



International Covenant on Civil and Political Rights

Distr.: General
24 September 2021
English
Original: French

Human Rights Committee

List of issues prior to submission of the sixth periodic report of France*

A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please report on any significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the adoption of the previous concluding observations,¹ and provide the information requested by the Committee in its report on follow-up to concluding observations.² Please indicate which procedures are in place for the implementation of the Committee's Views under the Optional Protocol and provide information on measures taken to ensure full compliance with each of the Views adopted in respect of the State party, in particular in the cases of *Hebbadj v. France*, *Yaker v. France*, *Singh v. France* and *Cochet v. France*.³

B. Specific information on the implementation of articles 1–27 of the Covenant, including with regard to the previous recommendations of the Committee

Constitutional and legal framework within which the Covenant is implemented (art. 2)

2. In the light of the previous concluding observations (para. 5),⁴ please provide information on the progress made by the State party in reviewing its interpretative declarations and withdrawing its reservations in relation to several articles of the Covenant, in particular articles 4 (1), 9, 13, 14 and 27.

Non-discrimination (arts. 2–3, 6, 19–20 and 26)

3. In the light of the previous concluding observations (para. 15) on the persistence of the widespread practice of racially based identity checks, please provide information on the specific measures taken to combat all forms of systemic racial discrimination by the police, including in the context of counter-terrorism operations, and in particular on the measures taken to ensure that identity checks do not target ethnic or religious minorities or persons with specific physical characteristics, such as persons from Africa, persons of African descent

* Adopted by the Committee at its 132nd session (28 June–23 July 2021).

¹ CCPR/C/FRA/CO/5.

² CCPR/C/121/2, pp. 12–17.

³ CCPR/C/123/D/2807/2016, CCPR/C/123/D/2747/2016, CCPR/C/102/D/1876/2009 and CCPR/C/100/D/1760/2008/Rev.1, respectively.

⁴ Unless otherwise indicated, paragraph numbers in parentheses refer to the Committee's previous concluding observations.



or Muslims, do not target minors and are based on objective, individual suspicions. Please also provide information on steps taken to establish an effective and independent mechanism for handling complaints concerning racial profiling, investigations carried out in that regard and compensation provided to victims.

4. Please provide information on steps taken to prevent and combat speech and crimes motivated by hatred and intolerance, including against members of religious or ethnic minorities, Roma and travellers, migrants, and lesbian, gay, bisexual, transgender and intersex persons. Please also provide data on the prosecution of hate crimes and the outcomes of such prosecution. Please comment on the measures taken to reduce the number of unpunished racist acts and on the preventive and awareness-raising measures taken to combat racial bias throughout the territory of the State party. Please indicate whether there has been an increase in the prevalence of racist acts during the coronavirus disease (COVID-19) pandemic, including on the Internet, and if so, what specific measures have been taken by the State party in response.

5. Please provide information on any measures taken by the State party to ensure that inequality, discrimination and marginalization are not exacerbated as a result of the COVID-19 pandemic, in particular among persons living in poverty, persons with disabilities, homeless persons, persons belonging to ethnic minorities, women, and refugees and migrants. Please also provide information on the measures taken to prevent, mitigate or remedy any disparity in the impact of the pandemic on men and women.

State of emergency (art. 4)

6. Please provide information on the measures taken by the State party to respond to the COVID-19 pandemic and the legal basis for these measures. In particular, please specify whether any such measures derogate from the State party's obligations under the Covenant. If so, please specify whether these measures were strictly required by and proportional to the exigencies of the situation and limited in duration, geographical coverage and material scope, as outlined by the Committee in its statement on derogations from the Covenant in connection with the COVID-19 pandemic.⁵

Counter-terrorism measures (arts. 2–4, 9, 14–15 and 17–18)

7. The Committee is aware of the security challenges faced by the State party in connection with terrorism and violent extremism in its territory and of the efforts made to combat these scourges. However, in the light of the measures imposed in the context of the state of emergency in place between November 2015 and October 2017 and the legislative steps taken in this area, including the adoption of Act No. 2017-1510 of 30 October 2017 on Strengthening Internal Security and the Fight against Terrorism (the "SILT law"), please provide information on access to the necessary means of redress for persons whose rights were disproportionately restricted during the aforementioned state of emergency, the number of administrative measures taken during the period in question, the number of remedies sought against those measures and the status of the resulting review procedures, mentioning any judicial decisions taken and any compensation awarded to victims.

