimidating arsenal has been put in place in terms of communication in the media, documentation, organization and legal provisions. Despite discourse offering emphasis on secular values and the respect of freedom of conscience, the French public authorities' actions against sectarian abuse are inadequate and irresponsible. We therefore propose a ten-point critical review [...].

3- Rumours and unfounded data - The anti-cult discourse in general or issued by MIVILUDES, mainly focuses around fears which have been generated around so-called 'cults' over three decades. This fear is fuelled using data that does not rely on solid research methodology [...] we draw your attention to statements including "500 000 persons are caught in a sectarian environment" , "this endemic evil", that "80 000 children (...) are directly threatened by sectarian abuse" , and the notion that France would now harbour 500 cults [...] . The media indulgently relay these figures with little or no critical thinking and the general public, caught in an artificially created state of anxiety, doesn't seek proof, rather, seeks to be reassured.

4- [...] the vote of About-Picard law in France, a bill unwisely penalizing a crime of 'psychological subjection' and targeting specifically so-called 'cults' despite its final formulation, is a matter of great concern; The invocation of complex concepts caricatured in the extreme in the communication performed by MIVILUDES , anti-cult associations or the media is misinformation.

5- Irrelevant criteria for classification of sectarian abuse - Together with the 'mental manipulation' concept, the other criteria used to determine sectarian abuse could in fact be applied to almost any group found in humanity. Use of these criteria is an attempt to impede the enforcement of common-law with so-called 'cults' .

10- MIVILUDES repository for cultic groups – MIVILUDES announced the release of its new repository. Initially meant to be widely published, it will not be so, as a result of the Ministry of the Interior intervention towards the Prime Minister. [...]. Considering the prevailing French climate around so called 'cults', this repository, indexing more than 500 movements and organizations, is equivalent to a list of proscription, as was (and still is) the parliamentary list of cults of 1996, which was severely criticized. Though without legal value, this latter list has been regularly used by authorities and is systematically referenced in the media, without being contestable in courts of law. Will the repository be contestable in courts of law? [...]

Recommendation n°13: Adopt programmes and specific measures to ensure the protection of economic, social and cultural rights of all components of society. (Recommended by Egypt)

IRI: partially implemented

France response:

In order to reinforce the protection and effectiveness of economic, social and cultural rights, France is strongly committed to combating poverty and exclusion, especially through:

- The adoption of quantified poverty reduction objectives (one third in 5 years) [...]



- The generalisation of the active solidarity income (RSA) in June 2009 after an experimental phase launched in 2007, which aims to simplify aid granted to the most deprived and introduces an incentive-based approach to social welfare granted to persons with low income. [...] In the long term, some 3.1 million households could receive the RSA, 1.7 of which are new beneficiaries. In addition, the plan "Action for Youth" has extended access for young people under 25 to the RSA, under certain conditions. A budget of €250 million will be released in 2010 to implement these choices.
- The development of concrete sectoral partnerships: as part of a national strategy for 2009-2012 to take charge of homeless or badly accommodated persons, [...]
- Efforts to implement the enforceable right to housing resulting from Act No. 2007-290.

Among the sectoral initiatives, one could also mention efforts to strengthen childcare mechanisms with the planned creation of 200,000 extra places by 2012 [...].

At an international level, France is committed to adopting the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, so that all recognised rights can be the subject of individual communications. The authorisation process with a view to signing is in progress. (cf. response to corresponding voluntary commitment). France supports and actively contributes to the process of the UN's adoption of guiding principles on extreme poverty and human rights, with a rights-based approach (the independent expert was invited to France in January 2010).

[...]

Défense des Enfants International (DEI) response:

Si le RSA n'a pas réellement atteint son objectif de retour à l'emploi des personnes concernées, il a cependant permis de sortir de la pauvreté un certain nombre de foyers. Il s'avère cependant que beaucoup de personnes qui y auraient droit n'en bénéficient pas faute de connaissance de leurs droits.

Le droit opposable au logement reste difficile à utiliser et donc peu utilisé.

Quant aux 200 000 places supplémentaires en crèches, il s'agit là d'une mesure trompeuse puisqu'elle résulte en fait pour beaucoup de l'assouplissement des normes d'encadrement de la petite enfance dans les accueils collectifs et de l'augmentation du nombre d'enfants maximal pour les agréments des assistantes maternelles à leur domicile. La qualité de l'accueil (car il faut réfuter le terme de « garde ») des enfants risque de s'en ressentir.

DEI-France rappelle que dans sa communication pour l'EPU, elle avait identifié comme l'un des enjeux majeurs le développement d'un service public d'accueil de la petite enfance [...].



Recommendation n°14: *Consider its commitment in line with paragraph 101 of the Durban Declaration when addressing questions with respect to legislation and studies on colonialism and the slave trade, in particular with respect to overseas territories. (Recommended by Egypt)*

IRI: *fully implemented*

France response:

France is one of the first States in the world to have declared the slave trade and slavery as “crimes against humanity” under the Act of 21 May 2001. This legislative act concerning the recognition of the slave trade and the annual commemoration of the abolition of slavery was completed by the adoption of Act No. 2005-158 on national recognition of the positive contribution of French repatriates.

With regard to the adoption of school programmes:

France continues the action begun in 2001 to systematically integrate at all levels of teaching the issues of the slave trade, slavery, colonisation and abolition, and progress towards decolonisation with the integration of new programmes in 2009. The circular “Remembrance of the Slave Trade, Slavery and their Abolition” (19 February 2009) highlights the fact that the “acquisition of indispensable knowledge to fully understand the slave trade, slavery and their abolition is part of the school's educational mission.”

Every year, a note from the General Directorate for Education reminds rectors, regional directors of education and teachers of the two main dates that are pivotal in raising awareness among school-goers of the history of the slave trade, slavery and their abolition. These dates are 2 December (International Day for the Abolition of Slavery) and 10 May (National Day for the Remembrance of the Slave Trade, Slavery and their Abolition, established in 2006).

New material is available to teachers (works on the teaching of the slave trade, documentation, etc.).

With regard to actions of commemoration and awareness-raising:

Shared remembrance work is being carried out and historic knowledge continues to improve, particularly under the impetus of the Slavery Memorial Committee (CPMHE), which now has an interministerial general secretariat. The number of events, encounters, debates, exhibitions and commemorations organised on 10 May and around this date continues to increase each year. In 2009, the official national ceremony was held in Bordeaux in the presence of the Minister for State, Minister for the Interior, Overseas France and Local Authorities.

With regard to support for research:

The State supports the International Centre for Research on Slavery (CIRES). Within the framework of the Overseas General Assembly, actions to preserve, restore and digitalize different stocks of archives will be launched in order to respond to the demand for accessibility, preservation and enhancement of oral, written and audiovisual recollection.



Recommendation n°15: *Implement the recommendation of the Committee on the Elimination of Racial Discrimination to take all preventive measures to put an end to racist incidents involving members of security forces or other public officials. (Recommended by Guatemala)*

IRI: *fully implemented*

France response:

Judicial procedures relating to offences committed by the police forces while exercising their functions are being closely monitored by the Central Administration of the Ministry of Justice, at several levels [...]. For this purpose, the Ministry of Justice examines and draws all the necessary conclusions from the opinions and recommendations given to it by the National Commission on Security Ethics (CNDS), an administrative and independent authority. [...]

The practical guides to combat discrimination [...] are used as part of the basic and in-service training of police officers and gendarmes. [...]
[...]

DEI response:

La CNDS, dont DEI-France a souligné l'excellent travail à maintes reprises, notamment à l'occasion d'un récent rapport sur les relations entre la police et les jeunes, vient elle aussi d'être regroupée dans le Défenseur des droits, avec une perte d'indépendance et de compétence évidente.

Recommendation n°16: *Intensify its struggle against racism. (Recommended by Guatemala)*

IRI: *fully implemented*

France response:

With regard to the institutional response:

In January 2010 a préfet was appointed to coordinate the fight against racism and anti-Semitism. He will become the permanent and privileged discussion partner for the different representative bodies concerned. His responsibility is to make proposals in liaison with the competent authorities and in relation with the representatives of communities facing these acts as well as with associations, in order to increase statistical knowledge and to take new measures to prevent and suppress racist and anti-Semitic violence. The intensified struggle against racism is also supported by the Interministerial Committee to Fight Racism and Anti-Semitism (CILRA), which meets regularly in order to ensure that its actions are consistent.

With regard to educational and awareness-raising actions:

Action plans to combat racism, anti-Semitism and xenophobia are defined and led in the French departments by the Committees on Equal Opportunities for Men and Women (COPEC). Under the joint presidency of the préfet, COPEC brings together the Public Prosecutor and the regional director of education [...]. Their actions include organising days against racism in schools, developing non-discrimination charters (for example access to private accommodation in conjunction with estate agents, or within sports clubs).



With regard to schools:

Instructions as to the rules of procedure of educational establishments make the refusal of discrimination and the fight against violence a priority. [...] Seminars and training courses aimed at national education executives help regional education authorities to determine actions that will help to combat discrimination and take better account of diversity to ensure equal opportunities. Every year events are held in addition to classes to commemorate 21 March (International Day for the Elimination of Racism and National Week for the Elimination of Racism).

From a criminal point of view, important complementary legislative provisions have been adopted in recent years with regard to combating incitement to religious or racial hatred and racism. (cf. CERD report 2009)

[...] The French authorities also refer to the response to recommendation No. [12] and to voluntary commitment[s].

DEI response:

Il y a lieu de vérifier là aussi que le nouveau Défenseur des droits reprendra dans ses priorités ces actions de formation et de promotion du droit à la non discrimination.

Par ailleurs, on peut s'interroger sur le bénéfice à organiser des journées de sensibilisation dans les établissements scolaires alors que des responsables politiques au plus haut niveau de l'Etat donnent à entendre des propos tellement stigmatisants pour certaines catégories de population – les Roms en particulier et plus généralement les étrangers en situation irrégulière – qu'ils ne peuvent que susciter des réactions de rejet et de discrimination vis à vis de ces catégories.

MIAMS/ response:

we agree and this is done especially in the frame of prisons.

Recommendation n°17: *Actively consider reviewing its position on minorities by recognizing and protecting them as minority groups. (Recommended by India)*

IRI: partially implemented

France response:

[see recommendation 5]

CICNS response:

[...] The sustained condemnation of spiritual research, repeatedly presented to the public through derogatory expressions such as 'sect' or 'cult', is perpetrated by some individuals and groups who are heading a crusade to entrench prejudice against freedom of spirituality as a whole. Criminal acts committed by a few individuals, along with a few tragic events around the world are used to justify an ongoing campaign of discrimination in France. CICNS members do not deny that when criminal acts are committed, they should be judged and punished according to law, when evidence provides the required proof. However such criminal acts should be treated for what they are, independent of the spiritual belief or associations of the perpetrators. [...]



[...] An intimidating arsenal has been put in place in terms of communication in the media, documentation, organization and legal provisions. Despite discourse offering emphasis on secular values and the respect of freedom of conscience, the French public authorities' actions against sectarian abuse are inadequate and irresponsible. We therefore propose a ten-point critical review [...].

1- A purposely ambiguous stance - The commitment of French authorities in 2002, to switch from combating cults to combating sectarian abuse, in particular with the creation of MIVILUDES, has not been upheld, mainly because some anti-cult proponents didn't mean to: "We (...) study cults for some time now, most of us, here, in order to preserve individual and collective liberties" ; and because the groups in which sectarian abuse is supposed to occur are systematically labeled as 'cults' thus generating a great deal of confusion in the media (making use, without hindsight, of the fear generated around 'cults'), among the public and even among members of the French parliament or government representatives . Using synonyms of the word 'cult', such as 'cultic group', 'group with cultic characteristics', 'group with sectarian abuse' towards movements which have been consistently called 'cults' for years, is but another hypocrisy.

2- Deleterious terminology - The term 'cult' ('sect') has acquired a pronounced pejorative meaning in France. It is synonymous with 'criminal group'. It is an insulting expression which aggregates in the public view, the crimes and offences that make the headlines (pedophilia, fraud, collective suicides and so on). [...] It is worth noting that the anti-cult terminology has spread to all segments of society in France, especially in the political arena , thus increasing its disparaging effect.

6- The spirit of 'laicity' disregarded - Referring to legal means available with regard to sectarian abuse, the 2007 MIVILUDES annual report states: "It is absolutely essential to refer to the doctrine of the movement and to integrate it in the enquiry because it contains in a systematic way, the ideology that urges to or leads to the violation of law". As part of the 1905 law of separation between Church and State, the latter and its services do not recognize any cult and should therefore not evaluate beliefs. [...]

9- Perpetuation of discrimination - If the transition from 'combat against cults' to 'combat against sectarian abuse' had been effective, one objective for MIVILUDES would have been to ensure that discrimination towards spiritual, therapeutic and educational minorities ended. It would have been necessary to assess the damage caused by the previous policy aimed at cults (1996, 1999, 2007 parliamentary reports, the impact of MILS, the predecessor of MIVILUDES) with qualitative and quantitative analysis; it would have been necessary to confirm from the groups arbitrarily qualified as 'dangerous cults' that the people involved no longer suffered in their professional, social or private life from having made alternative spiritual choices. In fact, the opposite has taken place



Recommendation n°18: *Actively consider undertaking more aggressive strategies to increase the number of people with immigrant heritage in the public service, particularly the police, civil service and the judiciary, in order to better reflect the broad diversity within France. (Recommended by India)*

IRI: *fully implemented*

France response:

Since 2008, France has pursued an approach of openness and promotion of equality and social diversity in the public service. This can be seen in particular by the signing of the Charter for the Promotion of Equality in the Public Service [...].