8. In the light of the ongoing legislative reform, including the introduction of the 2021 bill on intelligence and prevention of terrorism, please comment on initiatives to amend the current terrorism legislation and provide clarification of the terminology used in the aforementioned bill, information on the measures envisaged to guarantee necessity, proportionality and non-discrimination in its application, and an explanation of how these measures are compatible with the rights enshrined in the Covenant. In particular, please provide information on the use of administrative police measures, such as the installation of protective perimeters and the closure of places of worship, including a detailed explanation of the criteria and appropriate legal safeguards governing recourse to these powers; on the use of *notes blanches* (unsigned, undated briefing memos), home visits and individual administrative monitoring and surveillance measures; and on judicial measures to prevent recidivism among persons guilty of terrorist acts and to promote their rehabilitation. Please

⁵ CCPR/C/128/2.

also indicate whether the State party intends to submit the bill to an independent body for an assessment of its impact on fundamental rights and freedoms.

9. With reference to the aforementioned bill on intelligence and prevention of terrorism, please provide information on the safeguards applied to surveillance operations, in particular with regard to the collection, retention, processing, use and sharing of information and data, and on the steps taken to ensure that the applicable domestic legal framework is sufficiently accessible and predictable and that an effective authorization and monitoring mechanism is in place to prevent abuses; in this regard, please explain how the State party ensures compliance with article 17 of the Covenant in its application of the principles of legality, necessity and proportionality. Please also provide information on the measures taken to ensure that the collection of relevant information and data by the authorities does not lead to violations of the rights enshrined in articles 19 and 21 of the Covenant and does not have a chilling effect.

10. Please provide information on efforts to improve data collection in order to ensure that it extends to all areas covered by the Covenant. In particular, please provide details on the collection of data concerning the application, use and consequences of counter-terrorism measures with a view to assessing the necessity, legitimacy and effectiveness of exceptional measures.

Right to life (arts. 6 and 14)

11. Please provide information on the measures taken to protect the mental and psychological integrity and the lives of children and women of French nationality detained in the Hawl and Rawj camps in the Syrian Arab Republic. Please also explain the measures taken by the State party to ensure respect for the right to a fair trial and protection against ill-treatment and to prevent the execution of French citizens sentenced to death by Iraqi courts.

12. Please provide information on the number of persons who have been injured or have died following or in the course of police operations during arrests, including as a result of the excessive use of force or restraint techniques such as “*pliage*” (holding detainees bent over in a sitting position with their heads pressed against their knees), “*plaquage ventral*” (keeping detainees in the prone position) and chokeholds, and provide data on the profile of the victims, disaggregated by their country of origin or ethnicity, inter alia. Please also provide detailed information on the outcome of investigations into such deaths or cases of violence, including racially motivated acts, and on the penalties imposed on officers convicted of racist acts causing death or injury, and indicate what reparation measures were provided to the victims and their families. In addition, please provide information on the protocols and training provided to the police officers concerned, including on the measures that should be applied in order to safeguard the integrity and dignity of individuals subjected to restraint techniques.

13. In the light of the State party’s obligations under the Council of the European Union Common Position⁶ and the Arms Trade Treaty, please provide information on appropriate measures taken to ensure that national export authorities comply with the obligations established under those instruments, including by incorporating into their licensing assessment process a review of whether the recipient country is using the licensed weapons in a manner consistent with the right enshrined in article 6 of the Covenant, taking into account the international standards applicable to corporate responsibility and the right of victims to an effective remedy. Please also provide information on measures taken to address the potential impact on the right to life arising from the operations of French companies abroad, in particular in Cabo Delgado Province, Mozambique.