The Ministry of Interior [...] had a survey carried out among 20,000 agents [...], in order to better comprehend from a statistical point of view the diversity of the personnel recruited, and to examine whether or not there is discrimination in career prospects in relation to origin or gender.

A seal of approval entitled “Promotion of Diversity – Human Resources Policy for the Prevention of Discrimination” was also put in place in September 2008 for the private sector and has just been extended to the public sector.

With regard to recruitment in the public service, the following is also being pursued:

- The development of adapted recruitment channels, since 2006, through the PACTE programme (access to careers in the civil service of local governments, public hospitals and the State) and without competitive entry exams (since 2007).
- The development of specific support to prepare competitive entry exams and other exams with the “Patronage for the civil service” mechanism with the availability of benefits and integrated preparatory classes.
- Recruitment (without a competitive / selective entry exam) into the national police force of security assistants and security assistants receiving additional training in order to become police constables, and into the national gendarmerie of assistant voluntary gendarmes, in order to allow access to young people from all backgrounds to the police force and the gendarmerie.

Actions are also being carried out in specific sectors, such as the public audiovisual sector. At the request of the Parliament, HALDE drafted a report on the policies aimed at combating discrimination and at better reflecting the diversity of French society in this sector (submitted to the Parliament at the end of 2009). It gives recommendations to programme companies and to supervisory authorities, and it offers its methodological support, particularly for the implementation of an assessment grid, which could be relevant for the entire audiovisual sector, both private and public.

Recommendation n°19: *Finalize all outstanding cases of discrimination that have occurred since 2006. (Recommended by Indonesia)*

IRI: *fully implemented*

France response:

[see recommendation 36]



Recommendation n°20: *Set up an independent commission to monitor and identify cases of torture and ill-treatment perpetrated by law enforcement officials. (Recommended by Indonesia)*

IRI: *fully implemented*

France response:

In addition to observations made at the Human Rights Council in 2008, different initiatives bear witness to the concrete efforts aimed at ensuring that the action of law enforcement agencies is respectful of human rights and at preventing any violation.

- The implementation in large French cities and the greater Paris region of the increased operational night-time presence of superintendents and police officers, in order to improve management and the command of officers in the field.
- The implementation of a mechanism (steered by the Office of the Inspector General of the National Police) of unexpected checks in police services, particularly intended to determine the treatment of plaintiffs and the conditions in which people are detained.
- Periodic reminders of the conditions for the use of force by police officers (i.e. the circulation on 8 October 2008 of a note from the Head of the Office of the Inspector General of the National Police).
- The drafting of the Gendarme's Charter in September 2009 (as a complement to the law relating to the National Gendarmerie of 3 August 2009), which reiterates the basic common reference values
- The creation in December 2009 of the Office of the Inspector General of the National Gendarmerie (IGGN), in charge of ensuring that instructions from the Minister for the Interior and the Director General of the National Gendarmerie are implemented, of carrying out inspection missions and of undertaking or producing all useful studies or recommendations while referring to the code of ethics.
- The establishment of a procedure (piloted by the IGGN) of unexpected inspections of the reception conditions of plaintiffs in regional units such as custody premises, and checks relating to the respect of these persons' rights.
- The circulation of a best practices guide, since 2009, aiming to facilitate the intervention of the doctor in custody circumstances.

Lastly, since July 2008, the Constitution sets forth the creation of a Human Rights Defender, in charge of ensuring that administrations respect rights and freedoms. The implementation aims to raise coherence and visibility of the institutional entity in charge of protecting rights and freedoms.

A bill is currently being examined by the Parliament and should determine more precisely its status and its missions. It is already planned that it will have reinforced powers and means of action in relation to the structures that it will be called on to replace (the French Ombudsman, the National Commission on Security Ethics and the Ombudsperson for Children).

The Human Rights Defender can automatically take responsibility or be consulted free of charge and directly by any person who feels that they have been wronged in relation to their rights and freedoms by an administration or by parliamentarians.

DEI response:

La loi organique sur le Défenseur des droits est maintenant définitivement adoptée, le Défenseur nommé ainsi que ses adjoints en charge des droits de l'enfant, de la déontologie de la sécurité et de la lutte contre les discriminations.

On peut regretter que le mode de nomination du Défenseur ne permette pas d'apporter la garantie de son indépendance vis à vis du pouvoir politique. Par ailleurs, vu l'étendue et la diversité de ses missions, il est probable que sa visibilité, son efficacité et sa réactivité en seront affectées par rapport aux institutions autonomes qu'il remplace.

Il est heureux que le contrôleur général des lieux de privation de liberté n'ait pas été regroupé dans le Défenseur des droits mais il semble qu'il n'ait échappé à l'absorption qu'en raison de sa création très récente.

Il y a lieu aussi d'interroger la France sur les consignes données à la police en matière d'utilisation d'armes telles que le flash ball dans des rassemblements d'enfants, plusieurs accidents ayant été déplorés suite à une utilisation abusive et sans formation préalable dans des manifestations de lycéens.

Recommendation n°21: Respond to the communication by the Special Rapporteur on the protection of human rights while countering terrorism dated 26 April 2006. (Recommended by Mexico)

IRI: fully implemented

France response:

France has fully followed up on the Special Rapporteur's communication in June 2008 and to the questions relating to the following areas: anti-terrorist legislation; the interpretation of the offence of publicly defending the crimes of terrorism set out in article 24.6 of the law on freedom of the press; custody and temporary detention; the launching of the "special procedure" linked to terrorism offences; resorting to video surveillance and the possibilities of monitoring electronic exchanges and the automatised processing of data of a personal nature; the implementation of a system to indemnify personal injury suffered by victims of terrorist acts and of the guarantee fund for victims of terrorist acts and other offences.

[...]

Recommendation n°22: Withdraw the declaration under article 124 of the Rome Statute of the International Criminal Court. (Recommended by Mexico)

IRI: fully implemented

France response:

In accordance with the commitments made, the French declaration under article 124 of the Rome Statute of the International Criminal Court concerning the competence of the ICC in judging crimes mentioned in article 8, was officially withdrawn with notification to the UN Secretary-General, Depositary of the Statute, on 13 August 2008. This withdrawal took effect on 15 June 2009, in accordance with the notification of the withdrawal submitted by the French Government.



In addition, the government has tabled a bill to adapt criminal law to the institution of the International Criminal Court, which is being examined by the Parliament.

Recommendation n°23: Give central attention to the consideration of human rights in the elaboration of a European Pact on Migration and to ensure that in its implementation all human rights are guaranteed for migrants regardless of their status. (Recommended by Mexico)

IRI: *fully implemented*

France response:

The European Council of 15 and 16 October 2008 adopted the European Pact on Immigration and Asylum, a political initiative by the French Presidency of the European Union. This document was designed to be the lasting base of a common European policy, by consolidating the *acquis* and by developing their effects in a more harmonious and solidarity-based way. With this in mind, heads of State and Government subscribed to five commitments, they themselves redefined into specific commitments:

1. To organise legal immigration to take account of the priorities, needs and reception capacities determined by each Member State, and to encourage integration;
2. To control illegal immigration, especially by ensuring the return of irregular aliens to their country of origin or of transit;
3. To make border controls more effective;
- 4; To build a Europe of Asylum;
5. To create a comprehensive partnership with the countries of origin and transit to encourage the synergy between migration and development.

These commitments are in keeping with the full respect of the norms of international law, in particular norms relating to human rights, human dignity and refugees. This is the case of the preamble of the European Pact: "In line with the values that have consistently informed the European project and the policies implemented, the European Council solemnly reaffirms that migration and asylum policies must comply with the norms of international law, particularly those that concern human rights, human dignity and refugees." These commitments were reiterated in the new multi-annual programme for the years 2010-2014, adopted by the European Council in Stockholm on 10 and 11 December 2009, which takes over from The Hague Programme since 1 January 2010.

Recommendation n°24: Report back to the Human Rights Council about further concrete measures taken with regard to the improvement of prison conditions according to international standards, and that the recommendations of the different treaty bodies in this regard be implemented as soon as possible. (Recommended by Netherlands)

IRI: *partially implemented*

+

Recommendation n°31: Take additional measures, if not already taken, to reduce the time frame for the process of improving conditions in places of detention. (Recommended by Sweden)

IRI: *partially implemented*



France response:

For several years now, France has been making numerous efforts with a view to improving prison conditions. These efforts are mainly based on the implementation of the European Prison Rules, and now have a legal basis due to the Prison Act of 24 November 2009. Article 22 of the Prison Act stipulates that the prison administration guarantees the respect of dignity and rights to all persons detained. [...]

Prison law maintains the principle of individual cells, reaffirms the public prison service's mission of social integration (articles 12 and 13); extends the criteria for the granting of alternative sentences (placing of prisoners under electronic surveillance); relegates to a legislative level the principle of maintaining family life and provides concrete measures in order to do so (telephone access – article 39, access to family life units and family visiting rooms, increased protection of confidentiality concerning written correspondence); sets out the possibility of domiciliation within prison establishments in order to facilitate real access to rights (article 30); develops social protection of detainees (supervision of working conditions and remuneration); recalls the principles with regard to continuity and quality of access to healthcare); aims to take into account the psychological state of detainees (article 46); organises detention and the supervision of restraint measures (discipline, isolation procedures). [...]

As a complement to legislative reforms, work to improve detention conditions builds on recommendations from competent independent public institutions:

- Advice and studies from the National Consultative Commission on Human Rights (CNCDH) on the prison bill (November 2008) and on the alternatives to detention (December 2008).

[...]

- Visit reports by the Controller General of Places of Deprivation of Liberty – CGLPL (60 visits since 2008, 30 reports) are systematically followed up on all the issues raised, and if necessary, lead to regulatory modifications, as well as a change in practices. Follow-up of the implementation of CGLPL observations, established in 2009, indicates that 80% of the observations to be implemented were said to have been done so in 2009 (2010 analysis is currently ongoing).

Over 90% of detainees (i.e. 58,770) can today meet a representative of the Médiateur (149 representatives regularly intervene in 164 prison sites, as opposed to 117 in 2008, for 3,500 requests in 2009). In most prisons, a real momentum has been created and the quality of relations between representatives, prison directors and those in charge of prison services for social integration and probation leads to the resolution of most issues raised, including those concerning prisoner relations with public services other than the prison administration.

France is currently making efforts in order to modernise and expand its prison stock. These efforts include quantified annual objectives from 2010 to 2013 and beyond, with regard to the closing of spaces in non-compliant establishments (2010: 687, 2011: 0, 2012: 687, 2013: 0, subsequently: 363) and other operations (minors' quarters, increasing capacity, UHSIs [interregional secured hospital units], UHSAs



[specially adapted hospital units], 2010: 703, 2011: 200, 2012: 260, 2013: 0) for a net number of additional places subsequently (2010: 2,487), 2011: 1,976, 2012: 937, 2013: 880 and subsequently: 1,583). At the end of Programme 13 200, there will be 63,500 places, approximately 34,000 of which were put into service after 1990.

Some additional information on the training of prison staff:

The teaching of human rights is particularly important in the training of prison staff. Defence of human rights implies knowing them and understanding them in order to better respect them and to ensure that people under the charge of the prison administration do the same. [...] Furthermore, prison law has created a code of ethics [...]. This code sets the rules imposed on them in the exercise of their functions, and mainly concerns principles of loyalty, respect of fundamental rights of the person in the hands of justice and non-discrimination.

The relationship between prison staff and inmates has considerably improved in relation to the missions entrusted to the staff [...] [I]nterregional directors of prison services have been requested to pay particular attention and ensure that the main guidelines governing the missions of prison administration personnel are already applied, and to ensure that all personnel are already aware of the importance of complying with these principles. Complementary statistical information concerning disciplinary sanctions: in 2009, 262 disciplinary sanctions were taken against prison staff, 11 of which were for incorrection, violence and insults. Ten of these 262 sanctions led to a dismissal.

DEI response:

Concernant les enfants, si la création des EPM (établissements pénitentiaires pour mineurs) a apporté des conditions matérielles de détention meilleures que dans les quartiers mineurs, il faut cependant remarquer :

- que tous les quartiers mineurs vétustes qui devaient être fermés ne l'ont pas été (la stratégie actuelle étant plus d'accroître la capacité d'enfermement des enfants)
- que le maintien du lien de l'enfant avec sa famille est rendu plus difficile par l'éloignement des EPM
- que le démarrage à marche forcée des EPM sur un principe de prise en charge occupationnelle des jeunes s'est déjà heurté à des difficultés majeures (suicides, grèves de personnels, rébellion des jeunes détenus) montrant les limites du projet éducatif qui les sous-tend.

Concernant les CEF (centres éducatifs fermés pour mineurs) DEI-France pense que la légalité de la privation physique de liberté en ces lieux en dehors de tout encadrement légal reste encore à démontrer.

Le contrôleur général des lieux de privation de liberté a aussi constaté que dans certains CEF les modalités de contact avec la famille étaient modifiées en fonction du comportement des jeunes. Il a recommandé que le maintien des liens familiaux ne devait pas être assujéti à un système de récompense ou de sanction [...]

Par ailleurs, les avis des institutions indépendantes de défense des droits sont loin d'être toujours entendus; ainsi on notera que la Défenseure des enfants et le contrôleur des lieux de privation de liberté ont tous deux pris position pour l'assignation à résidence des familles dans l'attente d'une procédure de reconduite à



la frontière et contre l'enfermement d'enfants avec leurs parents dans les CRA (centres de rétention administrative). Pour autant ces situations se multiplient.

MIAMSI response:

In the new prison buildings, the carceral conditions are really improved. But the building of new prisons is not enough rapid.