⁶ Council of the European Union Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment, *Official Journal of the European Union*, No. L 335/99 of 13 December 2008.

Prohibition of torture and cruel, inhuman or degrading treatment or punishment, right to liberty and security of person, and treatment of persons deprived of their liberty (arts. 2, 4, 7, 9–10, 14 and 19)

14. Please provide detailed information on the guarantees of an effective remedy against undignified conditions of detention included in the regime established by Act No. 2021-403 of 8 April 2021 on Protecting the Right to Respect for Dignity in Detention, in the light of the case of *J.M.B. and Others v. France*.⁷ Please provide information regarding the number of petitions submitted by detainees on the basis of the aforementioned Act reporting undignified detention conditions, the number of such petitions determined to be well founded by the ordinary courts and the measures taken by those courts.

15. In addition to Ordinance No. 2020-303 of 25 March 2020 on the Adaptation of the Rules of Criminal Procedure pursuant to Emergency Act No. 2020-290 of 23 March 2020 on Combating the Coronavirus Disease (COVID-19) Pandemic, which is intended to mitigate the effects of the health crisis by means of adjusted or reduced sentences and an early release scheme, please provide information on other measures taken to prevent and control the spread of the COVID-19 pandemic in places of deprivation of liberty.

Right to liberty and security (art. 9)

16. With reference to Ordinance No. 2020-303 and Constitutional Council Decision No. 2020-878/879 QPC of 29 January 2021, please provide information on the measures taken to ensure that legal extensions of the maximum period of pretrial detention, including for minors over 16 years of age, are in conformity with the rights enshrined in the Covenant, in particular the right of defence, the right to an effective judicial remedy and the right to security. Please also provide information on the measures taken to remedy any violations of these rights.

Trafficking in persons (arts. 2, 7–8 and 26)

17. With reference to the Second National Action Plan to Combat Trafficking in Persons 2019–2021, please provide updated information on new initiatives to combat trafficking in persons, including all forms of trafficking linked to exploitation on the Internet. Please also provide information on the measures taken to establish a national referral mechanism to find, identify and provide support to victims, including the efforts made to ensure that this mechanism has adequate human, technical and financial resources and appropriately trained staff. Please provide details on the measures taken by the State party to reduce the risks of trafficking in persons in the context of the COVID-19 pandemic, particularly in relation to online recruitment.

Treatment of aliens, including migrants, refugees and asylum seekers (arts. 7, 9, 12–13 and 24)

18. In the light of the previous concluding observations (para. 15), please provide information on the measures taken by the State party to put an end to the alleged violence perpetrated by law enforcement officials against migrants, including in Calais, Grande-Synthe and informal settlements in Paris and northern France, and on the investigation of such acts and the prosecution and punishment of those responsible, in order to combat all forms of ill-treatment, the excessive use of force and the disproportionate use of non-lethal weapons.

19. Please provide information on measures taken to uphold the principle of non-refoulement in respect of migrants and asylum seekers, including at the Franco-Italian border, and to guarantee the individualized examination of applications and effective access to the asylum procedure. Please describe the measures taken to guarantee presumption of minority until a final decision has been taken by a juvenile court judge. Please also provide up-to-date information on specific steps taken to implement the general measures described in the

⁷ European Court of Human Rights, *J.M.B. and Others v. France*, application No. 9671/15 and 31 others, judgment, 30 January 2020.

judgment in the case of *Khan v. France*,⁸ in order to improve the effectiveness in practice of the State party's regulations on the reception and care of unaccompanied minors.

20. Please also provide information on the measures taken to protect migrants and asylum seekers, including minors, in conjunction with efforts to combat the COVID-19 pandemic during the lockdown, indicating, in particular, whether they were provided with alternative shelter and access to health care.