OIP response:

L'adoption de la loi du 24 novembre 2009, dite " loi pénitentiaire ", est incontestablement un fait marquant de l'année passée, qui clôt un processus engagé en mars 2000 avec la publication du rapport de la Commission Canivet affirmant la nécessité " dans la prison comme à l'extérieur ", que " les rapports de contrainte entre le citoyen et l'autorité publique " soient " fixés par la loi ". En ajoutant " L'Etat de droit suppose, à l'intérieur des prisons, l'application des règles ordinaires et, en même temps, une nouvelle structuration des rapports humains et sociaux qui leur sont spécifiques. C'est donc à une reconstruction juridique de cette société carcérale qu'il faut s'attacher ". [...] un ensemble d'organisations représentatives des milieux carcéral et judiciaire ont organisé une vaste consultation individuelle de tous les acteurs de terrain [...] puis transformé cette prise de parole en propositions de réforme.

Le texte adopté n'a malheureusement pas opéré le renversement de perspective attendu, pas plus qu'il ne peut prétendre respecter la lettre et l'esprit des Règles pénitentiaires européennes (RPE) adoptées le 11 janvier 2006 par le conseil des ministres du Conseil de l'Europe. En effet, comme le souligne la spécialiste du droit pénitentiaire, Martine Herzog-Evans, la loi pénitentiaire s'avère " bien en deçà de la commande qui était faite : entre autres, de mettre la France enfin en harmonie avec les normes et recommandations supranationales, notamment européennes". Et de fait, tout en contestant d'une part l'ampleur de l'écart entre les principes posés par le conseil de l'Europe et la réglementation pénitentiaire en vigueur, et d'autre part la nécessité de leur intégration scrupuleuse et systématique dans le droit positif, l'administration pénitentiaire s'est contentée d'instrumentaliser les RPE dans le cadre d'une vaste opération de communication alliant une phase d'expérimentation d'un nombre réduit de règles et un processus de " labellisation RPE " des établissements pénitentiaires. L'expérimentation a concerné 8 des 108 règles, spécifiques à l'accueil et l'orientation des condamnés, considérées par l'administration pénitentiaire comme prioritaires. Cette application " à la carte " a été fermement critiquée par le Commissaire européen aux droits de l'homme, Thomas Hammarberg qui, constatant que l'expérimentation " ne porte que sur un nombre limité de recommandations et ne concerne qu'une partie des établissements ", a souhaité en novembre 2008 qu'elle soit rapidement étendue. Restée sourde à cette requête, l'administration pénitentiaire a poursuivi en parallèle sa démarche de labellisation progressive de l'ensemble de ses établissements qui, alors qu'il se limite à évaluer à l'aune de critères de " performance de gestion administrative " un aspect de la vie en détention (organisation de l'accueil des détenus entrants, traitement des requêtes des détenus, possibilité pour le détenu de contacter à tout moment un personnel y compris la nuit, etc.), vise à accréditer l'idée d'une mise en œuvre effective des RPE.



Recommendation n°25: *Make effective efforts to respect its international obligations not to forcibly return any individual to a country where he or she may be at risk of serious human rights violations, including torture or other ill-treatment.* (Recommended by Netherlands)

IRI: *fully implemented*

France response:

[see recommendation n°9]

DEI response:

[see recommendation 24 and 31]

Recommendation n°26: *Remove reservations and interpretative statements to the International Covenant on Civil and Political Rights.* (Recommended by Russian Federation)

IRI: *not implemented*

France response:

In accordance with its commitments, France is in the process of amending its interpretative statement on article 14(5) of the International Covenant on Civil and Political Rights.

Text of the amended statement: “5) The French Government interprets article 14(5) as laying down the general principle to which the law can bring limited exceptions. This is the case for certain offences that are dealt with by police courts in the first and final instance as well as for offences of a criminal nature. All things considered, the final decisions handed down by these courts in the final instance can be brought for appeal before the Court of Cassation, which decides on the legality of the decision made.

France maintains its interpretative statement with reference to article 27 of the International Covenant on Civil and Political Rights, in accordance with the reasons expressed in its comments. In the periodic report submitted to the CERD Committee in 2009, France reiterated its position and its approach “which is based on two fundamental ideas: equality of rights for all citizens in law, which implies non-discrimination, unity and indivisibility of the nation, which covers both the territory and the population.” Therefore, France does not recognise the existence of minority groups enjoying rights exercisable in its judicial system, and considers that the application of human rights to all nationals, on the basis of equality and non-discrimination, normally affords them, whatever their situation, the full and entire protection to which they are entitled.

Concerning indigenous peoples overseas, new decisions were made by the government in November 2009 (Interministerial Overseas Council - CIOM), especially concerning governance, social integration and equal opportunities for young people and protection of cultural identities. Several participative processes launched in 2008 bear witness to an approach aiming to take account of geographical and customary realities of the French overseas communities. As an example, we can mention:



- The process of consultations with residents in Mayotte (spring 2009, in relation to a change of status), in French Guiana and Martinique (January 2010 in relation to the institutional future of the territories).
 - The establishment of an advisory council for Amerindian populations and the Bushinenge of French Guiana. This council is consulted for all draft or proposed decisions having an impact on the environment, way of living or concerning cultural activities. It also has the authority to take responsibility for any issue coming under the competency of the region or department, or directly concerning them. [...]
- The French authorities also refer to the response to recommendations nos. [16 and 36].

The reason for this general reservation with regard to the United Nations Charter and the statement on articles 19, 20 and 21 referring to the European Convention for the Protection of Human Rights and Fundamental Freedoms is to help ensure that France's human rights treaty commitments are consistent. The withdrawal of this reservation, shared by other European States, is therefore not envisaged.

4) The French Government declares that article 13 should not be prejudicial to Chapter IV of Order No. 45-2658 of 2 November 1945 relating to the entry and stay of foreigners in France, or to the other texts in force relating to the expulsion of foreigners in the parts of the French Republic where the Order of 2 November 1945 is not applicable.

It does not appear possible to retract the statement on article 13 concerning expulsion. This particular statement is justified by the rule of law in some overseas territorial collectivities. Nevertheless, it may be recalled that expulsion is always subject to numerous substantive and procedural guarantees and that its system is entirely in keeping with the requirements of Protocol No. 7 to the ECHR.

[...]

In accordance with the reasons already expressed in 2008, France maintains its reservations to articles 9 and 14 of the Covenant.

Recommendation n°27: Find effective ways of realizing the rights of individuals belonging to ethnic, religious and linguistic minorities. (Recommended by Russian Federation)

IRI: partially implemented

France response:

The French authorities also refer to the response made to recommendations Nos. [5, 16, 26, 36].

CICNS response:

[See recommendations 2, 12, 17]

Recommendation n°28: Include information on the implementation of the treaties in its overseas territories in its national reports to treaty bodies on a regular basis. (Recommended by Russian Federation)

IRI: fully implemented



France response:

In accordance with its commitments, France has systematically included information on treaty implementation in its overseas territories in its periodic reports to the UN treaty committees.

As early as 2008 and as part of the periodic report to the Committee on the Rights of the Child, an annex was dedicated to the "Rights of the Child in Overseas Territories" and successively considered the applicability of the Convention overseas, liberties and civil rights, the protection and well-being of children, the family environment of children and the situation of children in conflict with the law. As part of its periodic report presented to the CERD Committee in 2009, France took care to include a legal presentation of its overseas regional authorities [...].

France intends to keep this commitment in the drafting of future national reports to be submitted to treaty committees. [...]

DEI response:

La France a effectivement inclus dans son dernier rapport au CRC une partie sur le respect des droits de l'enfant en Outre Mer. Mais on peut regretter qu'au lieu de reconnaître les graves lacunes dans la mise en œuvre de ces droits pour tous les enfants sur ces territoires, l'Etat ait plus insisté sur les particularités du droit local comme pour justifier des violations de la Convention.

En complément sur cette partie relative aux instruments juridiques des Nations Unies, on peut faire la remarque à l'Etat [...] que toute nouvelle loi votée par le parlement devrait faire l'objet d'un examen pour s'assurer de sa conformité aux traités internationaux ratifiés par la France. Plusieurs lois, notamment en matière pénale, ont récemment été promulguées alors qu'elles semblent contraires aux exigences de la CIDE.

Recommendation n°29: *Systematically and continuously integrate a gender perspective in the follow-up to the UPR.* (Recommended by Slovenia)

IRI: *fully implemented*

France response:

French policies in terms of gender equality are being led in accordance with the dual approach recommended by the Beijing Declaration and Platform for Action: integrated, with the consideration of a prospect of equality in all public policies including at budgetary level; specific, with the implementation of actions intended to correct persistent inequalities. All actions that contribute to the implementation of France's international commitments will integrate this perspective of gender equality, as is shown by the participation of the institutional mechanism in charge of equality between the sexes (Women's Rights and Equality Service) in France's audiences before the UN treaty bodies such as the Human Rights Committee and the Committee on Economic, Social and Cultural Rights.

Relevant initiatives that are currently ongoing include:

- The implementation of the interministerial convention for equality between boys and girls, men and women in the educational system. This convention, which was signed



by 8 ministries, mainly targets career guidance practices for girls and boys for better integration into employment, education on gender equality and training. The steering committee under the presidency of the Ministry of Education reinforces interministerial action for the promotion of equality in the educational system.

- The organisation on 20 and 21 May 2010 of an exceptional CEDAW Committee meeting in Paris. This meeting studied in particular the possibilities conducive to the systematic integration of CEDAW provisions in parliamentary work and contributed to raising awareness of the convention among all the players concerned (judicial institutions, civil society and the greater public).

- The forthcoming adoption of France's National Action Plan for the implementation of UNSCRs on "Women, Peace and Security". This interministerial plan especially includes a proactive approach to promoting gender equality within the armed forces and in training programmes aimed at crisis management and Security Sector Reform.

- Diplomatic action for the creation of a complementary mechanism as part of special procedures in the Human Rights Council, which would specifically target discrimination against women in the law and in practice and strengthen the Council's action in relation to gender equality and the protection and promotion of women's rights. Independent public institutions help with these efforts in a cross-cutting way, such as in specific sectors touching on women's rights and therefore on gender equality. HALDE also carries out work on indirect discrimination arising from the national "classification" of jobs, mobilises social players on the use of data from reports on the compared situation of both genders and does a literature review on career guidance practices and academic choices in relation to gender (and origin). In 2009 it also published and widely distributed a brochure on the rights of pregnant women (1.5 million copies).

At an international level (and especially as part of the Universal Periodic Review), France is taking great care to systematically raise issues and give recommendations relating to gender equality, in conjunction with its European partners. In its diplomatic and cooperative actions and those supporting civil society, it implements EU guidelines on violence against women and the struggle against all forms of discrimination against them.

The French authorities also refer to the response to recommendations Nos. [30, 32 and 33] and to voluntary commitment [...].

DEI response:

Le développement de la mixité dans certaines professions aujourd'hui très « sexuées », notamment dans le domaine de l'enfance (puériculture, éducateurs de jeunes enfants ou enseignants) est une clef pour favoriser une réelle promotion de l'égalité filles/garçon et hommes/femmes.

Une application réelle des quotas dans la représentation politique (actuellement les partis préfèrent payer des amendes, insuffisamment dissuasives plutôt que de mettre en œuvre ces quotas) serait aussi le gage d'une volonté réelle au plus haut niveau de réaliser cette égalité.



Recommendation n°30: *Take effective measures to eliminate all forms of discrimination against immigrant women in accessing basic social services.* (Recommended by *South Africa*)

IRI: *fully implemented*

France response:

French law forbids any discrimination or discriminatory provision based on sex and/or ethnic origin. The Act of 27 May 2008 completes the provisions applicable in these matters by strengthening the existing guarantees with regard to equality of access to goods and services and the provision of goods and services against all discrimination due to sex and/or membership or non-membership, real or supposed, of an ethnic group or race (definition of direct and indirect discrimination, of the notion of sexual and moral harassment due to sex and/membership or non-membership, real or supposed, of an ethnic group or race, these acts of harassment being likened to discrimination, thus giving HALDE the authority to examine them). [...]

For information: The French Criminal Code already prohibits in article 225-1 direct discrimination in the provision of goods and services for these reasons. Article 19 of the Act of 20 December 2004 creating HALDE – the French Equal Opportunities and Anti-Discrimination Commission - already affirmed the prohibition of direct and indirect discrimination because of membership or non-membership, real or supposed, to an ethnic group or race.

On the issue of multi-criteria discrimination, the Directorate General of Social Cohesion (Women's Rights Service), in conjunction with HALDE has been carrying out a study since 2009 aimed at better understanding multi-criteria discrimination and at strengthening the means to remove specific obstacles to the social and professional integration of women from immigrant backgrounds by proposing tools to support employment guidance counsellors. The results of this study will be available by the end of July 2010.

Recommendation n°32: *Introduce automatic prosecution for all acts of domestic violence, if this is not already done.* (Recommended by *Switzerland*)

IRI: *fully implemented*

France response:

Article 40 of the Code of Criminal Procedure sets forth the principle of the discretionary option of criminal proceedings which opposes the initiation of systematic criminal proceedings for certain types of offence. It stipulates that the public prosecutor receives complaints and accusations and determines the follow-up to be given to them. This principle is counterbalanced by the plaintiff's rights to contest a closure of the case before the public prosecutor at the Court of Appeal and/or, under certain conditions, to bring a civil action to the examining magistrate. In order to harmonise the penal response all over French territory, the Ministry of Justice has provided public prosecutors' offices with a public action guide, updated in November 2008, which recommends different points on their practice, whether at the inquest stage, the stage in which public prosecutors' offices determine how to direct procedure, the stage of actual proceedings or finally the requisition of sentences. Within this framework, public prosecutors' officers are requested not to close the case of domestic violence, when taken as a discretionary option. Such a recommendation thus means moving closer to a systematic penal response, which



will not necessarily be in the form of proceedings. Therefore, despite the public prosecutor's offices' discretionary option of proceedings, the penal response rate as regards domestic violence offences was at 83.7% in 2008 in jurisdictions of the greater Paris region.