Right to privacy (arts. 17, 19 and 21)

21. Please provide information on the application of the principles of legality, proportionality and necessity in the regime established by Act No. 2021-646 of 25 May 2021 on Ensuring Global Security while Preserving Freedoms, in particular with regard to the conduct of surveillance activities and the impact of surveillance devices and new information and communication technologies, and on the measures taken to ensure that the provisions of this Act do not infringe the rights enshrined in the Covenant.

Freedom of expression (arts. 19–20)

22. Please provide information on legislative measures taken to protect journalists, human rights defenders and associations, including those working in the fields of human rights, migration and the environment, from censorship, harassment and the chilling effect of strategic lawsuits against public participation, and to prevent the use of such vexatious procedures by providing for the possibility of their dismissal at an early stage. Please explain the steps taken to raise awareness among judges and prosecutors of measures intended to sanction abuses, including the awarding of costs against the applicant, and the steps taken to provide practical assistance to the defendants in such cases.

Freedom of conscience and religious belief, of expression and association (arts. 2, 18–19, 22 and 26)

23. In the light of the previous concluding observations (para. 22), please provide information on the measures taken to ensure that revised bill No. 4078 on strengthening respect for the principles of the Republic and combating separatism and its proposed application of the principles of legality, proportionality and necessity are consistent with articles 2, 18, 19, 22 and 26 of the Covenant, as well as the Committee's general comments No. 25 (1996) and No. 34 (2011), in particular with regard to the right to manifest one's beliefs in public and to wear religious symbols in public spaces, in public service facilities and when accompanying school trips. Please also comment on the proposed amendments to the bill with regard to the administrative dissolution of associations and the republican commitment contract, and on the measures proposed to ensure respect for the rights enshrined in the Covenant in the context of the fight against terrorism, including freedom of association, freedom of conscience and religious belief and the prohibition of discrimination.

Freedom of assembly and association and excessive use of force (arts. 6–7, 19 and 21–22)

24. Given the particularly complex nature of public order operations during the demonstrations that took place between 2018 and 2020, including those of the “*gilets jaunes*” (yellow vest) movement and those against racism or in support of climate action, please provide information on the measures taken to protect persons during those demonstrations. In particular, and with reference to the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement, please describe the steps taken and planned in that regard, mentioning, inter alia, the applicable legal framework and the application of laws on the use of less-lethal weapons in law enforcement throughout the country, special training for officers equipped with such weapons, the protocol followed by law enforcement officials for the use of less-lethal weapons, in particular in the context of demonstrations, and the system in place or envisaged to assess and monitor the impact of the use of such weapons on

⁸ European Court of Human Rights, *Khan v. France*, application No. 12267/16, judgment, 28 February 2019.

the rights of the persons concerned. Please provide detailed information on the measures taken to ensure that law enforcement officers always wear their identity and agency identification numbers in practice, particularly during law enforcement operations.

25. Please provide information on the measures taken to follow up on allegations concerning the use of force by law enforcement officials during demonstrations, in particular between 2018 and 2020, including in relation to the use of riot guns and other intermediate weapons, on the number of independent, impartial and effective investigations initiated, the status of such investigations and any penalties or sanctions imposed, and, where applicable, the comprehensive reparation provided to persons harmed in such situations.

26. Please provide information on the number of persons subjected to preventive arrest or placed in detention in connection with the above-mentioned demonstrations, as well as detailed information on the legal basis for such arrests and detentions, their justification and their compliance with the principles of legality, necessity and proportionality. Please also provide information on the number of complaints lodged in relation to these arrests and detentions and the measures taken to ensure that those affected were not legitimately exercising the right to freedom of expression and peaceful assembly.

27. With reference to the new National Law Enforcement Code of the Ministry of the Interior issued in 2020, please provide detailed information on the measures taken to protect the freedom of journalists and human rights defenders whose work concerns issues related to the excessive use of force by police officers during demonstrations, including issues that have not been reported to the authorities, and to ensure that they are able to conduct their work without fear of harassment, stigmatization or criminalization of any kind.