The law (currently being adopted), which was unanimously voted by the French National Assembly on 25 February 2010, strengthens victim protection and prevention as well as suppression of violence against women with a series of provisions:

- The creation of a "victim protection order" allowing a judge in the case of an emergency, to give a ruling within 24 hours in order to "organise the eviction of the perpetrator of violence within the family home," to give a ruling on the temporary custody of the children, or to rehouse women who are threatened. Married couples will be concerned, as well as for full legal aid without means testing in order to provide the partners of the French PACS (civil union contract) and common law husbands and wives. The family affairs judge, receiving an application for interim measures, will therefore have the possibility of ordering the eviction of the violent partner and of resolving all issues relating to visiting and overnight visiting rights if the couple has children.
- The creation of a crime of "psychological" or "moral violence" and a crime of "strain on the marriage."
- The possibility of using electronic bracelets to determine the effectiveness of the measures to remove the violent partner, which will be experimented in certain French departments from the end of the first half of the year, before being generalised all over French territory within the next three years.
- The recognition of associations with an "interest to act," stepping-up the fight against discrimination and sexist prejudice in the field of communication.
- The possibility of resorting to penal mediation with the agreement of the victim alone.
- The removal of the presumption of consent to sexual intercourse between spouses, when it concerns marital rape.
- The availability of legal aid, without the condition of residency, to foreign women benefiting from a protection order, and the issuance or renewal of a residence permit to persons benefiting from a protection order in the shortest timeframe possible. These reforms should increase victim protection, which is also ensured by associations with whom the majority of public prosecutors' offices have signed partnerships. They stipulate the material or psychological care to be given, once the victim has lodged a complaint of domestic violence. In general, victims are then supported by the association until the day of ruling.

As a complement to the general provisions of victims' aid (charter of reception and care of victims, role of local "victims' aid" correspondents in each Departement, the creation of jobs for social workers and psychologists working in police and gendarmerie stations), special provisions driven by the DAV (Delegation to Victims), a structure common to the police and the gendarmerie, are being implemented:

- The creation of family protection brigades in all police and national gendarmerie services within each Departement. These will be progressively generalised in the spring of 2010.



- The creation of family protection brigades, by the national gendarmerie, within each Departement, in order to reinforce the suppression of intra-family violence.
- Since December 2009, the experimentation of a new system in the Seine-Saint-Denis Departement for women who are victims of domestic violence and in "grave danger," with an alert mechanism (mobile phone) granted by the public prosecutor.

150 centres of continuous service or association reception points providing victims' aid are installed in security force premises. This mechanism is in keeping with the conventions signed with the main association networks, such as the National Institute for Victims' Aid and Mediation (INAVEM), the National Centre of Information and Documentation for Women and Families (CNIDFF) and the National Women's Solidarity Federation (FNSF). Any victim of a criminal offence is given the contact details of an association for victims' aid after having lodged a complaint. In addition, association representatives intervene in basic and in-service training given to policemen and gendarmes on victims' reception and aid.

Recommendation n°33: Take into account the concerns of the Special Rapporteur on violence against women regarding the absence of an agency in charge of gathering information on violence against women, particularly regarding homicides in the context of family violence. (Recommended by Switzerland)

IRI: *fully implemented*

France response:

On 25 November 2009, on the occasion of the International Day for the Elimination of Violence Against Women, the Prime Minister recalled France's resolute commitment by designating the elimination of violence against women as a "National Cause for 2010". This label will especially lead to new impetus for awareness actions and campaigns and the prevention of domestic violence. The extent and the gravity of the trend of violence against women, particularly that committed within the couple, have for several years called for a strong response from the government with the implementation of the second global triennial plan (2008-2010). [...]

[...]

Various bodies collecting information on violence against women already exist, such as the National Crime Observatory or the Delegation for Victims at the Ministry of the Interior. The National Crime Observatory (OND) is a body in charge of collecting statistical data, of analysing them and of giving an account of the evolution of delinquent and criminal trends. Within this framework, it could be called on to study the trends of violence against women more specifically. It can in fact ask the National Economic Studies and Statistical Institute – INSEE to carry out victimisation surveys. The Delegation for Victims at the Ministry of the Interior also carries out studies and particularly an annual one on deaths within couples and an analysis of this problem. Case work on domestic homicides is currently being envisaged by the public prosecutors' offices of the greater Paris region.

France is continuing its reflection on possible improvements with regard to information and statistical follow-up. In addition, at European level, France is actively contributing to the work of the Council of Europe relating to the creation of a



Convention on Preventing and Combating Violence Against Women and Domestic Violence.

Recommendation n°34: *Pursue efforts to foster social integration and reinsertion of recidivist minors.* (Recommended by Switzerland)

IRI: *fully implemented*

France response:

Improving the taking into care of minors entrusted by judicial authorities within the criminal framework, in order to ensure their social integration and prevent recidivism, is a key focal point. In-depth work is being carried out to renew the investigation methods relating to the family situation of these minors. An audit mission is also involved in order to better monitor (from an educational point of view) the establishments and services authorised to take charge of minors. The Crime Prevention Plan 2010-2012 specifies the need to pinpoint minors whose sentences have ended and who would need individual support. In this way, in each town with a local council for security and crime prevention (CLSPD), one or several working groups and information exchange groups with a territorial or thematic purpose will be created or activated within this body and possibly coordinated by a professional.

Based on successful experiments and the assessment carried out in 2009, the introduction of social life contract “CIVIS” for youth in the hands of justice, will be developed in conjunction with territorial collectivities. The goal of this contract is to provide personalised support towards employment and, if need be, to better prepare the end of detention and to prevent recidivism among young people from 16 to 25 years old. It is based on an agreement between the devolved services of the Ministry of Justice and local missions. Finally, the Crime Prevention Plan sets forth that the judicial authority in charge of the most repeat offenders can encourage the creation of a tripartite coordination body of actors from the justice system, i.e. children’s judge, public prosecutor’s office and the judicial protection of youth service.

The good citizenship learning period is a sanction that is an alternative to proceedings, to imprisonment, or to a further sentence. It consists in carrying out a period as part of a prison sentence with probation. The continuation and extension of the system to national level are currently being investigated. It also aims to encourage social integration. The consent of the offender is required and a financial contribution is requested of the offenders, the amount being adjusted in relation to the social situation. External players participate in these training periods and in discussions with the beneficiaries. These are legal actors (the police, lawyers, magistrate judges from the public prosecutor's office), actors from civil life (victims’ aid associations, intermediaries from the realm of employment, training bodies, etc.), representatives of civil institutions (local representatives, fire-fighters), representatives from public transport companies, the healthcare system (drug addiction) and other professionals (actors, sociologists).

DEI response:

Le stage de citoyenneté est en effet un dispositif intéressant pour autant que les services qui en ont la charge aient les moyens de le mettre en œuvre suffisamment rapidement.



Recommendation n°35: *Increase human rights training for law enforcement officials in response to reports of excessive use of force, notably in detention centres and holding areas for migrants. (Recommended by United Kingdom)*

IRI: *fully implemented*

France response:

In addition to the comments previously made as well as the response to recommendation No. [15] on the renewal of in-service training given to law enforcement agencies with regard to ethics, two pieces of information must be added. As part of the professionalisation of civil servants appointed to administrative retention centres (CRA) and the uniformisation of practices in these centres, the central directorate of border police has, since 2008, developed specific training programmes especially for directors of these centres. In this way, the training of directors of administrative retention centres is made up of three modules. It is in keeping with a code of ethics framework that is respectful of rights and the dignity of persons. [...]

In addition, the Head of the Office of the Inspector General of the National Gendarmerie started intervening this year on the subject of international human rights protection conventions, during different training courses to prepare officers for the role of command. A course on this subject has been incorporated into the module on “ethics and the code of ethics” as part of the basic training of officers and non-commissioned officers. In the same way, information is given to supervisory non-commissioned officers as part of their in-service and specific training.

DEI response:

Une formation spécifique aux droits de l’enfant serait également nécessaire. [...] l’enfermement des enfants en centre de rétention administrative se révèle :

- non prévu par la loi française
- contraire à la CIDE puisque les enfants ne doivent pas être privés de liberté du seul fait de la situation administrative de leurs parents
- d’une grande violence psychique pour les enfants

Il y aurait lieu ici de faire le lien avec l’échec du système scolaire français qui laisse chaque année 150 000 jeunes sortir sans aucune qualification, ce qui inévitablement crée de l’exclusion sociale et accentue le risque de délinquance. Prévenir la récidive en favorisant la réinsertion sociale des jeunes délinquants, c’est bien, mais il s’agirait avant tout de prévenir l’entrée en délinquance en faisant en sorte que l’Ecole donne à tous les enfants le bagage nécessaire pour s’insérer dans la société. Les droits à l’éducation doivent donc être développés, et le système scolaire réformé dans le cadre d’un grand projet d’éducation pour la jeunesse.

Recommendation n°36: *Make efforts to enforce existing anti-discrimination legislation more effectively, and consider compiling statistics on ethnic minority groups in order to assess the extent and causes of inequality and evaluate the effectiveness of measures in place to address it. (Recommended by United Kingdom)*

IRI: *fully implemented*



France response:

France is working to improve the implementation of anti-discrimination legislation, which is constantly developing. [...]. Since March 2009, the competence of anti-discrimination centres has been extended to all acts committed due to victims' membership of an ethnic group, a nation, a race or a determined religion or because of their sexual orientation. [...] Furthermore, [...] local experiments aimed at encouraging the lodging of complaints are being carried out in several towns and partnership relations with the French Equal Opportunities and Anti-Discrimination Commission (HALDE) have also been developed with the intervention of local correspondents in anti-discrimination centres and the adoption of cooperation protocols in October 2009 with three public prosecutors' offices.

Concerning training actions:

Training actions are dedicated to combating discrimination and acts of a racist nature, especially within the framework of the French National School for the Judiciary and for criminal police officers. [...] As part of the partnership convention signed by the Ministry of the Interior with HALDE we can take note of the distribution of:

- A practical guide to combat discrimination, racism, anti-Semitism, xenophobia and homophobia. [...]
- A methodological guide entitled "Sanctioning Discrimination" extended to offences of a racist, xenophobic and anti-Semitic nature, distributed by the Directorate-General of the French Gendarmerie (DGGN), in close collaboration with HALDE.

Concerning statistical tools and the evolution of the penal response rate:

Since 2005, the Ministry of Justice has had a statistical tool into which the public prosecutors' offices enter information in order to determine monthly all offences of a racist, anti-religious, anti-Semitic and discriminatory nature (attacks on dignity, belongings, persons, discrimination, insults and slander). It emerges from this mechanism that the penal response to discrimination offences is stable (75% in 2008, 75.5% for the first three quarters of 2009).

The Ministry of the Interior is in the process of modernising its statistical systems concerning offences of a racist or discriminatory nature. The new national police database, which will be available in 2012-2013, will provide a precise overview of acts and victims. The national gendarmerie already has a national database of offences statistics. Modernisation of this statistical system will make this database more reliable and exhaustive.

The information given annually by all district courts indicates a 9% increase over 5 years in the number of new cases with a known perpetrator, under the penal description of "racial or religious discrimination." Statistical tools are being made more reliable, i.e. with the progressive arrival of the IT application "Cassiopée" to the criminal justice system in order to improve the sharpness of analysis concerning criminal orientations and nature of offences (including those linked to discrimination – 80 district courts out of 179 are currently equipped with this application).

The French authorities also refer to the response to recommendation No. [16].

With regard to statistics, open discussion is ongoing concerning the means to mobilise public statistics in order to fulfil the need for information on discrimination,



especially on the basis of work carried out by the Commission of Experts on the Measure and Evaluation of Diversity and Discrimination (COMEDD). The French authorities also refer to the response to recommendation No. [5].

DEI response:

Alors que l'Etat, dans son rapport à mi parcours, se félicite d'actions partenariales avec la HALDE, DEI-France ne peut que déplorer que cette autorité ait été regroupée récemment dans un grand Défenseur des droits. Il y a un fort risque de dilution de ses missions dans une institution aux missions trop diverses et trop vastes. Il n'est même pas sûr que les correspondants locaux de la HALDE dont il est question ici soient maintenus.



Methodology

A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted both the delegate who represented the State at the UPR and the Permanent Mission to the UN in Geneva or New York;
2. We contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted whenever one existed.

We posted our requests to the States and NHRI, and sent emails to NGOs.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we consider positive feedbacks from the latter.

A. Processing the recommendations

The persons we contact are encouraged to use an Excel sheet we provide which includes all recommendations received by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, communication is split up among recommendations we think it belongs to. Since such a task opens the way of misinterpretation, we strongly encourage using the Excel sheet.

If the stakeholder does not clearly mention neither the recommendation was “fully implemented” nor “not implemented”, UPR Info usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.

While we do not mention recommendations which were not addressed, they can be accessed on the follow-up webpage.



B. Implementation Recommendation Index (IRI)

UPR Info developed an index showing the implementation level achieved by the State for the recommendations received at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show both disputed and agreed recommendations.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is noted as 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review says the recommendation has been fully implemented and a stakeholder says it has been partially implemented, score is 0.75.

Then the score is transformed into an implementation level, according to the table hereafter:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

Contact

UPR Info

Avenue du Mail 14

CH - 1205 Geneva

Switzerland

Website:

<http://www.upr-info.org>



Phone:

+ 41 (0) 22 321 77 70

Fax:

+ 41 (0) 22 321 77 71

General enquiries

info@upr-info.org

Follow-up programme

followup@upr-info.org

Newsletter "UPR Trax"

uprtrax@upr-info.org